PROPERTY RIGHTS AUSTRALIA
STAND YOUR GROUND

P: 07 49214 000
F: 07 49271 888
E: admin@propertyrightsaustralia.org.au
ADDRESS: 122 Denham Street, Rockhampton QLD 4700
POSTAL ADDRESS: PO Box 2175, Wandal QLD 4700

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Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600
Email: ec.sen@aph.gov.au

Property Rights Australia Submission - Water use by the extractive industry

Property Rights Australia was formed in 2003 to protect property rights of member enterprises and to assist landowners who had been unfairly prosecuted for vegetation management offences and to ensure that the State conducted itself as a model litigant. Since then our areas of interest have broadened as need dictated.

Terms of Reference (TOR)

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/WaterUseGovernance

Water use by the extractive industry

On 18 October 2017, the Senate referred the following matters related to the Environment and Communications References Committee for inquiry and report by **27 March 2018**:
The adequacy of the regulatory framework governing water use by the extractive industry, with particular reference to:

a. the social, economic and environmental impacts of extractive projects' take and use of water;
b. existing safeguards in place to prevent the damage, contamination or draining of Australia's aquifers and water systems;
c. any gaps in the regulatory framework which may lead to adverse social, economic or environmental outcomes, as a result of the take and use of water by extractive projects;

d. any difference in the regulatory regime surrounding the extractive industry's water use, and that of other industries;
e. the effectiveness of the 'water trigger' under the *Environment Protection and Biodiversity Conservation Act 1999*, and the value in expanding the 'trigger' to include other projects, such as shale and tight gas; and
f. any other related matters.

TOR (b) existing safeguards in place to prevent the damage, contamination or draining of Australia's aquifers and water systems;

There are few existing safeguards to prevent damage, contamination or draining of Australia's aquifer and water systems. Instead, efforts have been concentrated on management of impacts. Emphasis is on compensation for damage.

That aquifers are depleted is an observable and acknowledged fact. Hundreds of bores have been depleted with hundreds more predicted to be depleted. These occurrences have been documented in the Underground Water Impact Reports (UWIR).[1]

It is a travesty that the largest coal mining project ever undertaken in the Southern Hemisphere which is proposed to use massive quantities of (free) underground water each day has no UWIR on the website so that predicted effects on bores in the immediately affected area and the long term affected areas can be easily accessed. It has been a requirement in the past that all such bore owners and anyone else who requests a copy must be given the information. The UWIR is also the present starting point for the legislative separation between "existing bores" and "new bores". For the Adani Carmichael Project, the special water license issued makes that separation from the agreement date 29th March, 2017 (see Appendix 2).

There are landowners who are extremely fearful that they will suffer water loss that their businesses cannot survive.

Property Rights Australia has long contended that "make good" has allowed for a decreasing pool of bores which must be "made good" and in this instance Adani is shaping up to be the most catastrophic. That licence agreement also allows for "make good" of named lakes fed by springs from aquifers. That such compensation is allowed for is a positive but points to the expected damage. It is hoped that the inquiry will require this expected damage to be quantified and the information made public.

Timeframes for bore replacement are long and not conducive to immediate action. Unpredicted water loss will be a travesty which will not be remediated for its users in a timely manner.

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[1] https://www.ehp.qld.gov.au/management/non-mining/approved-uwir.html

In an attempt to avoid groundwater contamination, BTEX chemicals have been banned from use in fracking in Queensland. However, landowners who have tried to find out what chemicals are being used for CSG extraction are usually unsuccessful. The composition of CSG ponds is also a concern. This is particularly significant for livestock producers who must sign a Livestock Production Assurance declaration which is legally binding. Legal advice suggests that legal liability for contamination of livestock from mining or CSG activity rests with the producer whether they are aware of the contamination or not, and not with the resources proponent. Such a situation is unsatisfactory**. Any system set up by the State whereby an individual is to be held responsible for the negligence of another should be considered a reprehensible abuse of legal process**. Safemeat advice is that producers should do a risk assessment but that would be useless in the case of unknown groundwater contamination and probably other unknown contaminants.

