Decision Regulatory Impact Statement

Post Implementation Review of the Industry Levy to fund the petroleum and gas water functions of the Office of Groundwater Impact Assessment

July 2017

Queensland Government

This publication has been compiled by the Office of Groundwater Impact Assessment.

Executive summary

The purpose of this Decision Regulation Impact Statement (Decision RIS) is to recommend a preferred option following a review of the current levy structure for continued funding of the activities undertaken by the Office of Groundwater Impact Assessment (OGIA) in supporting the underground water management framework (specific to petroleum and gas) established under Chapter 3 of the *Water Act 2000* (Water Act). The preferred option is to retain the levy in its current form.

For clarity, this RIS process does not examine the broader regulation which establishes OGIA and which prescribes its functions. It also does not include expansion of OGIA's role in response to regulatory changes that took effect from 6 December 2016 to include underground water management for mining activities. A levy structure for OGIA's expanded role will be subject to a separate RIS process in the future.

In 2010, the Queensland Government introduced amendments to the Water Act to strengthen and expand the regulatory system for managing underground water impacts from the extraction of groundwater by petroleum and gas (P&G) operators. That framework has now been enhanced whereby mining activities will be subject to the assessment of impacts on groundwater resources and management through monitoring and make good obligations.

In areas of intensive P&G development – such as the coal seam gas (CSG) industry in the Surat Basin – the impacts of resource activities can extend beyond individual tenures and overlap with impacts resulting from activities on nearby tenures. The Queensland Government may declare such an area to be a Cumulative Management Area (CMA). A CMA was declared for the Surat Basin in 2011 in response to extensive development of coal seam gas (CSG). OGIA, as an independent statutory entity, is responsible for assessing and reporting groundwater impacts from P&G development in the Surat CMA. The assessment, presented as the Underground Water Impact Report (UWIR) every three years, sets out the groundwater monitoring, spring management, and corresponding responsibilities of the individual P&G tenure holders – including the make good obligations.

OGIA is funded through an industry levy which is established under section 479 of the *Water Act 2000* with the levy structure provided for in Part 7 of the Water Regulation 2016. The industry levy recovers the costs of OGIA's activities from the relevant P&G tenure holders. The levy was first established in 2012 in accordance with an earlier RIS.[1] This approved RIS required a review of this regulation every three years.

The structure of the levy is based on grouping the relevant tenure holders' sub-blocks into three classes that correspond to the level of effort required for groundwater assessment for each particular class of tenure. The annual levy is then apportioned across the three classes of sub-blocks.

The majority of the cost is recovered from tenure holders within the CMA, where OGIA is responsible for preparing the Surat UWIR. A smaller proportion of costs are also recovered from P&G tenure holders outside of the CMA where OGIA has responsibilities relating to data collection and storage, monitoring and the provision of technical advice to the Queensland Government.

Consultation with stakeholders in undertaking the review of the levy structure prior to the development of the Consultation RIS (undertaken by PricewaterhouseCoopers) highlighted that there is strong support for OGIA's activities along with broad acceptance of the industry levy. Notwithstanding, the review examined options for potential changes to aspects of the levy structure that were identified by some stakeholders.

These options were assessed against the stated policy objectives for the industry levy. The objectives include that P&G tenure holders should meet the costs associated with the management of their rights to take groundwater, and that the levy should fairly apportion the cost of OGIA's activities

[1] Water Amendment Regulation (No. 1) 2012, Regulatory Impact Statement for Subordinate Legislation 2012 No. 73 made under the *Water Act 2000*

to groups of P&G tenure holders according to their relative benefit. Further, the objectives require that the levy should be efficient in that it should be easy to understand, supported by robust data and cost-effective to administer.

These options were also subject to an impact assessment which considered the potential economic (including competition and compliance), social and environmental impacts which may arise.

Consultation
The Decision RIS follows the release of the Consultation RIS for public comments between 13 December 2016 and 20 January 2017. During this period, the Consultation RIS was placed on the OGIA and Get Involved websites. OGIA also engaged directly with stakeholders during the consultation period by alerting all relevant P&G tenure holders to the release of the Consultation RIS via email and telephone. No submissions were received during the consultation period. This is likely to be because the industry and key stakeholders were consulted prior to the preparation of the Consultation RIS and their views were accommodated.

Recommendation
Given that no concerns have been raised during the consultation period, the options considered and rationale for recommending the preferred option remain unchanged from the Consultation RIS.

It is recommended that:

(a) Government approves retention of the industry levy in its current form; and
(b) this regulation should be reviewed again in five years.

The outcomes of the options assessment and recommendations are summarised below.

Option 1 – Retain the industry levy in its current form (recommended option)

Under this option, there would be no change to the structure of the industry levy. The levy currently comprises three annual charges applying to sub-blocks that are either petroleum leases (PL); or authorities to prospect (ATP) with approved Environmental Impact Statements (EIS), as outlined in Table 1.

Table [1]. Existing annual charges under the industry levy

Charge	**Location**	**Intended use of the tenure**	
		Conventional petroleum and gas	**Coal seam gas**
Number 1	Outside of the CMA	✓	✓
Number 2	Inside of the CMA	✓	
Number 3	Inside of the CMA		✓

The charges set under the levy reflect the actual costs incurred by OGIA in undertaking management activities, both within and outside of the CMA, and for different tenure classes. As such, there is a high degree of alignment with the policy objectives that the levy should fairly apportion OGIA's costs to P&G tenure holders, and these tenure holders should meet the costs associated with the management of their rights to take groundwater.

The levy was structured to minimise complexity and limit administrative burden, specifically by applying only one charge to all tenure classes outside of the CMA, and limiting the charge for ATPs to only those with approved EISs given the large number of operators which hold ATP tenures.

In assessing impacts, this option is compared to a 'base case' of no regulation whereby OGIA would not undertake monitoring and management of groundwater impacts, and there would be no annual industry levy in place to recover the costs of its activities. In this scenario, P&G tenure holders would incur direct costs in managing groundwater impacts. The collective costs of tenure holders would be higher than the costs incurred by OGIA for equivalent activities, due to the duplication of activities across overlapping impacted areas.

In addition to the economic benefits received by P&G tenure holders under this option, there are a range of positive impacts arising indirectly from the broader regulatory framework applying to underground water management. These include positive economic impacts from the growth in exploration, development and production activities of P&G operators, along with a range of social (e.g. employment) and environmental benefits resulting from the independent assessment and management of impacts on water bores and environmental assets.

This option meets all policy objectives and is recommended.

Option 2 – Adjust the industry levy based on feedback from stakeholders

Preliminary consultation suggested broad acceptance for the current structure of the industry levy. However, some stakeholders did propose changes to elements of the levy structure. These proposals are incorporated in the sub-options below.

In assessing impacts, these sub-options are compared to Option 1 (status quo) where the levy is retained in its current form.

Option 2a – Base the industry levy on planned development area rather than tenure area

One stakeholder proposed that the levy should be based on planned development area, rather than total tenure area of P&G operators. This was based on the view that an operator's current PLs and ATPs with approved EISs do not accurately reflect their future development activities which would potentially give rise to impacts on underground water.

Under the regulatory framework applying to the management of underground water, OGIA must consider both the current and future activities of P&G tenure holders and the potential cumulative impacts which may arise – including the ones proposed in EISs. Should the levy only be applied to planned development area, a number of tenures both within and outside of the CMA would not be subject to the levy for which OGIA would still have to undertake the assessment of impacts. This option is therefore not consistent with policy objectives that require P&G tenure holders to meet the costs associated with OGIA's activities, and costs to be fairly apportioned between groups of P&G tenure holders in accordance with the benefits received.

A large number of stakeholders viewed this option negatively, given potential 'inequities' in charge amounts that may arise and the more complex nature of the charging regime. In assessing this option, it was found that it would have a significant impact on the amounts paid by operators under the levy, both positive and negative, and would result in a number of smaller operators no longer being required to pay the levy despite benefiting from the activities of OGIA.

It was also found that there is currently no agreed basis for defining the planned development area, and legislative changes may be necessary to define this basis and compel the provision of accurate information. The option would therefore be more complex to administer.

This option does not meet most policy objectives and is not recommended.

Option 2b – Remove the charge for conventional gas tenures

Two stakeholders proposed that the levy should not apply to conventional gas tenures. The basis of this proposal was that conventional gas production does not have a significant impact on groundwater, and that conventional gas operators are experiencing declining levels of development and production due to falling reserves.

