

Operational policy

Natural Resource Management

Compensation for petroleum and gas activities on QPWS managed lands

Operational policies provide a framework for consistent application and interpretation of legislation and for the management of non-legislative matters by the Department of Environment and Science. Operational policies are not intended to be applied inflexibly in all circumstances. Individual circumstances may require a modified application of policy.

Policy subject

Compensation payable for petroleum and gas (P&G) activities carried out on Queensland Parks and Wildlife Service (QPWS) managed lands.

Purpose

This operational policy outlines the methodology applied by QPWS to determine compensation for P&G development and infrastructure activities on its managed lands. These QPWS managed lands include state forests, timber reserves and resource reserves. All other QPWS managed lands will be dealt with on a case by case basis.

Background

P&G companies have extensive operations and infrastructure on over 1,870 ha of State forests and timber reserves. This infrastructure includes approved gas appraisal and production wells, access tracks, gas and/or water pipelines, communication, power lines, helicopter landing pads and temporary accommodation camps.

State forests and timber reserves are administered under the *Forestry Act 1959* (Forestry Act) by QPWS as land owner and manager and Department of Agriculture and Fisheries (DAF) as the owner of State owned forest products and quarry materials. QPWS manages the areas in accordance with the cardinal principles to:

- permanently reserve such areas for the purpose of producing timber and associated products in perpetuity and protect a watershed therein.¹
- manage state forests and timber reserves with specific regard to the:
 - benefits of permitting grazing in the area;
 - desirability of conservation of soil and the environment and of protection of water quality; and
 - possibility of applying the area to recreational purposes.²

While there is no P&G infrastructure currently located on resources reserves, it may be permitted under the *Nature Conservation Act 1992* (NCA).

¹ Section 33 of the *Forestry Act 1959*.

² See s.33 (2) of the *Forestry Act 1959*.

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Resources reserves are a type of protected area under the NCA³ and are managed by QPWS to:

- recognise and, if appropriate, protect the area's cultural and natural resources;
- provide for the controlled use of the area's cultural and natural resources; and
- ensure that the area is maintained predominantly in its natural condition.⁴

As a landowner, QPWS is entitled under the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERCPA) to compensation from P&G companies for any compensatable effects.⁵ Compensatable effects in relation to QPWS managed lands means:

- deprivation of possession of surface of QPWS managed lands;
- diminution of the value of these lands;
- diminution of the use made or that may be made of the land or any improvement on it;
- severance of any part of the land from other parts of the land or from other land managed by QPWS;
- any cost, damage or loss arising from the carrying out of activities under the resource authority on the land; and
- any consequential damages for the above.⁶

QPWS can also recover accounting, legal or valuation costs that it has necessarily and reasonably incurred to negotiate or prepare a conduct and compensation agreement (CCA), other than the costs of a person facilitating an alternative dispute resolution.⁷

This compensation may be recovered through a CCA or another form e.g. compensation agreement. Under the MERCPA, a CCA can relate to all or part of the liability or future liability and may be incorporated into another agreement, like an easement for holders of petroleum pipeline licences (export pipelines).⁸

Policy Statement

Compensation payable to the State, is payable for the full suite of costs resulting from P&G activities conducted on QPWS managed areas. These include, (but are not restricted to) costs of assessment, inspection, loss of public access and lost timber production (on State forests and timber reserves).

QPWS requires P&G companies to pay annual permit fees (rental fees) and a one-off payment. Depending on the circumstances, annual fees may be incurred for the compensatable effects of authorised activities on QPWS managed land. Compensation is calculated according to the nature, location and duration of the activities.

³ Section 14(g) of the *Nature Conservation Act 1992*

⁴ Section 21A of the *Nature Conservation Act 1992*.

⁵ Section 81 (General Liability to compensate) of the *Mineral and Energy Resources (Common Provisions) Act 2014*.

⁶ Section 81(4) of the *Mineral and Energy Resources (Common Provisions) Act 2014*.

⁷ Section 81(4) (b) of the *Mineral and Energy Resources (Common Provisions) Act 2014*.

⁸ Section 83(3) of the *Mineral and Energy Resources (Common Provisions) Act 2014*.

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Compensation methodology for State forests and timber reserves

Compensation for P&G activities on State forests and timber reserves consists of the following four components:

1. Compensation for initial disturbance
2. Compensation for direct costs
3. Annual rental fees
4. Royalties for forest products and quarry materials

Compensation for initial disturbance

This compensation payment is required to partially compensate QPWS for disturbance on its land from P&G activities from clearing, construction and exclusion. It is a one-off payment payable once for each particular area of land that is disturbed. However, will be charged for each subsequent or additional area that has been disturbed or impacted on by these activities.

In order to recover compensation, a valuation must be conducted of the area disturbed by the P&G activity. As land valuations do not factor in the significant contributions QPWS lands make to Queensland, such as biodiversity, recreation needs, essential public infrastructure, etc., a 'multiplier' is used.

For State forests and timber reserves, a multiplier of 5:1 is used based on the market land value.

Compensation for initial disturbance is calculated by:

- Adding up the total area of disturbance (i.e. clearing, construction and exclusion);
- Multiplying the total of hectares by the market land value as determined or verified by the State Valuation Services (SVS); and
- Adding all the figures together and multiplying by 5.

The area of land disturbance is rounded up to the nearest hectare. For example, if a P&G company disturbed 1.3 hectares of land, to determine the compensation payable, the area of disturbed land would be considered 2 hectares.

