

Mineral and Energy Resources and Other Legislation Amendment Bill 2024

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Submission to Mineral and Energy Resources and Other Legislation Amendment Bill 2024.

To the committee,

I respectfully request an opportunity to appear before and to address the review committee.

The passing of this bill shall impact beyond remediation some of the most productive Priority Agricultural Areas (PAA) in Australia. For this reason, I would request that committee come for the short drive and view for themselves the CSG subsidence impacts that have started to unfold and shall continue to unfold across our floodplain areas.

Whilst the amendments to the legislation appear to put into place protections for areas yet to be developed, many of us are at the cruel hard “coal face” of the CSG induced subsidence issue. CSG extraction commenced in our area over 9 years ago. Consequently, OGIA studies have already shown subsidence across our region.

The legislation proposed is a start but has failed to address some huge issues that committee need to be aware of and as time is of the essence we would seek an opportunity to list and discuss these items prior to any briefing at Parliament House.

I am a part of NPH Farming Syndicate, a farming family of intergenerational farming expertise. We have worked our present flat floodplain country since 1935 so understand the intricate problems that behold a flat floodplain. Please do not disregard the wealth of knowledge we have and can continue to contribute to the issue of subsidence across a flat floodplain.

I recognise the work that has gone into developing some legislation finally acknowledging the need to address the ever increasing and unfolding problem of having to deal with CSG subsidence on Priority Agricultural Area (PAA) floodplain.

Our land is beyond being offered a Subsidence Management Plan. We need to know what the Subsidence Remediation Process is for PAA irrigation and dryland farms that subside and shall continue to subside for quite some time.

I have listed the areas of great concern that this Amendment Bill have failed to address.

Landholders with existing Deviated wells trespassed from a Neighbours Land.

- The land access framework set out in MERC Act requires the negotiation of a Conduct and Compensation Agreements (CCA) prior to CSG drilling activities – this does not occur for deviated wells originating from a neighbour’s land.
- Resource tenure holders refuse to term deviated wells in this situation anything but preliminary. Legislation states every case must be judged on a case-by-case basis. Tenure holder has been able to “self-assess” that they are not impacting landholder and therefore CSG wells are preliminary. This involves no input from trespassed landholders.
- Landholders under drilled are given NO rights to discuss development under their land.
- Landholders with deviated wells are **still** under this Bill unable to access LAO services.
- Subsidence is now causing more than a minor impact and no CCA is triggered.
- Infrastructure beneath freehold land - deviated drilled under - can never be removed.
- Freehold land has volumetric title so gas and mining infrastructure must be able to be removed and this is not possible.

Bill Amendments to impacted landholders and neighbours from CSG subsidence.

- Section 22 of RPI Act 2014 presently has capacity for a RIDA to be triggered if a landholder or his neighbour is impacted.
- Amendment Bill will negate any power of Section 22 of RPI Act as impacted landholder or neighbour shall be **forced** into SMP.
- If Landholder has no confidence in its ability to lead to remediation or compensation this ends up in the Land Court to force a Subsidence Management Agreement (SMA).
- As an agreement is now in place Section 22 is redundant.
- Remediation of subsidence shall occur several times over the course of maximum settlement of CSG subsidence. The years of interrupted productivity **MUST** be compensated for. Land levelling is not a quick fix and comes with years of reduced yields due to compaction issues.
- Compensatable effects must be proved in court. Arrow LiDAR presented on an area wide scale, for those of us already subsided, will not be good enough to stand up in a court of law. For landholders yet to suffer development they have time to acquire an independent baseline. For those of us now subsided and told we should have been collecting a baseline 8 years ago **it is too late**.
- Arrow LiDAR on a regional scale has been collected in wet years and reads the top of water lying in fields not the ground level below the water.
- Arrow LiDAR has not been groundtruthed to what has occurred in the paddock at the time of LiDAR collection.
- Arrow LiDAR has a vertical accuracy of +/- 50mm – so an error of up to 100mm when looking of changes of only 100mm to prove subsidence to a court.
- Farmers will know when water no longer runs down their irrigation fields, but we shall have to prove this in court with **NO** appropriate scientific data for individual farm fields.
- Dryland farmers shall have a more difficult time proving subsidence with no independent ground survey - see below image of dryland paddock in wet year. This field **cannot** afford to have 1mm of subsidence.



