

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
Via: cejrtc@parliament.qld.gov.au

Dear Committee Secretary,

Re: Mineral and Energy Resources and Other Legislation Amendment Bill 2024

While we acknowledge the importance of the *Mineral and Energy Resources and Other Legislation Amendment Bill 2024*, we express concerns regarding the legislative process and the potential implications for our sector.

The reforms, while encompassing important areas such as subsidence management, have been introduced without adequate industry consultation. The substantial scope of the bill, spanning 472 pages and eight different Acts, demands a thorough review period and the absence of an exposure draft, regulatory impact statement, and limited timeframe hinder our ability to provide informed, comprehensive feedback.

We are particularly concerned with provisions that focus on managing potential interactions between coal seam gas operations and subsidence. While we acknowledge that groundwater extraction can sometimes induce ground compaction, we emphasise that the industry-available data suggests the risk to be localised and that broad-scale impacts are unlikely. The emphasis on CSG-induced subsidence appears driven by the perceived absence of assessment and monitoring mechanisms. However, existing statutes and approvals already contain extensive provisions to address subsidence impacts. This raises concerns about complexity, redundancy and duplication with the proposed Bill.

The Australian Energy Producers supports the implementation of a risk-based and scientifically grounded framework for subsidence management. However, the current form of this legislation risks unnecessary burdens, delays, and liabilities for our industry. We urge the Committee to address the following:

- **Inadequate Consultation:** The lack of sufficient review time impacts our sector's ability to participate meaningfully in consultation on this legislation and risks unintended consequences.
- **Regulatory Redundancy:** Clarification is needed on how the Bill's provisions interact with existing legislation (such as Regional Planning) to avoid duplication.
- **Emphasis on CSG:** The focus on CSG operations disregards the broader context of groundwater extraction and subsidence. This risks creating an uneven regulatory landscape, unfairly targeting a vital component of the energy sector.

Our members do not believe that the creation of a bespoke regulatory regime is necessary where there are existing regulatory frameworks to manage the issue of subsidence associated with the resources sector.

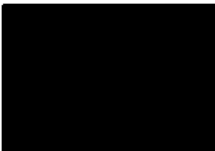
Given the existing regulatory requirements on gas operations at both a State and Federal level we are concerned that a case has not been made for additional regulation, and the potential for overlap, duplication, inconsistency and increased costs (including through direct levies). There appears to be insufficient consideration as to how existing arrangements may be harmonised and the creation of a new regulatory regime is likely a disproportionate response.

While we have identified specific issues with the proposed legislation below, our overarching preference would be for the subsidence management framework to be removed from the Bill and the following actions taken:

- the Office of Groundwater Impact Assessment (OGIA) to undertake a scientific review and risk assessment of CSG-induced subsidence (akin to the Subsidence Impact Report recommended in the Bill); and
- Based on the OGIA findings a Regulatory Impact Statement be developed to consider if a policy response is needed based on the findings of that risk assessment.

A collaborative and transparent approach is needed, built on sound scientific principles, that safeguards the interests of the community, Government and industry will avoid counterproductive restrictions.

Australian Energy Producers thank the Clean Economy Jobs, Resources & Transport Committee for the chance to provide input. We welcome continued engagement on these reforms.



Keld Knudsen
Director – QLD

Natural Gas in Queensland

Petroleum (oil and natural gas) is essential to the Australian economy and way of life. It generates \$60 billion in export earnings and supplies an important energy and commodity resource. Almost half of Australian homes – five million households in total – are connected to the natural gas network. In NSW and Victoria alone, 2.3 million homes rely on this source of energy. Gas accounts for 44 per cent of household energy use, powering over 11 million residential gas appliances.

Queensland's gas reserves are the largest single source of natural gas in eastern Australia. More than half of the gas consumed on the east coast is coal seam gas from Queensland, and almost 90 per cent of gas reserves on the east coast are unconventional gas.

Natural gas is one of Australia's main sources of energy, providing 27 per cent of the nation's total energy demand. Natural gas-based electricity produces around one fifth of the electricity Australians use each year. Gas power generation is particularly important due to its ability to quickly respond to changes in electricity demand caused by fluctuations in variable output or unexpected outages.

