Mineral and Energy Resources and Other Legislation Amendment Bill 2024

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Committee Secretary
Clean Economy Jobs, Resources and Transport Committee
Parliament House
George Street
Brisbane Qld 4000

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Re: MINERAL AND ENERGY RESOURCES AND OTHER LEGISLATION AMENDMENT BILL 2024

Arrow Energy Pty Ltd (Arrow) welcomes the opportunity to engage on the Mineral and Energy Resources Other Legislation Amendment Bill 2024 (MEROLA 2024) introduced into the Queensland Parliament by the Minister in April 2024.

This is an important Bill to give certainty to both the agricultural and gas industries – it is therefore critical to get it right. In this regard, we would like to express our concern the Bill was introduced without any provision of an exposure draft, and with inadequate timeframes for full consideration of its impacts on both the Coal Seam Gas (CSG) industry and landholders.

While providing our own submission, Arrow would also like to record our support for the submissions made by the Queensland Resources Council (QRC) and the Australian Energy Producers (AEP).

Subsidence Management Framework

We support the State Government's approach to managing emerging issues such as subsidence, in line with the scientific evidence. Arrow has worked in good faith with the Department to try and develop a workable coexistence framework. However, throughout the consultation process significant concerns have been raised that we do not believe have been adequately addressed.

The intent of developing a subsidence framework was to provide more certainty to landholders on process in legislation, confirm compensation would be available to landholders on and off tenure, develop a framework based on science that allows for and acknowledges the cumulative nature of subsidence related impacts, and allows production to progress where there is a defined pathway to manage these cumulative impacts.

The proposed legislation, however, provides a framework that is unnecessarily complex for both industry and landholders, with a large amount of the detail required to underpin the legislation not available for consideration. We believe that without this detailed work, even the Government cannot have assessed the full impacts of the Bill on Queensland's CSG industry. Of particular concern to Arrow is any disruption to landholders who are already coexisting with the CSG industry and have invested considerable time and effort into the many plans and agreements required prior to production.

The Bill, as currently drafted, introduces sovereign risk on already granted Petroleum Leases and investment decisions that have been made by Arrow's shareholders. It creates sufficient uncertainty that future investment in particular areas of the Surat Gas Project may become unviable. It creates a pathway

for a small number of parties to impede upon the rights of a substantial number of landholders who are supportive participants in the gas industry.

The framework puts at risk a significant volume of gas which is subject to a 27-year Gas Sales Agreement and accounted for in gas supply forecasts for the east coast gas market held by both the Australian Competition and Consumer Commission (ACCC) and the Australian Energy Market Operator (AEMO). For the Queensland Government, this would result in a significant loss of royalties, along with the regional jobs; benefits to local businesses; and social investment generated by Arrow's operations.

Before this Bill becomes law, we need to understand:

- the assessment methodology the Office of Groundwater Impact Assessment (OGIA) will use to determine the potential for consequences to existing agricultural enterprises as a result of subsidence impact
- what the baseline and Farm Field Assessment process will entail, and information required
- how Government will address the duplication of this Bill in the *Regional Planning Interests Act (RPIA) 2014* in relation to consideration of the potential consequences of subsidence how properties with existing agreements with landholders/occupiers (such as Conduct and Compensation Agreements or other types of voluntary agreement) that enable production to commence will be considered in relation to the further need for a Farm Field Assessment and Subsidence Management Plan prior to commencing production
- any potential impacts that would delay bringing gas to market and potentially intensify the east coast gas crisis.

As a result, Arrow believes that the Subsidence Management Framework provisions in the MEROLA 2024 should be removed from the Bill and returned to Parliament at a later date when further clarity has been provided in relation to the above points; Government have assessed the potential impacts of the legislation; and the duplication with the RPIA has been resolved. This would allow for the necessary work to be completed by the respective departments and further consultation to occur.

In the event the Committee is not prepared to recommend that the Parliament separate the Bill, there are seven key areas of improvement that we believe are critical for allowing the Bill to work in practice. They are discussed in further detail in our attached detailed submission with a summary below.

1. **Agricultural Land:** The term 'agricultural land' as used in the Bill requires further definition. It is unclear whether this is all private land inside the Subsidence Impact Report, or limited to category A, B and C areas. Additionally, when this definition is applied under s841FC in relation to the restriction on production, it must be made clear that the restriction on production is limited to the lot on plan where the well is on or under.
2. **Restriction on starting production:** If there is a CCA or voluntary agreement in place for a property that would otherwise allow production to commence, the property should be exempt from the proposed restriction on production outlined in s184FC of the Bill, as the landholder has already given agreement for proposed activity.
3. **Compensation Provisions:** The compensation provisions should reflect the existing and well understood compensation provisions in the *Mineral and Energy Resources Common Provisions Act* (MERCP).
4. **Duplication of Legislative Instruments:** Duplication of consideration of subsidence between this Bill and the RPIA must be resolved.

