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The law on locking the CSG gate

By [Hans Lovejoy](#)
in

Lawyer Michele Joncourt from S+P Lawyers in Byron Bay is advising Northern Rivers producers not to be too hasty to shut their farm gate to mining companies who are keen to explore natural gas reserves.

As the debate over coal-seam gas exploration on the North Coast continues, the NSW Farmers Association recently held a legal forum to advise on the best way to deal with approaches from mining companies for access to land.

Ms Joncourt says she attended the forum, and claims it wasn't simply a case of farmers telling mining companies they weren't interested in having their land explored.

'The Crown owns underground gas and minerals,' Ms Joncourt said. 'The government sells licences to mining companies so they can access these underground resources.'

'While many farmers might like to lock the gate, the problem is that, in most cases, the government will not allow the miners to be locked out.'

She claims the Access Arrangement contract presented by mining companies to farm owners gives them 28 days to reach an agreement with the company, and that mining companies may seek an arbitration hearing if the contract is ignored. '...a farmer might be compelled to provide access to their property on terms they don't agree with.'

Ms Joncourt says being legally represented can offer a potentially better outcome for landowners, and added that where landowners choose to negotiate access arrangements, the mining company has to pay the reasonable costs of obtaining initial legal advice.

EDO concurs

Senior solicitor for the Environmental Defender's Office (EDO), Ian Ratcliff, agrees with Ms Joncourt's assessment of the laws under which mining companies operate.

'Under the Petroleum (Onshore) Act, the Crown (ie the relevant Minister) can invite applications for, and grant, "petroleum titles" over the land – either licences or leases – to prospect in the first instance, and eventually to produce gas etc.'

He says the lease gives the holder the 'exclusive right' to conduct petroleum mining operations. 'So it could be said that the state government owns the gas on or beneath the land, and may give rights to prospect for and/or extract it to the relevant company.'

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