Further, any thought that damage or depletion of aquifers can be avoided seems to have been abandoned. The Qld Agriculture and Environment Committee in its consideration of yet more amendments to the Water Act among others notes: -

> *The WROLAA (Water Reform and Other Legislation Amendment Act) also amended Chapter 2 [s67] of the Water Act, removing references to ecologically sustainable development as a criterion for assessment of an application for a water licence.*[2]

Thus, the principle of "ecologically sustainable development", which was required to be considered in an application for a water license has been removed from the Water Act.

This was done for the benefit of the mining industry. But Property Rights Australia would not be confident that restrictions and cutbacks will not be placed on agricultural water users.

TOR (c) any gaps in the regulatory framework which may lead to adverse social, economic or environmental outcomes, as a result of the take and use of water by extractive projects;

With some notable exceptions, the gaps in the regulatory framework are not the main problem. **The real issue is the systemic refusal to acknowledge problems or deal with them**. Where there are unacknowledged social problems including health problems, it is inevitable that economic problems will follow.

It is a given that where access to water becomes a problem, the economy outside the favoured mono-industry will become non-existent. Environmental problems are perceived to be being dealt with by mostly useless conditioning.

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[2] http://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2016/5516T1895.pdf p2

Make Good Agreements

The Underground Water Impact Reports (UWIR) detail the expected levels by which aquifers and bores will fall. When they are expected to fall by a level specified in legislation, presently 5m for a consolidated aquifer and 2m for an unconsolidated aquifer, "make good" agreements are required to be made with bore owners. The UWIR also points to the discrimination between "existing bores" and "new" bores. New bores are required to fall by more than the predicted levels before "make good" is a requirement. Impairment of existing bores, in addition recognises, (i) damage to the bore or to the bore's pumps or other infrastructure and (ii) that the bore poses a health or safety risk. Gasification is now recognised as an impairment.

Over a sixty year or so period, these differences in definitions and the possibility of there being few working bores and even fewer eligible for "make good", as well as whole areas and communities becoming unproductive, one can see that some more robust regulation on behalf of agriculture and rural communities will be required. The operation of the Murray Darling Basin Plan (MDBP) and the exodus from towns shows the effects of insufficient available water on a community. The MDBP has caused businesses to fail and walk away with no compensation and agriculture to become a memory in some communities. Are we to see a repeat of that scenario in the Galilee Basin?

The definition of a "new bore" for "make good" changes by legislation relatively frequently. Originally a "new bore" was one drilled after the granting of the mining lease, then it changed to the application date of the mining lease. There was legislation put forward at one stage that a new bore was to be one drilled after the granting of a mining authority which went right back to the first authority issued such as an authority to prospect which could go back decades. The present Qld Water Act states that a "new bore" is one drilled after the first UWIR for the mine or the area where it is a cumulative impact area.

> ***Why are existing and new bores treated differently for make good obligations?***
>
> *A person who constructs a bore after the first UWIR takes effect, would be aware of the potential impact of the resource operations and would need to take this into account in deciding to drill a bore.*
>
> *In particular, the definition of impaired capacity for new bores allows for the recognition of predicted impacts at a point in time, and any water bore constructed after this point will only be considered to have an impaired capacity when the impact exceeds the predicted impact outlined in the relevant UWIR.*
>
> *If make good obligations applied equally to existing and new bores, resource tenure holders could be perpetually required to make good bores that are not yet in physical*

> *existence. For example, a bore could be sunk deliberately in an impacted area to initiate the requirement for compensation.*[3]

Property Rights Australia and our members' advisors do not agree at any level with this concept of "new bores". The most negative slant has been put on why someone may drill a new bore. The more likely scenario according to those involved in agriculture and advocating on behalf of agriculture is that as time goes by there will be a smaller and smaller pool of bores eligible for make good resulting in agricultural land on which they depend being rendered useless.

The first paragraph above highlights, whether it intends to or not, that the presence of the resource authority will interfere with the landowners ability to use his property to its fullest productivity when his decision to construct a bore is to be based on the knowledge that it may be rendered useless when, under the circumstances of no resources, that would not be the case.