In analysing this option, it was found that conventional gas tenures drive OGIA's activities, although the scope of these activities (data collection and management and monitoring) and the associated level of effort is less than for CSG tenures. This lower level of effort is accounted for in the industry levy through a lower levy rate for conventional gas tenures.

Excluding conventional gas tenures from the levy would not be consistent with policy objectives that require P&G tenure holders to meet the costs associated OGIA's activities, and costs to be fairly apportioned between groups of P&G tenure holders in accordance with the benefits received.

This option does not meet some policy objectives and is not recommended.

Option 2c – Change the basis for applying the charge to an ATP with an approved EIS

One stakeholder questioned the basis for applying the levy only to those ATPs with approved EISs, on the basis that an EIS approval is an 'arbitrary' point in the project development lifecycle.

The levy was originally structured so that it applies only to ATPs with approved EISs, as this is considered a firm signal of intent to develop and that an assessment of future impacts is required. This is reflected in the increase in OGIA's level of effort in impact assessment and associated costs where a tenure is subject to an EIS process, and where the EIS is subsequently approved.

This approach also recognised that there would be a high level of administrative complexity and associated cost of charging the large number of operators that hold ATPs. The existing approach therefore balances the policy objectives to fairly allocate costs between P&G tenure holders, and to recover these costs in accordance with the benefit received, with the objective that the levy be simple and easy to administer.

Two alternative approaches to charging were identified under this option. The first approach, for the levy to apply to all ATPs, would increase the complexity of administration and associated compliance costs for OGIA and P&G operators. The second approach, to apply the levy only to PLs, would not be consistent with policy objectives relating to cost recovery.

The alternative approaches for charging identified under this option do not meet all policy objectives and this option is not recommended.

Option 2d – Remove the levy for smaller exploration operators

Two stakeholders proposed that the levy should not apply to smaller exploration operators. This proposal is based on the view that the industry levy should not create a financial burden for operators which may not yet be profitable.

This option would not involve a change to the annual charges under the levy, rather exemptions for certain operators. This could involve the removal or adjustment of charges for operators depending on an assessment of their 'capacity-to-pay' which could be based, for example, on their capitalization, gross/net revenues or profitability. Alternatively, the levy could be applied only to more established operators which have projects that are already in the production phase.

Critically, this option is inconsistent with the government's policy objectives that the levy should fairly apportion OGIA's costs to P&G tenure holders, and these tenure holders should meet the costs associated with the management of their rights to take underground water. The activities of smaller operators focusing on exploration and development contribute to the need for OGIA's activities, particularly as they seek EIS approvals, and these operators receive direct benefits from these activities.

Changes to the way the levy is applied, particularly where it involves an assessment of a company's 'capacity-to-pay', would significantly increase the complexity of the levy and its administration.

This option does not meet some policy objectives and is not recommended.

Option 3 – Remove the industry levy and fund OGIA through alternative means

A consideration in reviewing any regulation is whether the regulation is still necessary, or whether the regulatory objectives could be achieved in a more effective and efficient way. Some stakeholders did suggest that a proportion of OGIA's costs should be met by the state government as its 'investment' in the future sustainability of the industry.

The assessment of this option found that the regulatory role of OGIA is required only because of the activities of P&G tenure holders. Further, these tenure holders derive significant benefits from OGIA's activities. These include greater compliance with regulatory obligations, avoidance of costs that would otherwise be incurred in having to undertake monitoring and management activities, access to publicly available research and technical materials and the provision of independent information about the future impacts of P&G activities, which can assist with community relations.

There is no rationale for seeking to recover the costs (in full or in part) of underground water management from parties other than P&G tenure holders. While other parties, such as landholders and the community, may ultimately benefit from the regulation, it would be unjust to seek to recover costs from these parties as they do not contribute to the need for the regulation in the first place.

Under this option, OGIA's costs would be met through an alternative funding source, such as appropriation funding, which could have implications for other state government activities and services where it would be necessary to re-allocate existing funds to OGIA.

This option is not consistent with a number of policy objectives and is not recommended.

Recommendation

Option 1 – Retain the industry levy in its current form – meets all policy objectives and is therefore recommended. The assessment of options 2 and 3 concluded that the proposed changes to the industry levy would not be consistent with stated policy objectives and hence are not recommended.

Stakeholder consultation

Consultation

Between 13 December 2016 and 20 January 2017, the Consultation RIS was placed on the OGIA and Get Involved websites. OGIA also engaged directly with stakeholders during the consultation period by alerting all relevant P&G tenure holders to the release of the Consultation RIS via email and telephone. No submissions were received during the consultation period. This is likely to be because the industry and key stakeholders were consulted prior to the preparation of the Consultation RIS and their views were accommodated.

The Consultation RIS was developed in consultation with four P&G operators as well as industry and community representative organisations. Overall, it was found that:

- industry overwhelmingly supports the work OGIA performs;
- industry anticipates that OGIA's resourcing and activity levels will taper as the CSG industry matures, although this view is not shared by OGIA given the cyclical nature of its work;
- industry broadly supports the current structure of the levy with several participants noting that, even where they do not support all elements of the structure of levy, there are not necessarily better alternatives; and
- industry is seeking some improvements in the administration of the levy, particularly in respect to the provision of levy forecasts and the issuing of invoices.

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1. Identification of the problem

Background

Over the last two decades, the Queensland CSG industry has expanded significantly in parallel with the planned establishment of liquefied natural gas (LNG) export facilities at Gladstone. Large volumes of water are generated as a by-product of CSG production. The tenure holders have a statutory right under the *Petroleum & Gas (Production and Safety) Act 2004* (P&G Act) to extract groundwater (or underground water) associated with the process of extracting petroleum and gas (P&G).

The statutory right to take associated water by the P&G tenure holders is subject to a number of conditions in *the Water Act 2000* (the Water Act) pertaining to management of impacts from groundwater extraction – commonly referred to as the 'underground water management framework'. The framework includes reporting of groundwater impacts, "make good" of water supply bores, groundwater monitoring and management of environmental assets such as the springs. It also requires P&G tenure holders to undertake baseline assessments of water bores that are likely to be affected, and to prepare Underground Water Impact Reports (UWIR) which describe the aquifers predicted to be affected, the predicted impact on water levels that triggers the commencement of make good arrangements under the Water Act, and the required monitoring program. In addition, P&G tenure holders need to hold an environmental authority under the *Environmental Protection Act 2004*, which sets conditions in relation to environmental impacts.

Effective from 6 December 2016, this regulatory framework has now been amended to apply to mining activities in addition to P&G. The mining activities will now be subject to same rigour in relation to assessment of impacts on groundwater resources and its management through monitoring and make good obligations[2]. This Regulatory Impact Statement (RIS) only relates to the groundwater impact management framework that is in existence for P&G activities.

OGIA's role

The Office of Groundwater Impact Assessment (OGIA) is an independent entity established under the Water Act to support assessment and management of groundwater impacts from resource activities. OGIA is funded through an industry levy.

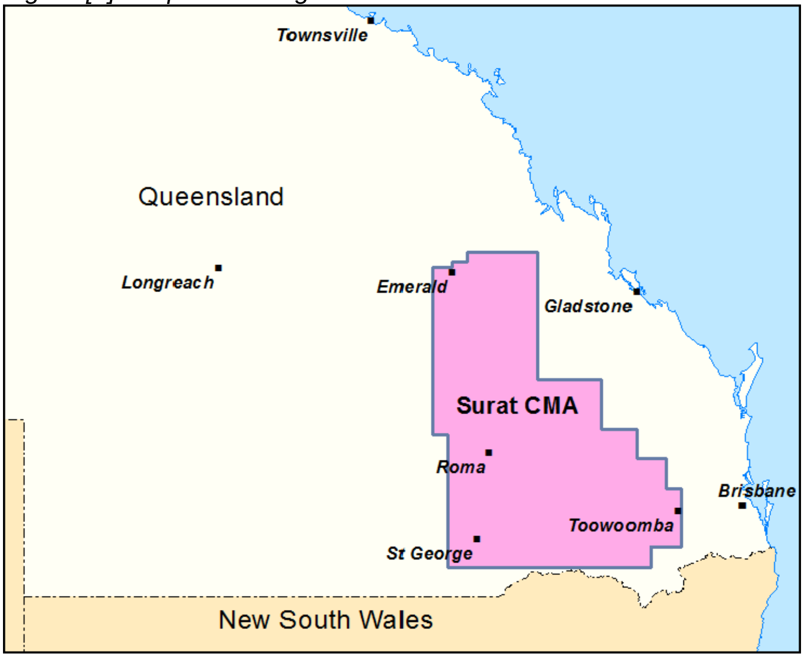
In areas of intensive development, groundwater impacts can extend beyond individual tenures and overlap with impacts from activities on nearby tenures. Therefore, a cumulative impact assessment and management approach is applied whereby the Queensland Government may declare such an area to be a Cumulative Management Area (CMA). When a CMA is declared, OGIA becomes responsible for:

- advising the chief executive (of the Department of Environment and Heritage Protection) on matters relating to impacts on underground water caused by the exercise of underground water rights by resource tenure holders;
- establishing and maintaining a database of information about underground water;
- preparing underground UWIRs for CMAs; and
- performing any other function given to the office under this Act or another Act.

