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Department of Resources

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Property Rights Australia Submission

On behalf of Property Rights Australia (PRA) please find enclosed our submission regarding the Coexistence institutions and CSG-induced subsidence management framework.

1) About PRA

PRA was formed in 2003 to protect the property rights of those unfairly targeted by the Vegetation Management Act 1999. We are a non-profit organisation of primary producers and small business people mostly from rural and regional Queensland who are concerned about the continuing encroachment on the rights of private property owners in the development, introduction and administration of policies and legislation relating to the management of land, water, and other resources. Set up in South West Queensland, PRA's membership now extends across most states and multiple major rural industries, PRA is not affiliated to any political party.

2) Office of Groundwater Impacts Role Expansion

If landowners are expected to host resources that could cause subsidence there is no-one other than an upskilled OGIA to do it. However, it is the belief that there should be a moratorium on entry into high quality agricultural land.

OGIA is also the only agency which has the skillset to investigate and report on potential changes to overland flow which is a specific valued feature on the plains above the Condamine Alluvium.

It is vital that this agency retains its independence and adheres to scientific principles.

That said it is impossible to gauge from the discussion paper what level of subsidence may be acceptable. It is impossible to have an informed opinion based on this discussion paper.

3) CSG-induced subsidence management framework

The subsidence management framework does not have any semblance of managing subsidence on behalf of landowners and the people of Queensland. We are being asked a series of open-ended questions with no parameters on what may or may not be acceptable.

The only thing that is certain is that subsidence, including on neighbouring properties is expected.

Subsidence must be managed in exactly the same way as other risks to priority agricultural areas and other priority areas and form part of the cumulative 2% of allowable damage and 2% loss of productivity. In light of the fact that there has already been uncompensated subsidence occurring, there should be a moratorium until there has been a satisfactory resolution for those landowners.

None of this precludes there being a conduct and compensation agreement under the MERCP.

4) Land access risk assessment framework

This question is impossible to answer as NO guidance is given on how much damage is too much and what might be acceptable. It hardly looks as if the government is aiming to preserve PAA and SCL land for the benefit of the landowners nor the people of Queensland who will still require food and fibre into the future.

This process will be a very large call on landowner's time. There is also an indication that landowners may be asked to reveal information which they regard as commercial in confidence.

Considering the high stakes involved, if there is a dispute about the risk assessment, even more landowner time will be involved in the dispute resolution. We also question whether the LAO is the appropriate person to resolve that dispute. He definitely should not have a determinative role. Access to the Court system should remain. Judicial review is not sufficient. Such a review can be time consuming, require legal advice and expert advice in the same way as a court case but without the range of powers.

Considering that subsidence has already occurred, it would seem appropriate the government response should allow no further development of CSG in areas of significance under the RPI and should be developing a framework to compensate those landowners who have suffered subsidence and are likely to suffer it in the future.

A risk assessment process is an option which is rarely, if ever offered to agriculture or fishing. Those industries have mostly been hit with the precautionary principle.

The CSG industry has operated under "adaptive management" and now agriculture is being asked to accept a "risk assessment process". There has already been enough development in agricultural areas to know what the likely consequences will be on rare high quality agricultural land that is precisely farmed or likely to be in the future. It will not preserve the integrity of priority areas.

5) Gasfields Commission Queensland

On the surface to rename the Gasfields Commission Coexistence Queensland and cover renewables as well may present as a sensible idea.

However, the resources industries and renewables are in no way comparable. There are already legislative procedures in place for resources.

Landowners have serious issues with renewables. They should NOT be asked to coexist with a sector which does not have environmental regulation to the degree that both they and resources are held by. Renewables have many unresolved issues that cut across safety, including fire safety, biosecurity, loss of production and land value, loss of high-quality agricultural land, distance of facilities from houses and effects on neighbours and their ability to use their property as they see fit with consequent loss of property values, and loss of amenity. Not least of all is the total non-existence of any requirement for proponents to pay into a rehabilitation fund and/or end of life disposal fund. At the moment it appears that the hosting landowner is responsible.

To be asked to coexist with so much uncertainty is entirely unreasonable.