Natural gas is indispensable to many manufacturing processes. It is used to produce non-ferrous metals (such as aluminium, copper, and zinc), chemicals and polymers (such as fertilisers and anti-freeze), plastics and non-metallic mineral products like glass, ceramics, cement, and bricks. Additionally, natural gas plays a role in food preparation, processing, and packaging, fermentation, and brewing. We estimate that about 225,000 jobs in the manufacturing sector rely on natural gas, with manufacturing clusters dependent upon gas found across the nation. Without natural gas, we couldn't produce many of the everyday essentials we need.

Queensland's clean energy ambitions are framed around access to low-emissions energy and firming power support. The Queensland Energy and Jobs Plan, released in 2022, outlines the QLD Government's plan to reduce emissions while recognising the ongoing important role of gas for the State. This plan includes the development of a 200 MW gas peaking power station at Kogan Creek and aims to connect the Northern Bowen Basin to the gas market.

The Federal Government's recently released Future Gas Strategy (released this week) clearly outlines the important role of natural gas in Australia and in net-zero scenarios. Indeed, almost all models recognise that natural gas is essential for reaching net zero Globally and in Australia. It supports the transition away from coal, provides the firm dispatchable energy required to unlock large-scale renewable energy deployment, and powers Australian industries – including those processing the critical minerals necessary for net zero.

Natural gas provides secure, affordable energy with few viable alternatives available for industry today. Underestimating its critical role and overestimating alternatives will undermine energy security and drive-up energy prices, exacerbating cost-of-living pressures for all Australians. Alternatives to natural gas, including low-carbon hydrogen and biomethane, have yet to be deployed at scale and are significantly more expensive today.

Natural gas provides a significant economic contribution, particularly in regional Australia. Failure to recognise its long-term, critical role will cost jobs, reduce investment, and undermine manufacturing and industry across the nation – especially in regional communities. This would also forego the significant and ongoing economic opportunity that natural gas represents.

Coal Seam Gas (CSG) and Coexistence

The natural gas industry brings substantial benefits to regional communities, driving job creation, infrastructure development, and a more robust, diversified local economy. In areas such as the Western Downs, the resources sector is now the largest contributor to gross regional product. Research by respected institutions like the CSIRO and the Department of Industry, Innovation and Science confirms significant benefits for regions hosting the industry. These include lower unemployment, higher family incomes, population growth, expanded opportunities for women, and improved youth education outcomes.

The industry recognises that strong relationships with local communities and the informed consent of landholders are fundamental to success. Numerous reputable and independent studies affirm the positive socioeconomic impact of onshore gas and resources production, with community attitudes towards the industry generally favourable.

Beyond direct benefits, Queensland's natural gas and LNG industry actively invests in the communities where it operates. This commitment translates into significant support for over 220 diverse community organizations, primarily in rural areas.

As Queensland's gas industry thrives in regional areas, it creates thousands of jobs and supports businesses throughout the supply chain. Crucially, these regions maintain their strength as agricultural powerhouses, demonstrating the potential for these sectors to coexist and flourish.

Coal Seam Gas Production and Subsidence

Coal seams contain tiny spaces called macropores and micropores, which store hydrocarbons (primarily gas) and water. To extract coal seam gas (CSG), subsurface processes are used to release the gas from the coal so it can flow to the surface. The ease of this flow depends on factors like permeability, porosity, and how much fluid is present in the coal seam.

When water and gas are removed, the coal seam can compact. This compaction within the seam can sometimes lead to subsidence, where the ground surface shifts downwards. The degree of subsidence is influenced by the pressure decrease caused by extracting fluids, the depth of the seam, rock properties, and the thickness of the coal seam. There are two main ways coal seams compact:

- Poromechanical compaction: The spaces within the coal shrink.
- Shrinkage: As gas releases from the coal, the coal itself contracts.

It's important to note that subsidence isn't unique to CSG extraction. It can happen in any porous rock due to factors like soil type, clay content, geological features, changes in soil moisture, and even agricultural activities.