Currently there is one declared CMA in Queensland – the Surat CMA **(Figure 1)** which was established in 2011 in response to extensive development of CSG for the assessment and management of groundwater impacts.

[2] The Water Reform and Other Legislation Amendment Act 2014.

Figure [1]. Map illustrating the area of the Surat CMA



Industry levy for underground water management

OGIA functions are funded through an industry levy. The levy framework is established under section 479 of the Water Act with the structure and calculation method provided for in Part 2A of the *Water Regulation 2002*. The levy was established in 2012 in accordance with the Queensland Government's policy on fees and charges which requires that the costs of regulatory activities are recovered from those parties that create the need for the regulatory oversight.

The industry levy was the subject of an earlier RIS[3] in 2012. This RIS outlined a number of options for the structure of the industry levy to recover costs associated with groundwater management functions from P&G tenure holders.

The recommended levy structure, subsequently adopted into regulation, comprises separate charge rates for three classes of relevant sub-blocks within the P&G tenure footprints. The charge rates are commensurate to the level of effort applied by OGIA in the assessment and management of groundwater impacts to those tenures.

- Charge No. 1 applies to relevant sub-blocks outside the CMA – primarily petroleum leases (PL);
- Charge No. 2 applies to relevant sub-blocks of tenures within the CMA that are used or are intended to be used for conventional P&G production.
- Charge No. 3 applies to the relevant sub-blocks of tenures within the CMA that are used or are intended to be used for CSG production.

The levy is charged in advance based on a budget forecast developed for OGIA each year. Unspent funds are refunded to tenure holders the following financial year. The levy varies from year to year as required. The net levy in 2015-16 was $4.06 million.

Currently about 91% of the levy is raised from charge 3 – CSG tenure holders in the CMA.

[3] Water Amendment Regulation (No. 1) 2012, Regulatory Impact Statement for Subordinate Legislation 2012 No. 73 made under the *Water Act 2000*

The Water Act provides that OGIA consult with a relevant advisory body on planned expenditure. An Expenditure Advisory Committee (EAC) was established for this purpose. The EAC comprises a Chair and five members. The membership of the EAC consists of community and industry representatives and has been structured to balance the interests of the petroleum and non-petroleum sectors.

OGIA prepares proposed budgets and consults with the EAC, as follows:

- EAC meets in May to review and endorse OGIA's budget for the next financial year.
- EAC meets in November to review expenditure and the work program, receive a report on the industry levy and endorse the preliminary planning for the next financial year.

The EAC is not a decision-making body and the Minister for Natural Resources and Mines approves OGIA budgets and the charges set under the annual industry levy.

Purpose of this Regulatory Impact Statement (RIS)

The purpose of this RIS is to evaluate the continuing relevance, effectiveness and efficiency of the regulation for the implementation of the industry levy for the recovery of OGIA's costs associated with underground water management (s479 of the Water Act) for P&G activities. For clarity, this RIS does not examine the broader regulation which establishes OGIA and which prescribes its functions. It also does not include expansion of OGIA's role in response to recent regulatory changes to include underground water management for mining activities which may be subject to a separate RIS process in future.

The key 'problem' to be addressed by this RIS is how to most appropriately continue funding the activities undertaken by OGIA in supporting the underground water management framework.

In reviewing the industry levy, this RIS should:

- identify the need for continued regulatory action;
- evaluate whether the regulation is meeting its original objectives;
- assess whether the regulation is being applied effectively and as intended;
- consider whether the regulatory objectives could be achieved in a more effective and efficient way;
- assess the impact of the regulation on stakeholders to ensure it is not imposing an unnecessary regulatory burden; and
- include consultation with stakeholders.

PricewaterhouseCoopers (PwC) was engaged to perform an independent review of the industry levy, which included preliminary consultation with stakeholders.

This RIS summarises the outcomes of this review and outlines any necessary or appropriate changes to the industry levy including, but not limited to, the attribution of costs across P&G tenure holders and the appropriateness of charging arrangements. This RIS also assesses these options against stated policy objectives and examines the potential economic, social and environmental impacts of each option.

2. Objectives of government regulation

Objectives of the industry levy

The Water Act enables the Queensland Government to administer an industry levy to recover, from P&G operators, OGIA's costs associated with its underground water management functions (s479 of the Water Act).

The regulation of groundwater impacts which may arise from P&G operations forms part of a broader regulatory regime applying to the management of surface water and groundwater in Queensland. Other water users operate under a water regulatory regime specified in the Water Act. This regulatory regime applies to the extraction and use activities of a number of sectors including urban, industry (for example mines, processing) and agriculture.

P&G tenure holders have the right to take associated water which is necessary for the production of oil and gas. The water management regulatory regime applying to P&G operators was introduced so that they are accountable for assessing and managing the impacts they cause in using their water right. The levy is a means by which these P&G tenure holders meet the cost of assessment and management activities that need to be undertaken on a collective basis rather than individually.

Although the development of the CSG industry is driving the expansion of the P&G sector, conventional gas operators are subject to the same water management regime. Conventional gas operations produce less water than CSG operations, however, water production from these operations needs to be taken into account in assessing impacts. Given the link between conventional gas activities and the costs/activities of OGIA, these tenures are therefore included in the levy regime.

CSG production by a number of P&G tenure holders in the Surat CMA, and its cumulative impact on groundwater resource, was the basis for establishing the functions of OGIA (formerly the functions of the Queensland Water Commission (QWC)). If OGIA had not been established, then P&G operators in the CMA would need to individually prepare UWIRs at their own cost. In such a situation, there would be a risk that these activities would not be coordinated or would not meet the full requirements of the Water Act.

The key policy objectives for the industry levy were initially established as part of the 2012 RIS. They have been revised to reflect the transfer of underground water management responsibilities from QWC to OGIA. These objectives are as follows:

a. *Technical assessments of likely future impacts from water extraction needs to be carried out to a high standard by an independent entity which is funded accordingly*

The volume of water planned to be extracted by CSG operators is large. Communities rely on groundwater resources and need to understand as clearly as possible the potential impact of the water extraction on water levels. Identified impacts underpin the arrangements for making good of affected water bores and broader underground water impact management. An independent body is required to coordinate and perform these assessments to a high standard, and it should be funded accordingly.

b. *P&G tenure holders should meet the costs associated with the management of their rights to take underground water*

Under the provisions of the P&G Act, tenure holders have the right to take groundwater in the process of producing P&G. With that right go responsibilities and accountabilities. Some of those responsibilities and associated costs are met directly by individual P&G tenure holders. Some of the responsibilities are met indirectly, through OGIA carrying out the required work collectively for P&G tenure holders. It is appropriate that P&G tenure holders meet OGIA's costs as well as their own direct costs.

c. *The levy structure should fairly apportion the cost of OGIA's activities to groups of P&G tenure holders according to their relative benefit*

Some of OGIA's activities relate specifically to particular groups of P&G tenure holders. For example, most of OGIA's current activities relate only to the Surat CMA. It is therefore fair that the levy system is structured so that those costs are to be met by the P&G tenure holders within that area.

d. The levy should be efficient in that it should be as simple as possible and easy to administer

The levy structure should be transparent and readily understood. This will ensure that the cost of administering the levy does not significantly contribute to the costs to be recovered through the levy.

3. Consideration of options

This RIS requires the consideration of any necessary or appropriate changes to the levy structure including, but not limited to, the attribution of costs across P&G tenure holders and the appropriateness of charging arrangements. Further it requires consideration of whether the regulation is still necessary, or whether there are other regulatory options which may meet the objectives of government.