Where land values differ between SVS and a P&G company, the higher of the two valuations is taken.

Compensation for direct costs

Compensation may be payable for direct costs incurred by QPWS from P&G activities such as the need to replace fire control lines, or costs to relocate or replace significant infrastructure, such as lookouts or other QPWS assets.

Annual rental fees

P&G companies are required to pay annual rent. For State forests and timber reserves, this payment is generally collected either through the annual fees for occupation permits issued under section 35 of the Forestry Act (charged at the commercial rate) and/or via pipeline easements (which are charged at 50 per cent of the commercial occupation permit rate).

Annual permit fees for occupying State forests and timber reserves are set by the Director-General and vary according to the nature of the activity. Rental fees are indexed annually, either by the approved government indexation rate in the case of occupation permit fees, or by the consumer price index in the case of rentals for pipeline easements.

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Annual permit fees are to be paid 12 months in advance.

Royalties for forest products and quarry material

Royalties for the use of forest products and quarry materials are paid to DAF at the applicable rate and applies only when an activity impacts on State owned forest products and quarry material. Royalties are not paid to QPWS.

Compensation methodology for resources reserves

Compensation payable to QPWS for P&G activities on resources reserves is significantly higher than that of State forests and timber reserves. This is in recognition that resources reserves are protected areas with superior values to state forests and timber reserves and that these values are protected under both the NCA and the *Environmental Offsets Act 2014* (EO Act)

P&G companies that hold authorities issued under section 34 of the NCA to undertake activities on resources reserves are generally liable for significant compensation payments to QPWS.⁹ Under the EO Act these companies are required to compensate QPWS for particular impacts - loss or degradation of the natural and cultural values, exclusion of or reduction in public use or environment of the area and authorised clearing or inundation for the construction of privately owned infrastructure.¹⁰ This compensation can be recovered through payment of a financial settlement offset¹¹ and is in addition to the compensation QPWS is entitled to under the MERCPA.¹²

The compensation components are as follows:

1. Compensation for initial disturbance
2. Compensation for direct costs
3. Annual permit fees

Compensation for initial disturbance

Compensation for this disturbance is calculated in line with the requirements set out in the State Environmental Offsets Policy for a financial offset settlement on protected areas. That is:

- rounding up to the nearest hectare the total area of clearing, inundation, construction or exclusion;
- multiplying by the average statutory land value for the local government area (with a floor price of \$500) as prescribed under the *Queensland Environmental Offsets Policy 2014*;
- multiplying the total figure by five; and
- costs associated with direct impacts to assets and infrastructure owned by QPWS will be added, where applicable, to the final figure.¹³

It is worth noting that QPWS cannot receive compensation *twice* for the same impact, through claiming both a financial settlement offset under the *Queensland Environmental Offsets Policy 2014* and compensation for disturbance. Instead, the financial offset settlement calculation is in-built into determining the compensation in order to reflect the special values of resources reserves.

⁹ Section 9(c) of the *Environmental Offsets Act 2014*, Schedule 1 of the *Environmental Offsets Regulation 2014* and NPSR's Operational Policy for Offsets (Draft).

¹⁰ Section 8 (What is a significant residual impact) of the *Environmental Offsets Act 2014*.

¹¹ Section 23 of the *Environmental Offsets Act 2014* and NPSR's Operational Policy for Offsets (Draft)

¹² See s.81 (General Liability to compensate) of the *Mineral and Energy Resources (Common Provisions) Act 2014*.

¹³ Queensland Environmental Offsets Policy (see page 19) and NPSR's Operational Policy for Offsets (Draft).

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Compensation for direct costs

As with State forests and timber reserves, compensation is payable for any direct costs incurred by QPWS from P&G activities on resources reserves.

Annual rental fees

P&G companies are required to pay an annual rental for areas subject to a section 34 authority under the NCA as per the table below. These fees are based on the occupation permit fees. However, in recognition that resources reserves are a protected area, the occupation permit fee will be multiplied by 5 when calculating the annual amount owing for holding a section 34 authority under the NCA.

Annual permit fees are to be paid 12 months in advance.

Unlike the Forestry Act, the NCA does not allow for easements.

Backdating of fees

QPWS requires P&G companies to pay annual fees in arrears if these had not been previously received prior to and/or during the construction of infrastructure on QPWS managed lands.

The method in this policy is also applied to any unpaid compensation liabilities.

The standard position is that backdating annual fees will only be collected for a reasonable timeframe. Determining the reasonableness of a timeframe will depend upon the individual matters and circumstances. For example, fees may be backdated to the date an authority was issued under the Forestry Act or NC Act. However, a reasonable timeframe is unlikely to exceed 6 years from the date of negotiating with the P&G companies, in line with the *Limitations of Actions Act 1974*.

Reference materials

Information sheet: Occupation permits

Procedural Guide: Occupation permits- determining permit term and permit areas

Authorities

Forestry Act 1959

Nature Conservation Act 1992

Resource Acts – Petroleum and Gas (Production and Safety) Act 2004, Petroleum Act 1923, Mineral and Energy Resources (Common Provisions) Act 2014, Geothermal Energy Act 2010 and Greenhouse Gas Storage Act 2009

Further Information

Further information about P&G activities on QPWS lands can be obtained by contacting Major Projects and Estate Management, Permissions Management, Park Services on 3199 7611.

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Signature

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