

ASX / MEDIA RELEASE

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Metgasco vindicated by Supreme Court decision

Metgasco Limited (ASX: MEL) today welcomed the decision by the New South Wales Supreme Court to reinstate its right to drill the Rosella E01 well.

Managing Director Peter Henderson said this was a landmark decision for the resources industry in New South Wales and could have implications for broader industry in the state.

“Had we lost, future investors in NSW would have had to consider the real threat of sovereign risk and NSW’s image would have been tarnished.”

Justice Button’s ruling gave strong support to Metgasco’s position. He found that:

- the decision was unlawful;
- the Office of Coal Seam Gas did not observe proper procedural fairness; and
- the Office of Coal Seam Gas had confused consultation with persuasion.

To note some of the judge’s comments:

- the decision by the Minister to suspend our right to drill “came as a bolt from the blue” for Metgasco;
- the decisions “have undoubtedly damaged Metgasco substantially, as well as exposing it to criminal sanction”;
- the Office of Coal Seam Gas’ approach “smacks of a process of ‘bootstrapping’ that is conceptually unattractive”;
- “effective consultation to my mind focuses on the quality of the process of consultation, rather than on any outcome whereby the persons who are the focus of the consultation are persuaded by it.”;
- the Office of Coal Seam Gas “focused unlawfully on the results of the consultation, rather than its inherent characteristics”.

Justice Button awarded costs to Metgasco.

Metgasco Managing Director, Peter Henderson said: “We believe that our decision to pursue legal action has been vindicated. We will be seeking compensation for the damage that has been inflicted on Metgasco and its 5,000 shareholders by the NSW Government’s unlawful decision.”

He said that the company was very keen to develop a gas business in NSW and hopes to be able to work co-operatively with the Government to achieve this outcome.

“Before recommencing drilling activities in the Northern Rivers region, we would appreciate the opportunity to talk to Government”, Mr Henderson said.

ENDS

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Attachment

Background to court action:

- Metgasco has been exploring for gas in the Clarence Moreton Basin for ten years and has invested about \$120 million. In doing so it has established significant coal seam gas reserves and identified significant conventional and tight gas potential. It has drilled more than 50 wells and has had more than 300 land access agreements, all voluntary.
- March 2013: Metgasco lodged its environmental approval submission for the Rosella well. The primary objective of the well is to test the conventional gas potential in the Greater Mackellar structure. The well has secondary tight gas exploration targets. The environmental submission included explicit information about the community consultation program specific to the well.
- January 2014: Metgasco advised Minister Robert's office of its community consultation program and received no response.
- February 2014: The environmental submission to drill was approved by the OCSG, allowing Metgasco to commit to a range of contract services required to drill the well. Metgasco negotiated a land access agreement with a farmer who supported the planned well enthusiastically.
- 14 May, 2014: the OCSG suspended Metgasco's approval to drill the Rosella conventional well on the basis that Metgasco had not complied with the NSW Government's community consultation guideline. It did so without giving prior notice to Metgasco or expressing any concern over Metgasco's community consultation program before the suspension notice was issued. Metgasco was within days of having the drilling rig and other services mobilised to site. It was forced to cancel drilling contracts, incurring considerable expenses in doing so, and Metgasco's share price fell by 40%.
- 15 May, 2014: Metgasco wrote to the OCSG, demonstrating that it had complied with the consultation guideline and requesting that the suspension decision be reviewed and the suspension lifted. Metgasco challenged the suspension on the basis that:
 - The Government did not have the right to take this action under the Petroleum Onshore Act (POA);
 - The OCSG had not followed the procedure specified in the POA; and
 - Metgasco had complied with the Government's community consultation guideline.
- 22 May, 2014: Metgasco wrote to the NSW Premier, asking that a party other than the OCSG review the suspension decision given that it was unreasonable for OCSG and parties involved in the original decision to review their own decision. The request was effectively ignored.
- 27 May, 2014: the OCSG wrote to Metgasco, providing reasons that it was minded to maintain the suspension, and asking for Metgasco's response.

- 3 June, 2014: Metgasco filed a summons with the NSW Supreme Court seeking to have the suspension decision overturned, providing the potential for a legal remedy if the OCSG's internal review did not result in the suspension being lifted.
- 6 June, 2014: Metgasco responded to the 14 May letter, expanding on reasons for its belief that it had complied with consultation requirements.
- 6 June, 2014: Metgasco lodged a Notice to Produce in the Supreme Court to obtain information relevant to the suspension decision.
- 26 June, 2014: the OCSG responded to Metgasco's 6 June submission, refusing to lift the drilling suspension.
- 7 July, 2014: Metgasco amended its 3 June summons to take into account material in OCSG's 26 June response. It had no choice but to proceed with court action given the OCSG's position.
- 9 July, 2014: Justice Davies of the Supreme Court handed down his decision on Metgasco's Notice to Produce, deciding to set aside contested paragraphs of the Notice on the basis that the Notice was "premature". Justice Davies stated that his decision did not preclude Metgasco from serving a further Notice to Produce after the amended pleadings had been finalised and both sides had filed their evidence.
- 21 July, 2014: NSW Government filed a response to Metgasco's summons.
- 28 July, 2014: Metgasco served its evidence, consisting of affidavits from two employees, as required by the court schedule.
- 8 August, 2014: Government advised that it could not file the evidence on the date it was due (8 August) because of the unavailability of key personnel.
- 12 August, 2014: Government advised that it would not file evidence.
- 5 September, 2014: Metgasco's Summary of Argument filed.
- 26 September, 2014: NSW Government's Outline of Submissions filed.
- 9 October, 2014: Metgasco's response to the NSW Government's Outline of Submissions filed.
- 20 and 21 October, 2014: NSW Supreme Court hearing.
- 24 April, 2015: Supreme Court finds in Metgasco's favour and the drilling suspension is lifted.