A number of options have therefore been developed for the review based on these parameters. Option 1 represents the 'status quo' which is to retain the levy in its current form. This is the recommended option. Subsequent options consider amendments to the levy, and removing the levy and funding the activities of OGIA through other means.

Option 1 – Retain the industry levy in its current form (recommended option)

The levy is currently determined by the number of relevant sub-blocks of tenures and the level of effort by OGIA in the assessment and management of impacts for each particular class of tenure. For simplicity, the levy charges are divided into three charge rates, each corresponding to a particular class of tenure as described in the earlier sections:

- Charge No. 1 applies to relevant sub-blocks outside the CMA – primarily petroleum leases (PL);
- Charge No. 2 applies to relevant sub-blocks of tenures within the CMA that are used or are intended to be used for conventional P&G production.
- Charge No. 3 applies to relevant sub-blocks of tenures within the CMA that are used or are intended to be used for CSG production.

At present, the industry levy only applies to ATPs (granted or under application) within areas that are the subject of approved EISs for gas field development. These particular ATPs have been signalled as being on a planned path to commercialisation and therefore are a focus for activity by OGIA. This ensures that there is a high degree of alignment between charges under the levy and OGIA's effort in assessment of impacts.

Tenures outside of the CMA

For sub-blocks outside the CMA, the scope of OGIA's activities and the associated costs are relatively small. The relevant activities relate to management of the monitoring data and provision of advice in relation to such matters as the adequacy of UWIRs prepared by individual P&G tenure holders.

For any year, the charge per sub-block reflects OGIA's costs relating to work outside the CMA in that year.

Tenures inside of the CMA

For sub-blocks inside the CMA, a similar approach is taken, however a differential charge applies depending on whether the sub-block was used or intended to be used for CSG production or for conventional petroleum or gas production.

This approach was selected for the following reasons:

- Conventional gas production extracts a relatively small amount of water, the operations are mature and the impacts are well understood. By comparison, CSG development will extract more water and is in new areas where impacts need to be assessed for the first time. As a result, it is the CSG industry that is the main driver for OGIA's activities in the Surat CMA and it should meet the major share of the cost of OGIA's activities in the CMA.
- To charge for the sub-blocks of tenures on which conventional production is carried out at the same rate as for CSG tenures would result in conventional gas tenure holders paying a greater share of costs than they are responsible for.

Although there is a reason to differentiate between CSG and conventional production inside the CMA, the same need does not exist outside the CMA. Inside the CMA, OGIA carries out the modelling and assessment activities, whereas outside of the CMA the individual P&G tenure holders carry out that work. Although the cost associated with assessing the impacts of new water-intensive CSG developments may be higher, those costs are met directly by the P&G tenure holders. OGIA's activities also consist of checking the technical work carried out by the P&G tenure holders and storage of monitoring data. As a result, there is not the same need to differentiate between CSG and conventional production outside of the CMA.

OGIA's total cost associated with its function in 2015-16 was $4.06 million. **Table 4** provides a summary of the charge amounts for each class of sub-block for the levy period 2015-16.

Table [4]. Charge amounts for the period 2013-14 to 2015-16

	Charge per sub-block (excl. GST)	Number of relevant sub-blocks	Proportion of total annual levy
Charge No. 1 - Outside the CMA Charge applies to both conventional & CSG tenures	$33.73	5080	4.2%
Charge No. 2 - Inside the CMA Charge applying to conventional gas tenures	$123.13	1578	4.8%
Charge No. 3 - Inside CMA Charge applying to CSG tenures	$434.9	8489	91%

Option 2 – Adjust the industry levy based on feedback from stakeholders

Preliminary consultation highlighted that there is broad acceptance of the industry levy, although some stakeholders did raise concerns with some components of the levy structure and associated charges. These are described in the sub-options below.

Option 2a – Base the industry levy on planned development area rather than tenure area

One stakeholder proposed that the levy should be based on planned development area, rather than tenure area. Planned development area is the area which P&G operators identify as being planned for future production, and which is reported annually to OGIA. This proposal was based on the view that a company's current PLs and ATPs with approved EISs do not accurately reflect the company's future development plans.

Under this option, the levy would be applied to those sub-blocks within a tenure area that are designated the "planned development area" as reported by each company (both inside and outside of the CMA). As such, it would be possible to continue to apply similar differential charges as described in Option 1. **Table 5** provides details on the total number of P&G tenures currently subject to the levy compared to those which fall within the currently reported planned development area.

Table *[5]. Total tenure area and planned development area (2015-16)*

	Total tenure area		**Planned development area**	
	Inside the CMA	**Outside the CMA**	**Inside the CMA**	**Outside the CMA^**
Number of tenures				
- PLs	135	133	75	Not obtained
- ATPs	14	5	16	Not obtained
Number of sub-blocks				
- PLs	6,545	2,931	2,709	Not obtained
- ATPs	3,540	2,166	1,118	Not obtained
Area (km^2)	30,255	15,327	19,135	-

^ OGIA only receives future development plans from CSG companies within the Surat CMA. The 2015-16 future development plans were submitted in various data formats. Due to the technical limitations of some P&G tenure holders, some future development plans require additional geospatial work to be carried out by OGIA so that the data is fit for the purpose of groundwater modelling. The data currently provided by the P&G tenure holders is not suitable for calculating a levy.

Option 2b – Remove the charge for conventional gas tenures

Two stakeholders proposed that the levy should not apply to conventional gas tenures. The basis of this proposal was that conventional gas production does not have a significant impact on groundwater and conventional gas is experiencing declining levels of development and production due to falling reserves.

Under this option, OGIA's costs which are currently allocated to conventional gas management activities, and recovered through charges to conventional gas tenure holders (Charge No. 1 (partially) and Charge No. 2), would be fully allocated to CSG management activities and recovered from CSG tenure holders. The existing charges would therefore be amended per **Table 6**:

Table [6]. Charge structure under Option 2b

Charge	**Option 1 (status quo)**	**Option 2b**
Charge No. 1 - Outside the CMA	Charge applies to both conventional gas and CSG tenures	Charge would apply to CSG tenures only
Charge No. 2 - Inside the CMA	Charge applies to conventional gas tenures	Charge would be removed
Charge No. 3 - Inside CMA CSG Production	Charge applies to CSG tenures	No change

Option 2c – Change the basis for applying the charge to an ATP with an approved EIS

One stakeholder questioned the basis for applying the levy only to ATPs with approved EISs, on the basis that an EIS approval is an 'arbitrary' point in the project development lifecycle. The levy was originally structured around this EIS approval as it was considered a firm signal of intent to develop, thus requiring assessment of future impacts by OGIA. This stakeholder believed that there is now a lesser focus on progressing projects from exploration to development and production, and therefore an assessment of future impacts may be not be necessary.

Removing the charge for ATPs with EISs would necessitate an alternative basis for allocating associated costs. Two approaches have been identified:

- Adjust the levy to apply to all ATPs, not just ATPs with approved EISs.
- Adjust the levy to apply to only PLs, not ATPs.

Option 2d – Remove the levy for smaller exploration operators

Two stakeholders proposed that the levy should not apply to smaller exploration operators. This proposal is based on the view that the industry levy should not create a financial burden for operators which may not yet be profitable.

This option would not involve a change to the annual charges under the levy, rather exemptions for certain operators. This could involve the removal or adjustment of charges for operators depending on an assessment of their 'capacity-to-pay' which could be based, for example, on their capitalisation, gross/net revenues or profitability. Alternatively, the levy could be applied only to more established operators which have projects that are already in the production phase.

Option 3 – Remove the industry levy and fund OGIA through alternative means

Preliminary consultation with stakeholders highlighted that there is a very high level of support for OGIA and its activities. In particular, stakeholders are broadly supportive of the current arrangements for monitoring and management of underground water impacts, including the application of an industry levy to recover the costs incurred by OGIA.

A consideration in reviewing any regulation is whether the regulation is still necessary, or whether the regulatory objectives could be achieved in a more effective and efficient way. The key question is therefore whether any industry levy remains appropriate, or whether the activities should be funded (in part or in full) by alternative means.

Preliminary consultation with stakeholders revealed that some stakeholders do believe that a proportion of OGIA's costs should be met by the state government as its 'investment' in the future sustainability of the industry. This proportion could be determined by way of a methodology agreed with industry, or on the basis of decision by the Queensland Government (e.g. the Minister for Natural Resources and Mines).