5. **Dispute Resolution:** The Land Court should not be used as the first and final arbiter of reaching the proposed subsidence agreements. The Land Access Ombudsman should be used instead.
6. **Appeal and Review Rights:** The Minister's decision in relation to a Critical Consequence in accordance with S184KL must be able to be appealed.
7. **Interim Provisions:** Any interim provisions that are in effect, prior to the release of the first Subsidence Impact Report should reflect the intent of the above.

We would like to work with Government to find a way forward that is supported by the science, gives clarity to landholders on our accountabilities, and also supports sustainable and timely development of Queensland's gas resources.

Further detail on our recommendations is described in our attached detailed submission.

Should you require any further information, please contact Suzanne Ferguson, Government Relations and Tenure Manager on phone [redacted] or email [redacted]

Yours sincerely,

[redacted]

Zhengxin Peng
Chief Executive Officer
Arrow Energy

MINERAL AND ENERGY RESOURCES AND OTHER LEGISLATION AMENDMENT BILL 2024

ARROW ENERGY – DETAILED SUBMISSION

Introduction

Arrow Energy is a leading Queensland-based natural gas company, specialising in the development, production and sale of coal seam gas, along with electricity generation.

Arrow is committed to effectively managing its CSG tenures in the best interests of the State and genuine co-existence with landholders, as part of the safe and responsible production of gas to support the clean energy transition.

Operating since 2000, we have been safely and sustainably supplying gas for industrial and power generation purposes in Queensland and the east coast gas market.

Operating in the Surat Basin of southern Queensland, with a corporate office in Brisbane, we are currently engaged in a major project that has the capacity to power the equivalent of more than four million homes every day.

As an incorporated joint venture between Shell and PetroChina, we take pride in producing energy that powers Queensland, Australia and the world.

We employ approximately 500 people across Queensland, with more than 20 per cent of our workforce residing or working in the Surat Basin region.

Relationship with Landholders

Arrow Energy has been operating in the Western Downs for 20 years.

We have a mutually beneficial relationship with hundreds of landholders.

Through Conduct and Compensation Agreements (CCAs) and other agreements we are able to extract gas and provide beneficial outcomes and to help improve agricultural properties.

Some examples of these benefits are:

- new and improved roads on property to help Arrow and the landholder access parts of the property
- new and improved fencing that keeps livestock in place for the landholder and away from Arrow assets
- investing in a new beneficial re-use scheme for produced water which will offset any impacts to the Condamine Alluvium water resource and improve water security for landholders, and
- monetary compensation that can be of great assistance to improve agricultural properties and maintain cash flow, particularly in years of drought.

At Arrow, we also design our project assets to have the least impact possible on a landholders' operations. Some examples of these measures include:

- keeping our asset footprint to a minimum
- placing necessary equipment underground where possible
- positioning above ground assets along the edge of cropped areas to minimise the inconvenience for a landholder moving machinery around it, and
- timing our activity to minimise interference with a landholder's cropping season.

There are, however, some landholders who would still prefer not to engage with a gas company at all. Where possible, Arrow plans the Project to avoid these properties. The current framework allows this to work, and while these landholders are often not supportive of the industry operating anywhere near them, there has been workable coexistence.

Arrow supports the principle of the Subsidence Management Framework but has real concerns about the practicalities of the current Bill, as it is overly and unnecessarily complex.

A framework that is not fit for purpose risks sterilising gas resources, preventing the benefits mentioned from flowing to landholders who are relying on them for the future of their own farms.

As drafted, the Bill risks leaving gas stranded, and unavailable to produce, or produce economically to ease East Coast gas market pressures.

It is important the Bill gets the balance right.

Recommendations for changes to the Bill

1. Definition of Agricultural Land

The Bill's definition of agricultural land requires further refinement. It is unclear if it refers to all private land inside the Subsidence Impact Report, or is limited to category A, B and C areas. Additionally, when this definition is applied under the s841FC on the restriction on production, it must be made clear the restriction on production is limited to the lot on plan where the well is on or under.

As currently drafted, it raises concerns that this process may not just impact gas production on that lot on plan, but the broader operating property and even all adjoining Category A rated properties – the latter of which would have devastating impacts to production and investment.

Recommendations

The definition of 'agricultural land' requires refinement, to provide certainty on process for both landholders and industry.

2. Restriction on starting production

CSG-induced subsidence is a result of the cumulative extraction of groundwater. This means it is not caused directly by any one well but is related to overlapping production from multiple wells and tenure holders. As a result, the management of cumulative impact from groundwater extraction is not linked to production from a specific well but monitors extraction over the declared Surat Cumulative Management Area.

As CSG-induced subsidence is a result of the cumulative extraction of groundwater it is proposed CSG-induced subsidence is managed in a similar way.

Recommendations

Apply the same basis as 'Make Good' for impacts to groundwater bores with respect to:

- cumulative impacts, and
- acknowledgment of the assessment and rectification of potential cumulative impacts.

The subsidence management framework should not restrict production on a well, or lot on plan basis. As with Make Good, the production of CSG activity should be allowed to continue and the subsidence framework operate alongside the planned CSG activity.