Studies in the Surat Basin show that surface movement caused by CSG extraction is similar in scale to what naturally occurs. This highlights the need for detailed investigations to understand if and where CSG extraction is specifically contributing to subsidence.

How subsidence is currently managed under existing regimes

There are existing legislative measures that manage CSG-induced subsidence in Queensland, including for economic, environmental and land use impacts. However, as noted in the 2022 review by the GasFields Commission, the existing regulatory framework “remains untested.”

This existing management of subsidence is primarily through *the Water Act 2000*. Resource companies, including those involved in CSG extraction, are obligated to assess the impact on bores, gather monitoring data, and submit detailed reports (UWIR) for approval. In the Surat Basin, the Office of Groundwater Impact Assessment (OGIA) has overseen the monitoring of CSG-induced subsidence and its effect on groundwater resources at a regional level (as documented in the Surat UWIR).

Environmental Authorities, as required by the *Environmental Protection Act* also cover the potential for subsidence. This legislation creates site-specific criteria for a CSG activity and the potential impact on the local hydraulic regime and surface water flows – including impacts to existing land use and the overlap with strategic cropping areas.

In addition, the Federal Government’s *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) also includes approval conditions relating to subsidence. The Independent Expert Scientific Committee (IESC) provides advice to the Minister on approving coal seam gas projects, and subsidence is covered under the *IESC Information Guidelines (2024)*, and the IESC Explanatory Note on subsidence associated with CSG production.

- Under the Regional Planning Interest Act (RPI Act) framework proponents are required to undertake assessments of pre-activity conditions including: terrain, landform and slope;
- site lithology;
- current land use;
- previous site disturbance and modification;
- site and soil hydrology;
- soil surface condition;
- vegetation and groundcover, including crops;
- microrelief;
- soil depth (including depths >1 metre); and
- soil profile descriptions, incl. for each horizon or layer.

The RPI requirements also oblige proponents to provide Restoration Plans which include:

- information on the nature of impact on the land and methods used to determine impact;
- characterisation of the pre-activity (current) condition of the land and soils RPI Act Statutory Guideline 09/14 5;
- evaluation of the nature and risk of any predicted impacts on the land;
- evidence that scientifically proven and practical methods do exist for restoring the land;
- detail on the application of the restoration methods including timeframes;
- a monitoring program including benchmarking and progress milestones;
- a fully costed estimate of identified restoration works; and
- restoration criteria against which successful restoration can be demonstrated.

The Environment and Petroleum legislation confers jurisdiction to the Land Court. The Planning legislation is under the Planning and Environment Court. The complexities of having overlapped legislative and legal frameworks needs to be further considered. If the legislation proceeds, duplication needs to be addressed.

Subsidence Monitoring and the EPBC Act

As noted above, federal EPBC Requirements create conditions on activities that also cover ground motion. IESC has released guidance on the issue, including the subsidence background review¹, and the IESC subsidence associated with coal seam gas information guidelines². Ground motion is monitored using a combination of an on-ground geodetic monitoring network and high-resolution remote satellite data. High resolution data through geodetic data and interferometric radar is collected regularly to determine surface movement. Trigger condition assessments are completed and actions are assigned should a trigger threshold be breached.

Further, the industry is collaborating with the University of Queensland Centre for Natural Gas in the Energy Transition. Their research focuses on discriminating noise signals (e.g. clay swelling due to precipitation/desiccation, anthropogenic compaction etc.) from ground motion.

Their most recent study observed that there is a relatively uniform ground motion observed within natural gas fields with no evidence of enhanced ground motion around individual production wells. The study findings will be published in 2024.

Mineral and Energy Resources and Other Legislation Amendment Bill 2024

Legislative Process

While we acknowledge consultation on potential reforms was undertaken by the Department of Resources in 2023, the timeframe provided for consideration of such extensive and complex legislation is not sufficient. The compressed timeframes, with no exposure draft, no regulatory impact statement, or cost recovery impact consideration severely compromises our ability to offer informed and constructive feedback on the precise legislative provisions. This introduces the risk of unintended consequences and undermines the legislative process and its potential to deliver a fair and robust outcome.