4. Impact analysis of options

The purpose of this section is to assess each of the options identified against the stated policy objectives for the levy. These policy objectives are set out in full in Section 2 and are summarised as follows:

a. *Technical assessments of likely future impacts from water extraction needs to be carried out to a high standard by an independent entity which is funded accordingly.*

b. *P&G tenure holders should meet the costs associated with the management of their rights to take underground water.*

c. *The levy structure should fairly apportion the cost of OGIA's activities to groups of P&G tenure holders according to their relative benefit.*

d. *The levy should be efficient in that it should be as simple as possible and easy to administer.*

In addition to assessing each option, the assessment considers:

- any potential economic (including competition and compliance) impacts;
- any potential social impacts; and
- any potential environmental impacts.

Given the quantum of costs recovered through the industry levy ($4.06 million excl. GST in 2015-16) and the limited number of entities directly impacted (13 companies in 2014-15), these impacts are largely described in qualitative rather than quantitative terms.

Option 1 – Retain the industry levy in its current form (recommended option)

Under this option, the existing levy structure, including the specification of the annual charges set under the levy, would be retained. The levy currently applies to the land under tenure, with differential charges applying based on the tenure type (PLs or ATPs with approved EISs), and whether tenures are inside or outside of the CMA.

The charges set under the levy reflect the actual costs incurred by OGIA in undertaking management activities, both within and outside the CMA, and the intended purpose of the tenure (CSG or conventional gas). As such, there is a high degree of alignment with the government's policy objectives that the levy should fairly apportion OGIA's costs to P&G tenure holders, and these P&G tenure holders should meet the costs associated with the management of their rights to take underground water. This option also ensures that OGIA is appropriately funded to perform its functions.

To meet the policy objective of efficiency, the levy was structured to minimise complexity and limit administrative burden, specifically by:

- limiting the number of charges under the levy by applying only one charge to all tenure classes outside of the CMA, rather than separate charges; and
- limiting the charge for ATPs to only those with approved EISs given the large number of operators which hold ATP tenures.

There was broad support for the current levy structure with several participants noting that even if they did not fully support the current structure, there was not necessarily a better alternative. Stakeholders also noted that even in the event of any change, the quantum of costs recovered under the levy would not change, just the method by which it is apportioned between tenure holders.

This option meets all stated policy objectives and is recommended.

Impact assessment

In assessing impacts, this option is compared to a 'base case' of no regulation whereby OGIA would not undertake monitoring and management of groundwater impacts and there would be no industry levy in place to recover its costs. In practice, this 'base case' is not a feasible option, as it involves changes to the broader regulatory regime applying to management of underground water impacts, although it is appropriate for comparative purposes.

Economic impacts

The industry levy supports OGIA in carrying out modelling and assessment of groundwater impacts inside the CMA, and monitoring of groundwater impacts outside of the CMA. Should OGIA not undertake these activities, and this regulation not be in place to recover associated costs, then P&G tenure holders would need to carry out the same scope of activities for the areas affected by their own operations.

Under the 'base case', P&G tenure holders would therefore incur direct costs in managing underground water impacts. The collective costs of the operators would be higher than the costs of OGIA for equivalent activities, due to the duplication of activities across overlapping impacted areas. The cost efficiencies achieved by OGIA were acknowledged by multiple stakeholders during preliminary consultation and they indicated they have experienced material reductions in their own groundwater management costs as a result.

A key consideration is the distributional impacts of the industry levy, that is, whether any impacted party incurs a disproportional amount of cost. In 2015-16, the levy was paid by four major operators ($3.978M excl. GST) and nine smaller operators ($79,228 excl. GST). The differing amounts paid by companies were reflective of the area held by each operator under tenure and the type of tenure held. As charges set under the levy are reflective of costs associated with each tenure type, the amounts payable by each operator are considered appropriate.

Finally, consideration needs to be given to whether the regulation creates any broader industry or economic impacts. The size of the P&G industry in Queensland exceeds $1 billion in production value.[4] Total exploration expenditure in Queensland (including for CSG) was estimated at $751.6 million in 2014-15 compared with $612.6 million in 2013-14.[5] While the levy imposes a cost on industry, the following is noted:

- The levy amount is small in proportion to overall exploration expenditure by P&G tenure holders, and would be incurred by the operators as exploration expenditure under the 'base case' scenario.
- The activities of OGIA ensure the effective and efficient regulation of underground water impacts in CMAs which has contributed to the growth in exploration, development and production activities of operators, and the growth of the P&G industry in Queensland.
- The P&G tenure holders receive direct benefit from the groundwater impact assessment carried out by OGIA in a CMA, which all the tenure holders would otherwise have to undertake themselves and separately as part of their UWIR obligations.

The regulation has therefore created financial benefits for a number of operators, and has contributed to industry growth and development with associated economic benefits.

Competition impacts

A competition assessment of this regulation found that it would not restrict competition, consistent with clause 5 of the Competition Principles Agreement.

[4] https://www.dnrm.qld.gov.au/__data/assets/pdf_file/0004/238072/queensland-mining-petroleum-overview.pdf
[5] Ibid

Compliance costs

Compliance costs under this option relate to the costs which are incurred by OGIA in administering the levy, and the costs to P&G tenure holders in administering payments to OGIA.

The labour costs incurred by OGIA in administering the levy, including the administration of and participation in EAC meetings, are estimated to be less than one full-time equivalent (FTE) position.

During preliminary consultation, stakeholders indicated that the time and effort associated with administering payments to OGIA are minimal. In the past, some inefficiencies have been identified in the process that OGIA undertakes to issue invoices, although measures have been or are now being taken to improve and streamline this process.

Under a 'base case' of no regulation, P&G tenure holders would incur a range of compliance costs associated with regulatory requirements to monitor and manage groundwater impacts. As discussed above, these are likely to exceed the costs which are currently incurred by OGIA in undertaking the activities on their behalf.

In addition, the Queensland Government would incur costs in monitoring compliance with this regulation, for example, through the assessment and approval of individual UWIRs prepared by petroleum tenure holders.

Social impacts

There are no direct social or community impacts associated with this regulation. Indirectly, the community and some interest groups benefit from the broader regulatory framework in place for underground water management. Further, the community receives social benefits, such as employment opportunities, from the P&G industry.

Environmental impacts

There are no direct environmental impacts associated with this regulation. Indirectly, the broader regulatory framework in place for underground water management provides the basis for accurate and comprehensive assessment of the environmental impacts associated with P&G activities within the CMA.

Option 2 – Adjust the industry levy based on feedback from stakeholders

Some stakeholders did raise concerns with some components of the levy structure. To address the concerns, a number of sub-options are presented in the previous section and are assessed below.

Option 2a – Base the industry levy on 'planned development area' rather than tenure area

One stakeholder proposed that the levy should be based on planned development area, rather than total tenure area of P&G operators. This was based on the view that an operator's current PLs and ATPs do not accurately reflect its future development activities which would potentially give rise to impacts on underground water.

Under the regulatory framework applying to the management of underground water, OGIA must consider both the current and future activities of P&G tenure holders and the potential cumulative impacts which may arise. Should the levy only be applied to the planned development area, a number of tenures both within and outside of the CMA where CSG production is proposed as part of an approved EIS, or where an environmental authority has been issued, would not be subject to the levy. OGIA would still have to undertake assessment of those non-production areas within CMAs. In addition, outside the Surat CMA, OGIA has responsibilities relating to the storage of data, undertaking monitoring activities, the provision of technical advice to the Queensland Government and the overseeing of the need for any new CMAs.

Should the levy only be applied to those sub-blocks within a tenure area that are designated the "planned development area", a number of sub-blocks both within and outside of the CMA would not be subject to the levy. This option is therefore not consistent with policy objectives that require P&G tenure holders to meet the costs associated with OGIA's activities, and costs to be fairly apportioned between groups of P&G tenure holders in accordance with the benefits received.

