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Resources Policy and Projects
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Mineral and Energy Resources (Common Provisions) Regulation 2015

Property Rights Australia (PRA) was formed in 2003 to provide a strong voice for landowners with regard to property rights issues. It aims to promote fair treatment of landowners in their dealings with government, business and the community.
Our philosophy is that if the community or business wants our resource for any other purpose such as environmental protection or resource industries and associated infrastructure then the community or enterprise must pay fair and unsterilised value for it.
We have members in all States but most are in Queensland.

Conduct of a Conference s89(2)
This section is for a conference to negotiate a conduct and compensation agreement.
It is highly unsatisfactory with all sections designed to give overarching power to the resource company.
For example 21(4) provides that
A party must not be represented by a lawyer at the conference unless—
(a) the other party agrees; and
(b) the authorised officer is satisfied there is no undue disadvantage to the other party.

This is highly discriminatory with the resource company able to send whoever it likes who could be someone with legal training and/or advanced negotiation skills.
This leaves the vast majority of landowners on their own regardless of skill level unless both the resource company and the "authorised officer" agree to the involvement of a third party.
A landowner should have the option of nominating whoever he pleases to either accompany him or to represent him.

This could leave the landowner without recourse to skilled advice and too much power in the hand of the "authorised officer" whose qualifications and skill level are unknown.
To expect anyone to enter into a contract without proper legal advice is contrary to the most basic business practice.

(5) A person, other than a party or a lawyer representing a party, may attend the conference to help a party only with the authorised officer's approval.

Again this leaves too much to the discretion to the "authorised officer" whose skills and motivation we are unaware of as yet.
Many landowners have found it beneficial to take a friend or family member along for moral support.
Once again these regulations smack of a Government who is moving to legislate or regulate against every strategy which a landowner may employ to gain a fair outcome for himself.

(6)The authorised officer must make take all reasonable steps to help the parties reach an early and inexpensive settlement of the matters to be settled at the conference.
Once again the "authorised officer" has too much power and seems to have the task of intimidating the landowner into accepting whatever agreement is put forward whether it is fair or not. It is a regulation made purely for the benefit of resources companies. In no way does this regulation charge the "authorised officer" with the task of being a disinterested mediator who must oversee the achievement of a fair outcome.

Without legal advice and the agreement recorded on the title deed this is sheer madness and this section **must** be removed.

S88(7) of the Common Provisions Act States
(7) If, at the ADR, the parties negotiate an agreement about the concerns the subject of the ADR, the agreement must be in writing and signed by or for the parties.

Property Rights Australia has been unwavering in advising landowners to obtain legal advice at all stages of the negotiation process and we stand by that recommendation.
The legislation and regulations are designed to leave vulnerable family landowners at the mercy of resources companies and the Government's wish to facilitate an easy path for those companies. In doing this they are not following normal commercial practice where legal advice is the norm even where the parties are on an even footing and where the process is entirely voluntary and either party can walk away. In this process the landowner is captive and is required to make an agreement at some stage or someone will make it for him.

The negotiation or conference also has a minimum period of 20 days. No indication is given as to whether the landowner can influence the dates so that it may fit within his management schedule. He is just to be given "notification" and it is not made clear that the conference is compulsory without reasonable excuse or what might constitute reasonable excuse. Already landowners have been greatly disadvantaged by the amount of time that they have had to spend uncompensated in attending to resource matters to the detriment of their businesses, personal life and their health.

Restricted Areas
All we can do with respect to restricted areas is reiterate our often stated concerns including our submission on the Common Provisions Bill (now Act)[1] that 200m is an inadequate distance for a dwelling and there is a great deal of infrastructure including water infrastructure, a landowners most vital and time sensitive resource, which is not even covered by the 50m exclusion.

[1]http://www.parliament.qld.gov.au/documents/committees/AREC/2014/24-MinEngResBill/submissions/202PropertyRightsAus.pdf

Opt Out Agreements-s 45(2)
Property Rights Australia can only advise all landowners to repudiate opt-out agreements. They offer limited protection and enforcement will be difficult and fall on the shoulders of the landowner. Once an opt-out agreement is signed a landowner has no recourse to the Land Court if legislative rights are not adhered to. We objected to all of this in our original submission on the Common Provisions Bill (now Act)[2].

After the 10 day cooling off period, opportunities to negotiate a conduct and compensation agreement are limited and prescribed in the legislation or regulation. Even if a long standing relationship exists, sale to another operator may or may not constitute a material change of circumstance and until that is made clear an opt-out agreement is not a viable alternative for anyone.

The opt-out agreement goes on a register so will affect future property saleability.
However difficult the road is to a conduct and compensation agreement we can only advise that route be taken.
The fact sheet for opt-out agreements is as yet unavailable.

Conclusion
This discussion is by no means exhaustive but the legislation and associated regulation was put together for the benefit of resource companies with scant regard to the rights of landowners and little recognition of the myriad of issues and problems put forward by many, many landowner both in submissions and by attendance at the public hearings of the parliamentary committee.
The issues were not insurmountable but in regulating against landowners and in favour of resource companies at all stages of negotiation the Government has shown that their rights are minimal and they have put extra power in the hands of a group which collectively has shown that many have no knowledge of or empathy with the concerns of landowners.

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[2] Ibid.