Paragraph two shows that, in the absence of more agriculture friendly laws and more obligations placed on resources companies for the damage to water resources they have caused, farmers are expected to make alternate arrangements to groundwater where that water source has been customary and indispensable in many areas including extremely arid areas of the State

It is most unlikely that a new bore would be sunk just to trigger compensation. That would be a very expensive exercise for no obvious purpose. The road to fair compensation has not been an easy one for most bore owners. Even after an agreement for compensation has been reached (a long road in itself) companies take an inordinate amount of time to drill replacement bores. Many will only offer cash compensation which is often not sufficient to drill a replacement bore to a deeper level and equip it. One drawback often not mentioned is that not every hole comes up with water let alone suitable water.

The question should also be asked, how does a newly constructed bore which is a "make good" bore, whether it is constructed by the proponent or as a result of cash compensation paid by the proponent as a result of legislatively required "make good" obligations, fall into this category which can allow its dismissal in such a cavalier fashion. Quite clearly it should not.

The existence of "make good" agreements in Queensland legislation has been what politicians of all persuasions have hung their hats on as justification for their philosophy of co-existence between agriculture and the resources sector, and predicted damage to the underground water resource. But the words are mostly meaningless. In reality co-existence is mostly a farce.

Rabobank outlined concerns over concurrent coal seam gas and agricultural activity in a submission to the Senate Standing Committee on Rural Affairs and Transport References Committee's inquiry into the management of the Murray-Darling Basin in 2011.

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[3] https://www.ehp.qld.gov.au/management/non-mining/faqs-make-good.html

Rabobank submitted that 'CSG activities could constrain the productive capacity of agricultural land by impacting groundwater supply and quality, affecting infrastructure, and de-intensifying production systems'. Further, Rabobank submitted that they held concerns around:

• flow level and quality/contamination of hydro-geological systems;

• space required for roads, wellheads and connection pipes on agricultural land; and

• above-ground infrastructure on agricultural land potentially limiting agricultural production.[4]

The “make good” agreement itself is a contract which goes on title and is binding on successors and assigns so it is an important piece of paper which needs to have the obligations of the resources company set out in a watertight manner. The agreement can only be varied under prescribed circumstances.

It is therefore astounding that when the legislation leads to a path of dispute resolution, landowners are denied legal advice while resources companies can send whomever they please to negotiate on their behalf. Increasingly, resources staff have legal qualifications. The expected outcome is that there be the aforementioned legally binding on successors and assigns, agreement, signed.

One would need to be an extremely well briefed and confident landowner to come out of that process with a satisfactory agreement.

Make good agreements are governed by Chapter 3 Part 5 of the Queensland Water Act 2000.

If no make good agreement is reached within 40 days of a relevant bore assessment then an alternative dispute resolution mechanism comes into play, either conciliation or mediation.

> ***429 Who may attend conference***
>
> *(1) The authorised officer directed to conduct the conference under section 428 and the parties to the dispute may attend it.*
>
> *(2) A party may be represented by an agent only if the authorised officer agrees.*
>
> *(3) Also, with the authorised officer’s approval, someone else may be present to help a party attending the conference.*
>
> *(4) However, a party can not be represented by a lawyer unless the other party agrees and the authorised officer is satisfied there is no disadvantage to a party.*

[4] file:///C:/Users/Owner/Downloads/report%20(12).pdf p59

Subdivision 3 Conduct of conference

431 Authorised officer's role

(1) In conducting a conference, the authorised officer must endeavour to help those attending to negotiate an early and inexpensive settlement of the dispute.

(2) The authorised officer must decide how the conference is conducted.

433Negotiated agreement

(1) If, at the conference, the parties negotiate an agreement about the matters the subject of the conference, the agreement must be written and signed by or for the parties.

(2) The agreement may be a make good agreement or a variation of an existing make good agreement between the parties.[5]

If there is no agreement after 30 days the next step is the Land Court. This has proved to be an expensive, stressful and unsatisfactory course for landholders.