Alternatively, if the Committee is still minded to support a restriction on the start of production, if there is an existing CCA or voluntary agreement in place for a property that would otherwise allow production to commence, then the property should be exempt from the proposed restriction on production outlined in s184FC of the Bill, as the landholder has already given agreement for proposed activity.

This would be in line with the already drafted s184FC(2)(c) that provides the moratorium on production would not apply where the tenure holder and the owner and occupier of the land agree in writing that production may commence on already drilled wells. This would provide certainty to both those landholders who have already agreed to the activity progressing and tenure holders.

3. Compensation Provisions

As an industry, we accept that we need to make things right if our operations impact on a landholder's operations.

However, the Bill's compensation provisions are quite broad when compared to existing provisions in other legislation.

Arrow recommends the compensation provisions should reflect the existing and well understood compensation provisions in the *Mineral and Energy Resources Common Provisions Act* (MERCP).

The criteria for understanding and determining compensable impact should be transparent and provide certainty to both landholders and tenure holders.

It should provide for resolution pathways to address concerns, and mechanism to bring tenure holders to the table, to discuss those concerns (negotiation and dispute resolution).

Recommendations

For consistency and to reduce duplication and red tape, compensation for CSG-induced subsidence should reflect the existing framework for compensation and be negotiated access under Chapter 3, Part 5 of the MERCP Act so that there is no separate process regulating the subsidence compensation agreement and the CCA.

The existing framework is well understood by landholders and tenure holders, and already allows for the provision of expert advice from for example, agronomists or other relevant professionals.

4. Duplication of Legislative Instruments

When the Department of Resources (DoR) began consultation on the new subsidence management framework, the Planning Department (now contained in the Department of Housing, Local Government,

Planning and Public Works) began consultation on changes to the Regional Planning Interest Act (RPIA).

The consultation material stated:

> *"Notably, the proposed RPI amendments do not specifically capture work the Department of Resources (DoR) is undertaking to introduce a coal seam gas (CSG) induced subsidence framework…"*
>
> *"Further amendments to the RPI Act may need to be considered as the development of the new subsidence management framework progresses."*[1]

As the new framework has been introduced into the House, it is very unlikely any of the work to remove subsidence impacts from the RPIA will be complete before the new framework becomes law or if this work will progress at all.

This means subsidence impacts will be managed by two separate pieces of legislation, administered by two different departments, within two vastly different frameworks and subject to very different appeal provisions.

There are no transitional provisions in the Bill which address circumstances where a landowner agreement has been already entered into or an approval under the RPIA granted. There is no indication that these continue to operate and avoid the need for subsidence processes under the new Bill.

Recommendations

Insert a provision that ensures a consequence being managed under the framework proposed in this Bill is not considered an impact for the purposes of RPIA.

5. Dispute Resolution

The Bill, as drafted, makes use of the alternative dispute resolution framework to assist companies and landholders to reach these agreements. Alternative dispute resolution is a great tool for parties who are interested in reaching agreement, however, have outstanding issues that they cannot resolve alone. It provides a valuable third-party perspective that can break an impasse where two parties are struggling to finalise the terms of the agreement.

Alternative dispute resolution, however, is of no real value when one or more of the parties is not willing to participate in a dialogue, let alone in reaching an agreement. There is no requirement in the proposed framework for a landholder to even participate in the process.

Arrow anticipates that this will be the case for a small number of landholders, however, under the proposed framework, a small number of landholders could have a major impact on the Project and other landholders.

The only resolution offered by the Bill for reaching agreement with these landholders is for the company to refer the matter to Land Court.

Land Court is a costly, stressful, and time-consuming process for landholders and resource companies alike. Land Court is considered by both landholders and by companies as adversarial in nature and

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[1] Proposed amendments to the Regional Planning Interests Act 2014 Discussion Paper, p4

therefore is in complete contradiction to the Government's stated approach of trying to achieve coexistence.

Recommendations

We believe it would be more appropriate to have an arbiter such as the Land Access Ombudsman (LAO) look at the SMP agreements and make a binding decision on whether they are appropriate. As a minimum, referral and consideration by the LAO should be a mandatory step ahead of referral to the Land Court.

Should subsidence materialise, and the parties not be able to reach agreement on compensation, then this is a matter that could be referred by either party to Land Court for resolution.

6. Appeal and Review Rights

The Minister's ability to make a decision in relation to a Critical Consequence in accordance with s184KL can have serious ramifications for the development of a project. The Bill contains no provisions for a tenure holder to appeal or review the decision.

Recommendations

A decision by the Minister in relation to s184KL must be subject to appeal and review, so as to ensure due process. This is consistent with other decisions at Ministerial level that could substantively impact key stakeholders.

7. Interim Provisions

s184BB is an example of an interim provision that applies before the declaration of the subsidence management area.

Recommendations

If the above recommendations are favourably considered, these interim provisions that operate prior to the declaration of a subsidence management area and a subsidence impact report should reflect the intent of the above.