The absence of an exposure draft further impedes a comprehensive review for unintended consequences. This omission raises concerns about the potential consequences of the legislation.

The absence of transitional provisions in the legislation is also of concern. The immediate application of the amendments to existing, approved projects introduce considerable uncertainty and potential for disruptions. The potential hold on production in certain scenarios, in conjunction with the time required to finalise farm field assessments (FFAs) and reach subsequent agreements with landholders and occupiers, could lead to extensive production delays, potentially spanning years.

Stop production provisions

Section 184FC imposes restrictions on starting the production of natural gas from certain wells until the completion of a Subsidence Impact Report (SIR), a Farm Field Assessment (FFA), and either an

¹ Subsidence from coal seam gas extraction in Australia www.dceew.gov.au/sites/default/files/documents/background-review-subsidence_0.pdf

² Information Guidelines Explanatory Note www.iesc.gov.au/sites/default/files/2024-02/information-guidelines-explanatory-note-subsidence-associated-with-coal-seam-gas-production.pdf

agreed-upon plan (or an application to the Land Court), a determination that no plan is needed, or an agreement with the landowner.

These restrictions must be revised to reduce unjustified delays. Halting production indefinitely until lengthy processes and conditions are met creates significant commercial risk and will likely lead to supply disruptions.

Recommendations:

1. **Process Reform:** Clearly defined timelines for developing the SIR, FFA, and other requirements must be established and enacted before the legislation takes effect. The industry and landholders alike deserve transparency.
2. **Immediate Review:** If the legislation passes, an independent panel must review the operation of these provisions within 12 months of enactment. This panel should have the authority to recommend corrective action to address any unintended consequences.

Directives prior to the release of the Subsidence Impact Report (SIR)

The Bill's provisions allowing directives (184KB) to be issued before the SIR create uncertainty. Compelling a Farm Field Assessment triggers the "stop " production requirement prematurely and with no clear guidance. Furthermore, it is fundamentally unreasonable to expect producers to make submissions on directives when the OGIA SIR, which is meant to provide essential information, is not yet available.

Recommendations:

3. Directives impacting gas production prior to the publication of OGIA's SIR must be limited to critical consequence directives only.

Definition of agricultural land

The legislation's repeated use of the term "agricultural land" without clear boundary definitions creates uncertainty for producers regarding potential impacts and workloads. For precision and efficiency, it's recommended to define "agricultural land" within the context of allotment boundaries. FFAs, SMPs, and other agreements should focus on Category A areas within those boundaries. Where multiple allotments within Category A belong to a single enterprise, a consolidated FFA and SMP should be developed. This targeted approach avoids unnecessary assessments and streamlines engagement, consultation, and agreement processes.

Recommendations:

4. **Clear Definition:** "Agricultural land" must be precisely defined within the context of existing allotment boundaries.
5. **Targeted Focus:** FFAs, SMPs, and other agreements must focus on Category A areas within those boundaries. Consolidation of FFAs and SMPs should be required where multiple allotments within Category A belong to a single enterprise.

Overlap with the Regional Planning Interest Act

The proposed legislation does not sufficiently address the potential for duplication and overlap with the existing framework established under the Regional Planning Interests (RPI) Act. The Regional Planning Interest Act is designed to manage regulated activities in areas of 'regional interest'. These

include Priority agricultural areas (PAAs); Priority living areas (PLAs); Strategic environmental areas (SEAs); and Strategic cropping areas (SCAs).

A resource activity cannot be carried out in an area of regional interest unless a person holds or is acting under a Regional Interests Development Approval (RIDA) for the activity, or is being undertaken in accordance with a relevant exemption under the RPI Act. Existing conditions on activities through the RIDA process have already resulted in conditions that require monitoring and management at the property scale via a property scale subsidence management plan (SMP)

Recommendations:

6. Avoid Redundancy: CSG-induced subsidence should be removed as an identified impact under the RPI Act.
7. Consistency: Conduct an immediate and thorough analysis of the two pieces of legislation to ensure terminological consistency and avoid conflicting provisions.