A number of stakeholders expressed concerns regarding this option and most stakeholders viewed it negatively. These concerns mostly related to the potential 'inequities' in charge amounts that may arise, and the more complex and convoluted nature of this proposal. OGIA and some stakeholders also pointed to difficulties in implementing and administering a levy based on future development area, as follows:

- Planned development area is not currently defined in regulations or legislation. As such, there is no strict criteria or agreed basis on which to determine future development area, and P&G operators use different approaches and apply different levels of judgement. The current information provided on planned development area is therefore not consistent nor based on a common definition of planned development area.
- The Queensland Government would need to determine if additional regulation would be necessary to define the approach for calculating planned development area, and to compel the provision of information to the degree of accuracy required to confidently calculate and administer the levy.
- Planned development area changes on an almost continuous basis, as a result of both company-specific factors and wider macroeconomic factors. As such, it may be difficult to establish a reliable 'point-in-time' forecast of planned development area. The area reported may also vary significantly from year to year which could impact on the charges set under the levy. This would not provide industry with the ability to forecast, which industry expressed was a key requirement for the levy.
- Some P&G operators consider planned development area information to be commercially sensitive. As such, to base the levy on this information would mean that it could become more widely known, at least at an aggregate level, through formal reporting and Right to Information (RTI) processes. If actions were taken to limit the disclosure of this information, this could have an impact on the transparency of the levy.
- There have been instances where the information provided by operators has been revised during the same year, reflecting re-assessment of planned development area and acknowledged inaccuracies in data. Such changes would create complexities in the administration of the levy, specifically a need to recalculate charges and re-issue invoices with associated adjustments. As discussed above, regulatory amendments may be necessary to compel the provision of accurate information, but in any event, new processes for data collection and checking would be required.
- The option would be more complex to administer, requiring the development of new processes for collating and checking data, along with changes to information technology systems. Presently, OGIA uses data sets and databases from other Queensland Government agencies at minimal or no cost. Any option that does not use existing data and systems would create a new cost for OGIA and these costs would be reflected in charges under the levy. The expected changes in compliance costs for OGIA and P&G operators are detailed in the impact assessment below.

For the reasons stated above, this option does not meet the policy objective that the levy should be as simple as possible and easy to administer.

Overall, this option does not meet most policy objectives and is not recommended.

Impact assessment

In assessing impacts, this option is compared to the status quo whereby the levy is retained in its current form (Option 1).

Economic impacts

This option would result in a change in the amount each company pays in charges under the levy, compared to Option 1.

Table 7 below summarises these changes for each company based on 2015-16 data. As data is not available for planned development area outside of the CMA, this analysis only considers that proportion of costs currently allocated to tenures within the CMA ($3.9 million excl. GST in 2015-16).

Table [7]. Option 2a - Potential impact on amounts paid by P&G operators (based on 2015-16 data)

Company	Charges paid under Option 1 ($ excl. GST)	Charges paid under Option 2a ($ excl. GST)	% change
Operator 1	1,158,103	1,133,023	-2%
Operator 2	1,034,046	681,268	-34%
Operator 3	858,919	832,892	-3%
Operator 4	712,794	1,041,634	46%
Operator 5	58,120	0	-100%
Operator 6	36,078	0	-100%
Operator 7	14,284	0	-100%
Operator 8	7,265	197,318	2616%
Operator 9	4,310	0	-100%
Operator 10	2,216	0	-100%

This option is not expected to result in any additional broader industry or economic impacts.

Competition impacts

A competition assessment of this option found that it would not restrict competition, consistent with clause 5 of the Competition Principles Agreement.

Compliance costs

At present, compliance costs associated with the industry levy largely relate to the administration costs incurred by OGIA and P&G operators (per Option 1). Under this option there would be significant new compliance costs incurred by OGIA associated with the generation, collection and verification of information required to administer the levy, which would require an additional FTE position.

There would also be significant compliance costs for P&G operators associated with the collection and provision of information. At present, only three of the four largest CSG operators have the technical capability to provide their planned development areas in a suitable format.

No smaller CSG company currently has the capability to provide the required information. For smaller operators, the cost of the geospatial systems and technical expertise required would likely exceed the current annual charge amounts they are paying.

For all operators, additional staff time would also be required each year to collect and supply necessary information to support the calculation of the levy.

Social impacts

This option is not expected to create any new social or community impacts.

Environmental impacts This option is not expected to create any new environmental impacts.

Option 2b – Remove the charge for conventional gas tenures

Several stakeholders proposed that the levy should not apply to conventional gas tenures. The basis of this proposal is that conventional gas production does not have a significant impact on groundwater and conventional gas is experiencing declining levels of development and production due to falling reserves.

In assessing this option, it was found that conventional gas tenures are still drivers of OGIA's activities although the scope of these activities and the associated level of effort is less than for CSG tenures. This lower level of effort is accounted for in the current levy structure, through the identification of associated costs, and recovery of these costs through a separate lower charge for conventional gas tenures within the CMA, or as part of a combined charge for both conventional gas and CSG outside of the CMA.

Excluding conventional gas tenures from the levy would not be consistent with policy objectives that require P&G tenure holders to meet the costs associated OGIA's activities, and costs to be fairly apportioned between groups of P&G tenure holders in accordance with the benefits received. This option would result in an increase in costs to be met by CSG tenure holders (around 7.5% based on the 2015-16 financial year) and associated increases in levy charges, as outlined in Table 8 below.

OGIA noted that conventional gas production is declining due to falling reserves. As these reserves are exhausted, P&G tenure holders do have the opportunity to relinquish their tenures. This would reduce the amount that conventional gas operators pay under the levy, and potentially reduce OGIA's management effort for conventional gas tenures and associated costs.

This option would result in a simplification of the charges under the levy and would reduce associated administrative effort. This is consistent with the policy objective that the levy be as simple as possible and easy to administer.

Overall, this option does not meet all policy objectives and is not recommended.

Impact assessment

In assessing impacts, this option is compared to the status quo whereby the levy is retained in its current form (Option 1).

Economic impacts

In 2015-16, there were 117 conventional gas tenures and 148 CSG tenures subject to the levy. Removing the levy for conventional gas tenures would result in associated costs being allocated to CSG tenures, and consequently an increase in associated charges. The total costs allocated to conventional gas tenures and recovered through the levy was $281,465 (excl. GST).

The impact of this option on the charges applied in 2015-16 is shown in the table below.

Table [8]. Option 2b - Potential impact on charges under the levy (based on 2015-16 data)

	Option 1 (status quo)	**Option 2b**
Charge No. 1 - Outside the CMA	$33.73 Charge applies to both conventional & CSG tenures	$68.65 Charge would apply to CSG tenures only
Charge No. 2 - Inside the CMA	$123.13 Charge applies only to conventional gas tenures	N/A – Charge would be removed
Charge No. 3 - Inside CMA	$434.90 Charge applies only to CSG tenures	$457.78 Charge would continue to apply only to CSG tenures

Separately, it was raised during consultation that two conventional gas operators believe that they incur a disproportionate amount of the levy, due to holding ‘surplus’ conventional gas tenures outside of the CMA and a greater proportion of ATPs with EISs. In each instance, it is a business decision by the company to retain rather than relinquish these tenures, and therefore any perceived inequity in payment amounts is due to the commercial practices of each company, rather than from the structure of the levy itself.

Competition impacts

A competition assessment of this option found that it would not restrict competition, consistent with clause 5 of the Competition Principles Agreement.

Compliance costs

This option is expected to create some one-off compliance costs for OGIA, estimated to be about $10,000.

It is expected that there would be a decrease in compliance costs for operators with conventional gas tenures, related to a reduction in effort associated with paying invoices, although this is not expected to be large.

Social impacts

This option is not expected to create any new social or community impacts.

Environmental impacts

This option is not expected to create any new environmental impacts.

Option 2c – Change the basis for applying the charge to an ATP with an approved EIS

One stakeholder questioned the basis for applying the levy only to ATPs with approved EISs, on the basis that an EIS approval is an 'arbitrary' point in the project development lifecycle.

The levy was originally structured so that it did not apply to all ATPs, only those with approved EISs, on the basis that there are a large number of operators undertaking exploration and appraisal activities. At that time, there was greater focus on progressing projects from exploration to development and production, and an approved EIS was a firm signal of intent to develop and that an assessment of future impacts was required. This decision also reflected the:

- significant increase in OGIA's activities, level of effort and associated costs where an ATP is subject to an EIS process, and where the EIS is subsequently approved;
- generally lower contribution of ATPs without EIS approval to the activities and costs of OGIA, such that a separate charge per ATP would not be efficient;
- administrative complexity and associated cost of charging a large number of operators that hold ATPs, particularly where there is high turnover of operators and transfer/sale of tenures; and
- likely profitability of these operators during the exploration and appraisal phase of the project lifecycle.