It is however a transparent forum which is preferable to the tailor-made agreement for Adani Carmichael Mine which allows the Chief Executive to make the decision both on the content of "make good" agreements and dispute resolution. With the legislative body of work governing all resources favouring proponents, producers have every right to be concerned by any non-transparent processes.

Groups such as Property Rights Australia and lawyers who work on behalf of landowners have long advocated that a lawyer should be present at a dispute resolution. None of the politicians who voted to exclude lawyers would buy a house without one but they expect landowners to negotiate and sign a binding agreement which governs the fate of their most valuable resource.

The legislation presently available to take care of these impacts is not up to the task of long-term depletion of the aquifer with an ever-decreasing pool of bores eligible for "make good". So far, we have seen amendments, or proposed amendments, to what constitutes an eligible bore mostly made in favour of resources companies and not agricultural producers.

With the introduction of mega projects and the cumulative impacts of several large projects grouped together, such as in the Galilee Basin, this ineffective process will need to be made more robustly in favour of other industries and communities, many of whom rely on underground water for town water supplies and the existence of any other non-mining related enterprise.

State Environment Department officials, in a briefing to a parliamentary committee, have stated that they are only concerned about effects on the environment and <u>not</u> other water users. Livestock producers, irrigators and communities have no robust protection.

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[5] Queensland Water Act 2000

The point cannot be made too strongly that there is little protection for water for agricultural purposes. In Queensland water, whether it was for the sustaining of flora and fauna or for agricultural purposes has been lumped together as an environmental issue. This is not how agricultural producers see water. It is their most valuable factor of production but this grouping has caused problems for some landowners.

Because of the way it is defined and legislated, objectors, whether they were environmental groups or landowners, had their cases heard together in the Land Court. Media, politicians and government put them all in the one box and they were insulted and vilified as tree hugging greenies by all three.

Although the environment per se receives a lot of attention, evaluation and conditioning (policing may be another matter) whether an aquifer or other water is important for agricultural production and should be protected, receives scant attention with the only protection for a landowner being his "make good" agreement and the inadequate legislation which underpins it.

Legislation such as the "water trigger" under the Environmental Protection and Biodiversity Act (Cth) (EPBC) which was introduced to safeguard water resources and groundwater dependent ecosystems with its Independent Expert Scientific Committee (IESC) is not mirrored in any way for groundwater dependent agriculturalists. Their only compensation is their "make good" agreement which is entirely to deal with damage, not prevent it.

This point was made at the Bender Inquiry into the events leading to the suicide of agricultural producer George Bender noted:

"3.30 The committee notes feedback from many submitters that despite regulation surrounding the conduct of unconventional gas mining, landholders consider compliance activities by governments to be insufficient."

The regulatory framework is a virtual sieve with all legislation slanted heavily in favour of resource extraction.

Most objections to resources, even on robust grounds, are met with more amendments to regulations to ensure that they are no longer a problem.

Recommendations from our independent arbiter, the Land Court, are rejected with impunity and even the recommendations of the federal Independent Expert Scientific Committee, which is highly regarded by all commentators, are skated around by a mixture of spin and conditioning which will, most likely, never be adequately policed. The tendency has been, if conditions are difficult to meet, to ask for a variation which is readily given.

The auditor-general has already said as much and has been critical of the Department of Environment and Heritage Protection (DEHP) in its compliance functions.

The co-ordinator general has been approving multiple projects, which by any forecasts will use a great deal of water, on a case by case basis and no idea of the cumulative effect on, for instance, the Great Artesian Basin.

There has been almost no attention paid to groundwater dependent industry such as the livestock industry and irrigators, both of whom have a visibly sustainable industry in perpetuity if their water resource is not depleted.

The operation of “make good” agreements has already been outlined. However, “new” bores are not automatically covered, with justification being that resources should not have to make good on bores that did not exist at the cut-off time for that project. Property Rights Australia vigorously disputes the reasoning behind this. What it is effectively telling bore owners is that once a resources company starts operations and deplete a property owner’s aquifer, the fact that the property owner was there first, conducting their business and using their resources as they saw fit, does not give them the right to what would have been available water where they had the right to drill another bore at their discretion. Resources development is now at the property owner’s risk. This is a clear (uncompensated) dissipation of the rights of the property owner and may be contrary to the Constitution which guarantees free access to stock and domestic water. It is counter productivity and with so many projects and so much water lost economic results will be significant but as yet not measured in any realistic way.

