

23 September 2024

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**Submission to Mineral and Energy Resources and Other Legislation (Subsidence Management)
Amendment Bill 2024 - Consultation Draft – June 2024.**

Property Rights Australia PRA was formed in 2003 to protect the property rights of landowners adversely affected by the actions of government, private companies and others who negatively impact their properties and their right to do business.

Our members are small to medium enterprises. They are mostly in Queensland, but we do have members in other states.

Property Rights Australia supports the substantive body of work that **Zena Ronnfeldt** has done on her submission and would like to highlight a few standout examples of unfair impact and violation of the *Human Rights Act 2019*. Our highlighted issues are by no means exhaustive and not necessarily the most important, but show that this Bill needs much more work before it is ready to be voted on.

There are still no clear pathways to compensation. If expensive litigation is to be undertaken it must be done as a new case every time there is a new instance.

The burden of proof that the subsidence occurred as a result of the proponent's activities lies with the landowner.

Similarly, the burden of proof for damage to dams and infrastructure lies with the landowner.

This is in spite of various expert authorities theorising years ago that such consequences were likely.

Property Rights Australia supports the sections where there must be Notice of Entry. This includes landowners who are neighbours or providing access.

Such landowners should also not be left without the protections of those within the tenement areas who must have access agreements. Similarly, they have access to dispute resolution processes which those giving access or whose land must be entered for self-assessed "preliminary activities" without reference to the landowner.

Arbitration is problematic on several levels, not least of which it is a final decision. Property Rights Australia has consistently submitted that landowners should never put themselves in a position where they no longer have access to a merits-based hearing within the court system.

ACTING CHAIR & VICE CHAIR – Dale Stiller | **SECRETARY** – Dixie Nott | **TREASURER** – Joanne Rea
BOARD MEMBERS – Jim Willmott, Marie Vitelli, Annie Clarke

I would make the clarification before hand - referring to Zena Ronnfeldt's submission in:-

- Lines 36 to 40 on page 11

Under section 53D the Chief Executive can, for subsidence activities, authorise the relevant 37 holder to enter private land outside the authorised area, and land adjacent to the land that is 38 reasonably necessary to cross to access the land ("access land"), yet those owners and 39 occupiers of land have not been given access to LAO non-binding Alternative Dispute Resolution 40 services

The chief executive can give the right of access outside an authorised area. There are some very obvious problems with this in terms of landowner consultation and knowledge. However, a major limitation is that the chief executive is not given the power to add conditions.

- Lines 10 to 15 on page 16

All owners and occupiers of land in an authority area are legislatively protected by the 11 distinguishment between activities which will have no, or only a minor impact ('preliminary'), 12 and activities which have more than a minor impact ('advanced'). There is a significant 13 difference between a preliminary and an advanced activity, yet under the amended division 4, 14 there is no distinction between 'preliminary subsidence activities' and 'advanced subsidence 15 activities. There is only 'subsidence activities' under section 53C.

- Non-binding LAO services on page 25

Arrow Energy has known for more than a decade that their operations would cause subsidence. It has done nothing to set baselines or mitigate their subsidence.

Of even greater concern is that government and government agencies have done nothing to ensure that there are firm and fair regulations in place to ensure that all damage and inconvenience to landowners is, without question, compensated for.

- Lines 29 to 32 on page 25

Are particularly concerning and appear to be nothing less than a further impediment to full and fair compensation by a government agency mandating a single measure rather than all measures of investigation at its disposal and then saying they are not suitable for use in court.

While it seems this framework is set to be based on LiDAR, because that is the method OGIA 30 has mandated, landholders and the State remain at extreme risk because having mandated that 31 LiDAR is the data to be used, OGIA has then disclaimed it as being unable to be relied upon for any purpose including legal proceedings⁴¹.

Modelling for Lidar -when the modelling is shown to be not accurate. Real data must be substituted.

Water in agriculture is a very valuable commodity. Any loss or damage is substantial and ground monitoring must include water storages and irrigation infrastructure.

- Liability – pages 17 to 24

Pages 17-24 have a thorough discussion about legal liability which can be visited, upon landowners having CSG infrastructure on their holdings. Some insurance companies are refusing to give cover. If this is the case or if policy costs are outside the average, the government must take on its responsibility to ensure that no-one is disadvantaged by this one-sided co-existence arrangement and step in either to arrange insurance or provide it themselves.

One matter not mentioned in this submission which mostly relates to intensive cropping, is livestock producers being asked on their Livestock Production Assurance certification (LPA) if they have CSG infrastructure on their property and have they taken steps to ensure that cattle or other livestock are excluded. LPA is a mandatory legal document for safe food quality assurance and is signed by producers when they consign livestock off the property (<https://www.integritysystems.com.au/on-farm-assurance/livestock-product-assurance/>).

- Lines 40-41 page 33 and 1 to 2 page 34

As I have already said in the submission for section 184AB (definition of agricultural land), 41 section 184DB (definition of land monitoring), and section 184EB (definition of baseline data collection), the IESC has confirmed that agricultural dams are at risk⁵⁷ (1) and omission of (2) agricultural dams from the subsidence management framework is manifestly unjust.

Conclusion

It is glaringly apparent that government has abrogated its responsibility in having a regulatory framework in place to protect all participants, one of whom is large and well-funded and one who is not, and who are forced to share the same workspace as dictated by government.

Allowing the dominant partner to largely self-regulate and government independent agencies to protect national and multi-national companies is nothing short of lazy and criminally irresponsible.

For further information regarding this submission please contact Joanne Rea, PRA Board Director and Treasurer on mobile 0407 143 664 or email pra1@bigpond.net.au.

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