The existing levy structure for ATPs was therefore considered to best balance the policy objectives to fairly allocate costs between P&G tenure holders and recover these costs in accordance with the benefit received, with the objective for the levy to be simple and easy to administer.

Removing the charge for ATPs with EISs would necessitate an alternative basis for allocating associated costs. Two approaches were identified:

- Adjust the levy to apply to all ATPs, not just ATPs with approved EISs. Per the original assessment, this approach is unlikely to be efficient and would result in a high level of administrative effort by OGIA.
- Adjust the levy to apply only to PLs, not to ATPs. This approach would be inconsistent with the policy objective that P&G tenure holders should meet the costs associated with the management of their rights to take underground water, as no ATP holder would be subject to the levy.

Ultimately, it is recognised that there is no 'perfect' basis for charging ATP tenure holders and this was acknowledged by stakeholders during the consultation interviews, however, the alternative bases for charging identified under this option do not meet all policy objectives and are not recommended.

Impact assessment

In assessing impacts, this option is compared to the status quo whereby the levy is retained in its current form (Option 1).

Economic Impacts

Changing the basis for charging ATPs with approved EISs would result in a reallocation of costs across P&G tenure holders, and changes in charges under the levy. In 2015-16, the levy applied to 44 ATP tenures with approved EISs. In the proposed scenario whereby the levy would be applied to all ATPs, an additional 113 tenures would be subject to the levy. The number of PLs subject to the levy would remain the same under this option (275 tenures).

The impact of this option on charges for this financial year is shown in the table below.

Table [9]. Option 2c - Potential impact on charges under the levy (based on 2015-16 data)

	Option 1 (status quo)	**Option 2c**	
		Apply levy to all ATPs	**Apply levy only to PLs**
Charge No. 1 - Outside the CMA Charge applies to both conventional gas & CSG tenures	$33.73	$1.91	$59.33
Charge No. 2 - Inside the CMA Charge applying to conventional gas tenures	$123.13	$19.28	$124.08
Charge No. 3 - Inside CMA Charge applying to CSG tenures	$434.90	$314.60	$743.72

Competition impacts

A competition assessment of this option found that it would not restrict competition, consistent with clause 5 of the Competition Principles Agreement.

Compliance costs

Under this option, it is expected that OGIA would incur some minor increases in compliance costs, including additional staff time to update procedures and processes for administering the levy, and time associated with the ongoing administration of the levy. The cost of amending the financial model for calculating charges under the levy is estimated at $20,000.

Compliance costs for operators mostly relate to the costs of administering payments to OGIA. There would also be changes in these compliance costs for operators, depending on whether their tenures are captured under the levy.

Social impacts

This option is not expected to create any new social or community impacts.

Environmental impacts

This option is not expected to create any new environmental impacts.

Option 2d – Remove the levy for smaller exploration operators

Two stakeholders proposed that the levy should not apply to smaller exploration operators. This proposal is based on the view that the industry levy should not create a financial burden for operators which may not yet be profitable.

As discussed in Option 2c, the levy was originally devised so that it did not apply to all ATPs, only those with approved EISs. This decision was due, in part, to the large number of P&G operators undertaking exploration and appraisal activities that would not yet be profitable. As such, the current industry levy structure accommodates (in part) the 'capacity-to-pay' of operators.

This option would not involve a change to the charges under the levy, rather exemptions for certain operators. This could involve the removal or adjustment of charges for operators depending on an assessment of their 'capacity-to-pay' which could be based, for example, on their capitalisation, gross/net revenues or profitability. Alternatively, the levy could be applied only to more established operators which have projects that are already in the production phase.

To further limit charges only to established operators with projects that are in the production phase would be an arbitrary approach. It may be argued that this is inequitable, and in fact, the 'capacity-to-pay' of these operators can also vary depending on their other business activities, and broader commodity and macroeconomic factors.

Critically, this option is inconsistent with the government's policy objectives that the levy should fairly apportion OGIA's costs to P&G tenure holders, and these P&G tenure holders should meet the costs associated with the management of their rights to take underground water. The activities of smaller operators focusing on exploration and appraisal contribute to the need for OGIA's activities, particularly as they seek EIS approvals, and these operators receive direct benefits from these activities, including:

- the avoidance of costs that they would otherwise incur in having to undertake groundwater modelling;
- technical assistance which supports EIS and other approval processes, and
- the provision of a form of 'social license' which can assist with community relations.

Changes to the way the levy is applied would significantly increase the complexity of the levy and its administration. Importantly, it would require the provision and assessment of information in relation to the financial positon of operators, and a judgement to be made on their 'capacity-to-pay' the levy. This could result in significant changes to the amount of charges under the levy from year to year.

Overall, this option does not meet some policy objectives and is not recommended.

Impact assessment

In assessing impacts, this option is compared to the status quo whereby the levy is retained in its current form (Option 1).

Economic assessment

Analysis was undertaken to determine what proportion of the levy each company was paying. In 2015-16, based on the net levy ($4.06 million excl. GST) and current tenure status, the charges are distributed as follows:

- Four operators pay 97% of the total levy collected or approximately $3.98 million excl. GST. This reflects amounts ranging from approximately $713,000 to $1.22 million excl. GST for each company.
- Nine operators pay the remaining 3% of the total levy or approximately $79,000 excl. GST. This reflects amounts ranging from approximately $500 to $36,000 excl. GST for each company.

This analysis shows that the vast majority of the levy is paid by four operators, and the remaining portion of the levy paid by other operators is small. As such, removing the levy for smaller operators would have limited effect on the total amount collected but would distort the principles which the levy is based upon, that is, cost recovery from those parties whose activities contribute to OGIA's costs.

Competition impacts

A competition assessment of this option found that it would not restrict competition, consistent with clause 5 of the Competition Principles Agreement.

Compliance costs

Under this option, it is expected that OGIA would incur increases in compliance costs in terms of the additional staff time to collate information and analyse the 'capacity-to-pay' of each company. This is estimated to be less that one FTE on an ongoing basis and a one-off cost of about $10,000 associated with changes to the levy model.

Compliance costs for operators would increase where they are required to provide information on 'capacity-to-pay', although it is expected that most operators would have this information on-hand. A decrease in compliance costs for operators may occur where they are no longer captured by the levy and therefore not required to provide information or process payments – this may vary from year to year.

Social impacts

This option is not expected to create any new social or community impacts.

Environmental impacts

This option is not expected to create any new environmental impacts.

Option 3 – Remove the industry levy and fund OGIA through alternative means

Preliminary consultation with stakeholders highlighted that there is a high level of support for OGIA and its activities. In particular, stakeholders are broadly supportive of the current arrangements for monitoring and management of underground water impacts, including the application of the industry levy to recover the costs incurred by OGIA.

A consideration in reviewing any regulation is whether the regulation is still necessary, or whether the regulatory objectives could be achieved in a more effective and efficient way.

The P&G industry and, in particular, the CSG industry is continuing to develop tenures and increase production to meet LNG export needs. As development and production expands, the need for OGIA to monitor and manage cumulative impacts will increase. Further, the alternative regulatory option – for industry itself to perform these activities – is not appropriate given the associated complexities, risks and costs of such a regulatory approach.

The key question is therefore whether any industry levy remains appropriate, or whether the activities should be funded (in part or in full) by alternative means. Preliminary consultation with stakeholders revealed that some stakeholders do believe that a proportion of OGIA's costs should be met by the Queensland Government as its 'investment' in the future sustainability of the industry.

At present, the regulatory role of OGIA is required only because of the activities of P&G tenure holders. Further, these tenure holders derive significant benefits from OGIA activities, including greater compliance with regulatory obligations, avoidance of costs that would otherwise be incurred in having to undertake monitoring and management activities, access to publicly available research and technical materials, and the provision of a form of 'social license' which can assist with community relations.

There is no rationale for seeking to recover the costs (in full or in part) of underground water management from parties other than P&G tenure holders. While other parties, such as landholders and the community, may ultimately benefit from the regulation, it would be unjust to seek to recover costs from these parties as they do not contribute to the need for the regulation in the first place.

This option is not consistent with the government's policy objective that P&G tenure holders should meet the costs associated with the management of their rights to take underground water, and that the costs of OGIA's activities should be fairly allocated to groups of P&G tenure holders according to their relative benefit.