Other unaddressed issues are that companies are only expected to map what they consider to be “active” bores for the purposes of the UWIR. This leaves reserve bores, still an asset of the landowner, unmapped. These bores whether used frequently or intermittently are easily fitted with a pump to be used in case of emergency. There have been cases where equipment has been temporarily down where bores have not been mapped.

There is also no recognition that agricultural producers, if they are to continue in business, need to continuously improve productivity. Proponents tend to establish water usage based on minimal present use with no obligation to replace present flow and future use requirements. This is an unacceptable brake on productivity which rarely makes it into the discussion of effects on landowners, probably due to the virtual tsunami of problems which descend on them when they are confronted with another company sharing their business space, interfering with their asset and destroying any amenity or quality of life that they previously enjoyed.

We have not even looked at the differences in quality between an existing, usually shallow and not too saline, bore and a deeper bore as made good by the proponent.

The co-ordinator general does have the authority to call a halt to a project but only under prescribed circumstances and after a prescribed process. This response time may not be fast enough under emergency circumstances.

There is supposedly a statutory right to "make good" for landowners. However, in the case of a contested "make good" it remains to be seen if the tailor-made conditions on individual licenses (which are outside the legislation) are robust enough to ensure a fair result for landowners.

Recent legislation to re-introduce water licenses for mining licenses have transitional provisions which bypass all the usual processes and Adani in particular have managed to secure a very generous water license based on evidence presented at the Land Court. Differences between the legislation and those on the Adani license are at Appendix 1.

In commenting on environmental outcomes, I will only comment on the water resource.
It has already been the case that, in addition to damaged bores, protection of springs has been inadequate. The magnificent spring fed lakes and watercourses in the Carmichael catchment are shaping up as another casualty in the rush to approve as many tenements as possible.
Offsets and mitigation simply do not work.

(d) any difference in the regulatory regime surrounding the extractive industry's water use, and that of other industries;

The Great Artesian Basin Sustainability Initiative (GABSI) is a joint program between the Australian, New South Wales, Queensland, South Australian and Northern Territory governments that provides strategic government investments in groundwater infrastructure to repair uncontrolled bores and replace bores drains with pipeline reticulation systems to ensure the long-term sustainability of the Great Artesian Basin.[6]

To date the 676 free-flowing bores which have been rehabilitated and the 14,000 km of open bore drains replaced with piping has resulted in an increase in pressures and a saving of an estimated 199,000 Ml/yr.[7]

Even though government funding is made available, this capping and piping typically cost landowners hundreds of thousands of dollars.

Why should a landowner, many of whom have been in drought for up to four years, make the decision to spend this amount of money primarily for the health of the Great Artesian Basin when up to nine large to mega coal projects are set to have licences to extract unlimited amounts of water from the same aquifers? These projects are mostly unlikely to be denied and effects on the water table are likely to be severe. Property Rights Australia is

[6] https://www.dnrm.qld.gov.au/water/catchments-planning/catchments/great-artesian-basin/gabsi
[7] Ibid.

very sceptical about the operation of offsets but they seem to have become commonplace in any industry where environmental harm is likely to occur.

PRA would like to propose that, should offsets be required from large resources industries likely to affect aquifers, that they be put towards the GABSI scheme so that there is no cost to landowners.

There is a great anomaly in the regulations surrounding the Great Artesian Basin. On one hand the Government allows the water from the GAB to be free for CSG and mining companies giving a blank cheque so to speak, to the amount of water that is extracted from the GAB from their mining activities, and permitting them to return "treated" water back into the irreplaceable aquifers and springs.

The anomaly lies in the fact that resources companies have unlimited take of the water from aquifers including the GAB, and are causing great harm via their CSG and mining extraction methods. Regulations around water use for resources including cumulative impacts and mega projects are unlikely to be up to the task of protecting the GAB.

