



Environmental  
Defenders Office

## **Santos' Petroleum Exploration Licences: Landholder Rights**

**Santos' petroleum exploration licences (PELs) over the Liverpool Plains have been renewed. Now is the time for affected landholders to get on the front foot in order to protect your land and livelihoods from the impacts of CSG.**

*Disclaimer: This factsheet is a guide only and is designed to give readers a plain English overview of the law. It does not replace the need for legal advice in individual cases. To request free initial legal advice please visit our [website](#).*

*This factsheet was produced in April 2022*

### **What can happen under a PEL?**

The PELs give Santos the right to explore for coal seam gas (**CSG**) in the licence areas.

Exploration can include drilling core holes, water monitoring bores and test wells. PELs can also allow Santos to undertake pilot testing – which is a small-scale production trial and might include gas and water processing facilities, road construction and worker accommodation.

### **Land Access Arrangements**

Santos cannot explore on private land without first entering a land access arrangement with the landholders. An access arrangement sets out the terms upon which Santos can access private land to explore for CSG. The arrangement is negotiated between the landholder and Santos and the process will be initiated by Santos in writing.

Landholders can refuse to negotiate or to sign an access arrangement. If this happens, the law allows Santos to take the landholder to arbitration. Santos would have to cover the costs of arbitration for the landholder. The arbitrator's decision can be appealed to the Land and Environment Court.

Landholders should not sign an access arrangement before seeking independent legal advice. Santos must cover the reasonable costs of the landholder in negotiating the access arrangement (up to a cap of \$2,500). This amount can cover costs related to obtaining legal and expert advice and the landholder's time spent negotiating the arrangement.

## Santos' Agreed Principles of Land Access

In 2014 Santos and AGL signed [Agreed Principles of Land Access](#) with landholder representatives - NSW Farmers, Cotton Australia and the NSW Irrigators Council. The document remains in force today.

All parties agreed to the following principles:

- Any Landholder must be allowed to freely express their views on the type of drilling operations that should or should not take place on their land without criticism, pressure, harassment or intimidation. Any Landholder is at liberty to say "yes" or "no" to the conduct of operation on their land
- Santos and AGL confirm that they will **respect the landholder's wishes** and not enter onto a landholder's property to conduct drilling operations where that landholder has clearly expressed the view that operations on their property would be unwelcome
- The parties will uphold the landholder's decision to allow access for drilling operations and do not support attempts by third party groups to interfere with any agreed operations. The parties condemn bullying, harassment and intimidation in relation to agreed drilling operations.

At this stage, landholders who say no to CSG exploration should be able to rely on the Agreed Principles of Land Access which require Santos to respect their wishes and not take the landholder to arbitration.

## Protections for cultivated land

As a general rule, CSG **production** cannot occur on the surface of land which is under cultivation unless the landholder specifically consents.

Landholders with land under cultivation should consider objecting to **exploration** on the basis that their land is under cultivation. This is because exploration can involve significant drilling (including pilot production). It would be meaningless to raise cultivated land as a concern at the production phase if harm had already been caused at the exploration phase.

It should be noted that the Minister can define an area of cultivated land on which CSG production activities **can** be carried out if the Minister thinks the circumstances warrant it. This hasn't happened yet but it may happen in the future.

### What is cultivated land?

There is no legal definition for cultivated land. However, cultivation for the growth and spread of pasture grasses is not to be taken as cultivation unless the Minister thinks the circumstances warrant it. If there is a dispute about whether particular land is cultivated, the Minister has the final say.

Landholders with cultivated land should consider what specifically makes their land 'cultivated' and raise this with Santos (if approached) and the Minister.