This option is also inconsistent with the Queensland Government's policy on fees and charges which recommends the full recovery of costs for regulatory services provided, and preferably from those parties which are creating the need for the regulation (where they can be identified).

In the event that the levy did not recover all costs of OGIA's activities, an alternative funding source would be required (e.g. appropriation funding). If an alternative funding source was not identified, this option would potentially be incompatible with the policy objective that OGIA should be funded appropriately to undertake monitoring and management activities.

This option does not meet some policy objectives and is not recommended.

Impact assessment

In assessing impacts, this option is compared to the status quo whereby the levy is retained in its current form (Option 1).

Economic assessment

Under this option, all costs incurred by OGIA would be met through an alternative funding source, such as appropriation funding.

In this situation, there would be economic benefits for the P&G operators which would no longer incur the levy, including a positive effect on their profitability. The materiality of this impact would vary from operator to operator but could be material for smaller operators which are in the development and early production phase of their project lifecycles. These improvements in profitability may have broader industry and economic benefits, although they are not expected to be significant in the context of current industry size and output.

A need to fund OGIA through appropriation funding could have implications for the other activities and services of government where it would be necessary to re-allocate existing funds to OGIA.

Competition impacts

A competition assessment of this option found that it would not restrict competition, consistent with clause 5 of the Competition Principles Agreement.

Compliance costs

There would be a significant reduction in compliance costs incurred by OGIA, including the administration of the levy. There would also be reduced staff time for tenure holders who process payments to OGIA.

Social impacts

This option is not expected to create any new social or community impacts.

Environmental impacts

This option is not expected to create any new environmental impacts.

5. Consultation

Consultation on this RIS

The Consultation RIS was placed on the OGIA website and the Get Involved website between 13 December 2016 and 20 January 2017. OGIA also alerted all relevant P&G tenure holders to the release of the Consultation RIS via email and telephone. No submissions were received during or after the consultation period. This is likely to be because industry and key stakeholders were consulted prior to the preparation of the Consultation RIS and their views were accommodated.

The aforementioned consultation prior to the release of the consultation RIS was undertaken by PwC with the following stakeholders from the P&G industry and the Queensland Government:

- Santos Ltd.
- Origin Energy Ltd.
- Arrow Energy Ltd.
- Royal Dutch Shell (through its ownership of BG Group Ltd.)
- The Australian Petroleum Production and Exploration Association (APPEA)
- Gasfields Commission Queensland
- Queensland Treasury
- Queensland Department of the Premier and Cabinet

Consultations took place in August 2016. Feedback was sought in regard to three matters:

a. Is the application of a levy on the petroleum industry to fund groundwater monitoring activities still appropriate?

b. Is the current structure of the levy appropriate and fit-for-purpose?

c. Is the levy being administered efficiently by government?

The feedback gained from the consultations is summarised below and largely represents a majority view/consensus. Additional 'other feedback' was provided by a minority of parties.

Is the application of a levy on the petroleum industry to fund groundwater monitoring activities still appropriate?

Industry overwhelmingly supports the work OGIA performs

All consulted industry stakeholders supported the work that OGIA performs, both from a 'value for money' perspective and the technical work itself. Stakeholders commented that the work of OGIA in some instances had allowed them to significantly reduce the resourcing/activities they previously applied to groundwater activities.

The 'social licence' and independence which OGIA's work provides the industry is highly valued

All consulted industry stakeholders acknowledged and appreciated that OGIA provides the industry with a 'social licence' and a level of independence in regard to the objectivity of measurement of P&G activity impact on groundwater. Stakeholders appreciated the high-profile nature of the petroleum industry in Queensland. Consultation suggests that having the groundwater impact assessment work undertaken by an independent government body helps to maintain public confidence in the industry.

There is an expectation from industry that OGIA's resourcing and activity levels will taper as the CSG industry matures

A number of industry stakeholders expressed the expectation that as the CSG industry matures, it expects the resourcing and activity levels of OGIA to reduce, which would also reduce OGIA's costs and associated charges.

This expectation comes from the context of how OGIA originated. Around 2011, the CSG sector was expanding rapidly in Queensland with petroleum operators acquiring tenures and exploring large allotments of land. A large resourcing response was required by OGIA to ensure that activities to monitor and assess the rapid increase in P&G activities was appropriate and to develop a new groundwater flow model. It is the industry's expectation that, now that the CSG industry has matured and the level of risk to groundwater has become better understood and mitigated, OGIA activities will reduce to a lower 'business as usual' level. Industry also cited depressed commodity prices, which are seeing low levels of exploration, as a factor leading to less activity in the sector, and consequently less activity for OGIA.

Stakeholders reported that their own water management teams had decreased in size as the industry has become more mature and they would expect OGIA's team to reflect this. It was noted that this decrease in team size had come at a similar time of depressed commodity prices which were seeing extensive cost-cutting initiatives undertaken by the majority of the petroleum industry.

OGIA does not expect its role to diminish with time, given the anticipated expansion of development areas and production by P&G operators. However, it acknowledges the cyclical nature of its activity relating to preparation and public release of UWIRs every three years. Therefore, in the short term, costs are expected to increase slightly over the next two years but remain stable over the long term. Separately, OGIA has applied cost-conscious business practices in the past which have resulted in a 24% decrease in costs since the 2014-15 year.

Is the current structure of the levy appropriate and fit-for-purpose?

The majority of industry supports the current structure

There was broad support for the current structure with several participants noting that even if they did not fully support the current structure, there was not necessarily a better alternative. Stakeholders noted that in the event of any change of structure, the quantum of the levy would not be reduced, just the method by which it would be apportioned to industry.

In discussion, alternatives were raised by particular parties. All alternatives raised were presented as options in Section 3.

Is the levy being administered efficiently by government?

Industry is seeking more transparency in regards to OGIA's budget and budget-setting process

One stakeholder noted that although industry currently has representatives (APPEA, Origin) on the OGIA expenditure advisory committee (EAC), these representatives are supposed to rotate off the committee after three years, and it has now been five years. The same stakeholder noted a desire for the minutes from EAC meetings to be circulated to industry together with a breakdown of OGIA's budget. Another stakeholder was seeking OGIA budget forecasts 12 months in advance of the applicable year in order to inform internal budgeting processes.

In response, OGIA has since started discussions with industry regarding a nomination for the rotation of the industry seat on the EAC. It is also considering measures for better communication of its budget to relevant tenure holders.

Industry is seeking improvements in regards to the administration of the levy

A number of administrative improvements relating to the levy invoicing process were also suggested by the industry during the consultation.

There was no consensus view on the preferred frequency of invoicing, however, some stakeholders would prefer that the frequency is maintained consistently. Industry also expressed a desire for the existing invoices to be simplified to enable better understanding of each invoice and the required payment amount. One stakeholder noted that the invoices are currently sent with a relatively short payment period and that a 'pre-invoice' would be beneficial.

In response to the issues raised by the stakeholders on administrative processes, OGIA has been implementing a number of measures to improve invoicing, including a change to invoicing annually that would assist the tenure holders in managing their cash flow.

6. Consistency with fundamental legislative principles

The *Legislative Standards Act 1992* requires that legislation has sufficient regard to rights and liberties of individuals and the institutions of Parliament. The proposed levy framework is consistent with these fundamental legislative principles.

7. Implementation, compliance support and evaluation strategy

There are no implementation requirements associated with this regulation. A number of administrative changes have been introduced to improve efficiency and transparency. OGIA has altered its process for invoicing the levy, including the provision of levy forecasts where requested by P&G tenure holders, and the issuing of a single annual invoice (previously issued tri-annually). Other measures relating to the rotation of the industry seat on the EAC and better communication of budget process have been implemented.

It is noted that the Department of Natural Resources and Mines is presently reviewing the current tenure framework applying to Queensland's resource sector but it is not sufficiently advanced to inform this RIS.[6] Also, as stated previously in this RIS, recent regulatory amendments have created provisions for OGIA's potential role in the assessment and management of groundwater impacts from mining activities. This may require future reconsideration of the structure of the levy.

8. Conclusion

Given that there were no submissions received on the Consultation RIS and that there is broad industry support for the levy in its current form, this Decision RIS recommends that:

a. Government approves retaining the industry levy in its current form; and
b. this regulation should be reviewed again in five years.

[6] Department of Natural Resources and Mines. Innovative Resources Tenures Framework – Policy Position Paper. August 2015.