- This image is of waterlogged field some 2 weeks post rainfall event.

The economics must be incorporated as to the total cost of compensation and remediation. Loss of irrigated cotton productivity is \$10,000/ha. A mere 10,000ha irrigation lost productivity amounts to \$100 million **per year** and there are many thousands of ha of irrigated land yet to have CSG development. Government may well be left with this cost.

Scope of practice for OGIA

- OGIA must prove integrity, efficiency and effectiveness of financial management.
- OGIA have expertise in hydrology and geology but sadly lack any agronomy expertise.
- The agronomical implications of CSG subsidence have not had any scientific work carried out.
- OGIA are playing catchup with only NOW Pilot Farm studies being carried out for areas that started to subside back in 2018.
- OGIA have no remediation plans for impacted CSG subsided farms.
- The economic impact has not been assessed by OGIA and needs to be.
- The development of a Subsidence Management Plan should be based on scientific evidence for each farm field by suitably qualified experts. OGIA do not possess the experts required.
- Until final results of Pilot Farm Study by OGIA are finalised this bill should not be passed. Our property is one to the only two properties in this study.
- Government have only recently funded OGIA with the finance to be able to start the appropriate investigative work and to contract the experts in the field required.
- OGIA are yet to develop a Subsidence Remediation Plan.
- A Subsidence Management Plan (SMP) is NOT a Subsidence Remediation Plan.
- OGIA when asked for remediation steps have no answers.
- CSG subsidence is beyond the planning stage for many of us and needs to be remediated now.
- As farmers having to remediate our CSG subsidence more than once we need to know how we are expected to continue with food and fibre production.

Human Rights Act 2019

- CSG induced subsidence triggers the HR Act Section 24(2.) *A person must not be arbitrarily deprived of the person's property.* The inability of landholders to be able to make profitable use of their subsided land is unjust and limits or terminates property rights.
- HR Act 2019 section 13(2) (c) *the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose.* As the limitation – the amended bill - is unable to provide answers to remediation processes involved - as this work is yet to be done – the HR Act 2019 Section 13(2)(c) **has been breached.**
- The HR Bill as it relates to CSG-induced subsidence engages the *right to freedom from forced work* under section 18. Minister Stewart in his Statement of Compatibility considered the Bill does not limit this human right because no penalty may be applied, and no threat of a penalty may be made under the Bill if a landholder does not perform this work. It saddens me to reveal that unless a landholder, subject to the forced ADR and Land Court proceedings, invests a huge amount of time preparing for these proceedings then they shall undoubtedly be unprepared and be in a much worse position. **This is under Section 18 of HR Act 2019 Forced Work.**

- Coexistence is where both parties benefit from an agreement or situation. The situation of being forced into ADR and Land Court is **Coercion not Coexistence**. This Amendment Bill, in relation to remediation of the damage caused by CSG induced subsidence, does not instil the confidence in informed landholders of the process involved. Detail is scant and any landholder would be reluctant to sign a Subsidence Management Agreement when the scientific work is yet to be carried out. No science equates to no confidence in the process.

Despite Government advocating coexistence, the forcing of landholders into Subsidence Management Agreements when the science, technology and remediation steps have not been addressed yet is completely unacceptable. The forcing of landholders into an unknown subsidence Management Agreement is unethical and a definite breach of Human Rights.

I implore the committee to consider this Human Rights side of the policy when committee examine the Bill to be enacted. People are not being placed ahead of the progression of the CSG industry throughout our vulnerable and irreplaceable PAA floodplain areas. The present inability to provide remediation answers to CSG induced subsidence is weighing heavily on both the financial and health aspects of our farming businesses and its individuals.

This Bill finally recognises the CSG induced subsidence problem so long denied by industry but still provides no answers to the problem. It is the answers that we require not that there is now acknowledgement of a problem.

Because of the enormity of the CSG induced subsidence problem about to unfold across our floodplain, a group of us at the “coal face” of this subsidence would be delighted to meet the committee on these impacted fields and explain why this Amendment Bill does not adequately address the CSG induced subsidence.

I reserve the right to present additional information via a supplementary submission if an extension of time is at all possible.

Regards

Bev Newton.
NPH Farming Syndicate

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