However, landowners are being encouraged to spend very large sums of their hard-earned cash to protect the GAB.

Primary production is completely dependent upon having completely safe and easy to access water to continue to produce the food and fibre that is so necessary to the future of Australia. Resources are a very short-term enterprise, that are extremely invasive (especially CSG) and has the potential to destroy our GAB, due to the extraction methods and very limited knowledge of how the GAB works. Most of the science around the GAB is conjecture. As we know, water will always find its own level, and the connectivity between the basins and the aquifers is still mostly unknown. The heavily mined Surat basin is a ticking time bomb, and if toxins of any quantity are released into this basin, they have the potential to do great harm to not only the water in the basin, but also to the primary production activities that rely on this water.

The GAB is Australia's greatest asset. It is irreplaceable, and no amount of conditioning of mining companies can absolutely guarantee that no harm will be caused to the life blood of our land, which is the water from the GAB. The mining companies do not have the motivation to ensure that the GAB is kept safe into perpetuity. The entire future of Australia relies upon our GAB being kept safe and undamaged from toxins and wanton waste.

Behind the often-used phrase that methods are "based on the best science we have", is the reality that in the end no one really knows what damage may be done. Only the gullible find those words reassuring.

The ways that other users of water such as irrigators are required to apply and pay for licences, be subject to entitlement and cutbacks, moratoria and stops for emergency use under Chapters 1 and 2 of the Water Act have already been touched upon.

These impediments to production also apply to intensive livestock industries which are often not able to access extra entitlement in order to expand.

Add to this the severe penalties for "stealing" water and it is not hard to see why landowners feel discriminated against when it comes to water use.

Irrigators, including groundwater irrigators are at this very moment having their entitlements cut back in order to preserve the resource. This is in areas where CSG are simultaneously depleting the resource without any restriction or restraint. Hypocrisy could not have a better definition.

Recent Queensland legislation has removed the statutory right to unlimited water for mining projects and required them to get a water licence, although "ecologically sustainable development" has not been reinstated in the legislation. However, transitional arrangements have excluded Adani Carmichael mine from having to apply for a water licence and they have been granted such a licence by the Queensland Government until 2077.

Property Rights Australia believes that no government, at any level, has the right to give away the state's assets free of charge for a period such as 60 years. Not only has inadequate formal reporting (such as an UWIR) been done on the effects on bores in the area but on the Great Artesian Basin itself. This is a government, 60 years out, deciding that one industry will have more of a positive effect on the economy than another such as agriculture, which is likely to be negatively impacted.

Not only has the Adani project been freely given associated water for 60 years but it will be the largest user of water of any project in the country with an annual take of 12,000 ML/a. This gives the company no incentive to reduce water consumption, increase efficiency of use or to treat and recycle. As far as we can ascertain, these promises, with every encouragement from the federal politicians, have come with no Underground Water Impact Report available as a result of favourable transitional arrangements. Examination by the Independent Expert Scientific Committee which examines the modelling as it relates to the EPBC and covers water quantity and quality and impact on groundwater dependent ecosystems is based on a 2013 draft report, and comments by the IESC on this report can only be described as scathing.[8] It would appear from associated literature and reports that a supplementary report has been submitted and the EISC has made updated recommendations but the supplementary report to 2010/5736 is not available on the EISC website.

[8] http://www.iesc.environment.gov.au/system/files/resources/224fbb59-e5e6-4154-9dd0-8d60d7c87a75/files/iesc-advice-carmichael-2013-034.pdf

"Make good" agreements are the only protection that landowners have against water depletion and loss in bores.

Small steps have been made in the operation of these agreements with more features recognised as impairments and less certainty about cause of water loss for "make good" to apply. However, there are significant anomalies some of which have already been covered.