The significant powers of the Gasfields Commission are also being reduced with no regulatory oversight, no research and advice to government only when asked. It is effectively to become an education unit.

Who will perform the regulatory oversight? All parties should have the ability to offer advice to government whether invited or not.

The perception will be that the Gasfields Commission will be significantly larger but with less influence.

A landowner led body should therefore be formed to fill the gaps on behalf of landowners. Independence of all bodies is paramount.

6) Land Access Ombudsman

“The proposed amendments are intended to address identified gaps in the LAO’s dispute investigation and resolution functions by expanding its role across a broader range of land access disputes through an ADR pathway, as well as a giving LAO a determinative role for specific disputes.”

Once again in this consultation we are being asked to give an opinion on a topic which does not offer enough information.

WE cannot agree on a determinative role for the LAO.

The Land Court option and/or the Planning and Environment Court should always remain open, and this option has already been removed in the case of arbitration under the MERCp. All the agreement and dispute resolution processes available under the MERCp act must still be available to the landowner.

The LAO should remain at arm’s length from the negotiation and dispute resolution process and should only become involved when requested by a landowner.

Also important is that all the coexistence organisations remain independent and at arm’s length from one another.

The independent negotiation and dispute resolution process was established with much thought. Another unwanted intrusion is not necessary unless asked for and all other processes have failed.

If the government wants to give the LAO a greater ability to enter an ADR process, or enter at an earlier stage, the discussion paper needs to give specifics on where the procedure has broken down.

7) Further feedback on the coexistence institutions and CSG-induced subsidence management framework

Property Rights Australia really does not know how the government can call the literature around the amendments to the RPI Act and the Coexistence institutions and CSG-induced subsidence management framework, discussion papers.

There is not enough detail given to picture how any of the framework or offices will look or work. The RPI Act was obviously written to preserve the integrity of high-quality agricultural land and other features on behalf of landowners and future needs of the state. These amendments will severely weaken those requirements. None should be removed from the RPI.

The “discussion” of changed agencies gives no picture of powers of these expanded agencies to secure extra personnel or have powers to call an urgent stop to work which is causing damage outside the notified expectation, which should be recorded on the public register.

The removal of subsidence from the RPI and covered only by the MERCPC gives a vague hint that damage will not be limited but merely compensated for. The terms of that compensation is an unknown.

If OGIA is expanded there is no indication of what its functions, powers and staffing may look like. Will it simply be predicting damage, documenting damage, or have power to prevent damage?

Similarly, the LAOs role description is vague. There should be no “determinative” role. All the MERCPC processes should be available to landowners under this framework. Our longtime position is that there should always be a right of appeal to the Land Court or the Planning and Environment Court.

To be clear, determinative role is not acceptable.

No indication is given of how the negotiation and consultation procedures will be framed to fit with the very precise timeframes of intensive agriculture.

If the government expects a change to the negotiation procedures it needs to detail exactly what and why, not just present a vague discussion paper. The whole MERCPC Act should stand as is. If change is required a full consultation and disclosure, involving all affected industries needs to apply, not just a quick expansion of powers in a specific section of a specific industry.

The same comments apply to the Gasfields Commission. It has always had a definitive law to work against. The same cannot be said for renewables.

It is not a good report on the much-vaunted coexistence that we seem to have to go right back to the beginning of discussions on behalf of landowners.

It seems as if the last ten years or more of discussions did not exist.

Once again, we are having to talk about compensation for landowner time, not wasting landowner time, expecting information from landowners, and not respecting any commercial in confidence needs with a vague hint of penalties for non-co-operation. There is no idea of how landowner value will be preserved or compensated for.

With due consideration that there are huge gaps in how the frameworks will operate, our policy is that landowners already affected by subsidence be fully and fairly compensated and a commitment made to fully and fairly compensated for future subsidence from work already done.

Without these actions there should be a moratorium on any further work in any areas presently covered by the RPI.

8) Submission Contact

For further information regarding this submission please contact Joanne Rea, PRA Treasurer on M: 0407 143 664 or E: reajoanne200@gmail.com.

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