The Adani water agreement has some negative anomalies of its own which are not present in the Water Act 2000. One such instance is that in addition to provisions under S432 of the Water Act that, "Nothing said by a person at the conference is admissible, without the person's consent, in a proceeding" has an additional condition that, "The authorised officer may only conduct a conference after first obtaining the agreement of the parties that what is said during a conference conducted under Conditions 38 to 39 is confidential between the parties to the conference and that the parties agree that what is said is not admissible during any subsequent proceedings." This is unacceptable, particularly in light of the fact that no legal representatives are allowed for such an important document which goes on title.

Further, if no agreement is reached, the Water Act allows for the matter to be referred to the Land Court for determination whether it is for an agreement or settling of a dispute.

The Adani Water Licence allows for the chief executive to decide the matter. As difficult as the Land Court can sometimes be for producers, it is at least transparent and handing the power from a judicially neutral process to a government official is entirely unacceptable.

Other areas where the chief executive is to appoint the mediator rather than by mutual agreement is also unacceptable. Legislation and enforcement of resources legislation has been so heavily weighted in favour of resources, with every concession hard fought for, few landowners would have trust in such a process.[9] **No government would put in place a process with such an obvious scope for bias unless biasing the process was the intention**.

(e) the effectiveness of the 'water trigger' under the *Environment Protection and Biodiversity Conservation Act 1999*, and the value in expanding the 'trigger' to include other projects, such as shale and tight gas;

The Post Implementation Review of the "water trigger" in the EPBC, sets out 10 common grounds where recommendations are made and conditions applied.

Conditions A essentially deals with collecting information about quality and quantity of water, disposal of associated water, risk management plans and trigger levels on quality of water for disposal.

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Condition B deals with collection of baseline data.[10]

All of the above issues have long been a concern of Property Rights Australia and we have submitted on them to varying degrees over several years.

In particular we were particularly concerned that Qld legislation reiterated that no baseline testing was required for water bores before commencement of a project.

At the time of the parliamentary reviews into amendments of the Water Act 2000, Property Rights Australia submitted in response to, 'Baseline testing for a "water monitoring bore" will not be required',

> *That baseline testing for water monitoring bores is not required is extraordinary. The most basic requirement for measuring or recording* ***anything*** *is that there be a measured baseline. This is a requirement of the most basic kind and reflects the undue influence of resources companies on Government. What is also extraordinary and unacceptable are those matters raised by [previous] Minister Cripps 11/9/14 when he introduced the Bill. He states that "The regulatory burden on existing tenures would also be minimised through an exemption from the requirement to produce a baseline assessment plan or an underground water impact report if they are located in an area where the take of underground water is presently unregulated or if they already hold a licence or permit to take."*[11]

It is also worth mentioning that proponents and government for a long time turned a blind eye to contaminants, other than salt, in produced water. Only in relatively recent times have other contaminants been tested for. Note needs to be taken of the fact that untreated CSG water is still used and still being offered to landowners prepared to accept it with unknown consequences.

Conditions C and D also have our support. PRA also supports conditions E and F covering risk management and what would trigger "cease work" conditions and what would allow re-commencement of work.

Our observations have been that so far 'cease work" has not been in the vocabulary.

The Queensland legislation does allow for cumulative management areas for various purposes including for responsibility for "make good" agreements. We do however note that they seem to sometimes be an afterthought and only after Mining Leases and other approvals have already been given.

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[10] http://www.environment.gov.au/system/files/resources/905b3199-4586-4f65-9c03-8182492f0641/files/water-trigger-review-appendix-3-pir.pdf p25

[11] https://www.parliament.qld.gov.au/documents/committees/IPNRC/2015/WLAB2015/submissions/052.pdf p2

We have no expertise to comment on the remainder of the conditions.

Unreservedly Property Rights Australia supports the “water trigger” legislation and the work of the well-respected Independent Expert Scientific Committee. We would however recommend that more attention is paid to enforcement of conditions.

To those of us who live in the midst of gasfields or mining areas and proposed resources development and expansion, it often appears that state governments are more concerned about royalty cheques than the social, environmental or economic consequences to other industries.

Property Rights Australia would support the expansion of the legislation and the scrutiny of the IESC to other industries such as shale and tight gas.

Joanne Rea

Joanne Rea
Chairman
Property Rights Australia