Category A, B, C land is welcome, but lacks detail

The introduction of a risk-based classification system for land categories (A, B, and C) is a positive step but falls short on critical details. The legislation should provide the following elements for effective implementation:

- Specific Methodology: OGIA should outline the detailed methodology it will employ to determine subsidence impact risk before this legislation becomes operational.
- Clarity: The definition of "more than a minor impact" must be made explicit.
- Guidance: Industry requires clear guidance on conducting Farm Field Assessments (FFAs) and collecting baseline data.

Uncertain timeframes

The Bill outlines a process with potentially protracted and undefined timelines. The process begins with the declaration of a Subsidence Management Area, which triggers OGIA's development of a Subsidence Impact Report (SIR). The process for developing the SIR has not been provided but we assume it will take many months to develop. The findings (and the land categories) determine a potential need for a subsequent Farm Field Assessment, upon which a Subsidence Management Plan is negotiated. As outlined in Section 184FC, production commencement is contingent either on an agreed-upon plan, a Land Court application, a determination that no plan is needed, or landowner agreement. This leaves considerable room for delays.

This lack of clarity and predictability introduces uncertainty and hinders the ability of the industry to plan, invest, and operate effectively.

Recommendations:

8. The passage or commencement of the legislation must be delayed until OGIA's subsidence risk assessment methodology is finalized and made public. This must include clear criteria on "more than a minor impact," Farm Field Assessments, and baseline data.

Compensation Regime: Lack of Clarity Creates Risk

The relevant tenure holder in a Subsidence Management Area has a general liability to compensate an owner or occupier of agricultural land (subsidence claimant) for each "compensable effect" suffered by the owner or occupier. This includes the impacts or predicted impacts of CSG-induced

subsidence happening because of the holder. However, there is no criteria against which to assess consequential loss.

The current compensation regime outlined in the Bill is overly broad and raises the potential for duplication. While the relevant tenure holder in a Subsidence Management Area has a general liability to compensate for "compensable effects" of CSG-induced subsidence, the lack of clear criteria for assessing consequential loss introduces significant uncertainty and exposes tenure holders to potentially excessive compensation claims.

This risk exists irrespective of the land's risk category (A, B, or C). To ensure both fairness and predictability within the compensation framework, the legislation should include specific heads of compensation similar to Section 81 of the MERC Act. Furthermore, while the legislation permits combining Conduct and Compensation Agreements (CCAs) and Subsidence Compensation Agreements (SCAs), there is a lack of clarity regarding potential overlap and interaction between the two, adding further complexity.

Recommendations:

9. Include specific heads of compensation mirroring Section 81 of the MERC Act.
10. Clarify the interplay between CCAs and SCAs to eliminate the potential for duplicative claims.

Critical Consequence directions

The Bill grants the Minister far-reaching authority to issue Critical Consequence directions, mandating actions by companies in cases where damage is likely to significantly alter the land's suitability for intensive agricultural use. While the recognition that CSG practices must be "so unreasonable or intolerable" to trigger such directions is a positive step, further clarity is needed.

To avoid overuse or misapplication of these directions, we recommend the following additional requirement: the potential damage must result in a significant, demonstrable, and lasting change to the land's agricultural productivity.

Recommendations:

11. Critical Consequence directions must be explicitly limited to instances where CSG-induced subsidence will cause a significant, demonstrable, and lasting reduction in agricultural productivity.

Guidance is needed to understand the Bill

The Subsidence Management Plan (SMP) is a critical agreement between relevant parties, detailing how and when tenure holders will prevent, mitigate, or remediate the impacts of CSG-induced subsidence. As a new concept, clear guidance is essential for effective implementation.

While we recommend that time is taken to undertake this work prior to the passage of the legislation (or enactment), if passed OGIA and the Department must collaborate closely with industry stakeholders to develop appropriate tools, templates, and guidance.

This will ensure plans are robust, grounded in science, and tailored to reflect the specific risks and circumstances of each operation.

Other Amendments

Expansion of Gasfields Commission to coexistence Queensland

Australian Energy Producers supports the proposed expansion of the Gasfields Commission's remit to enhance coexistence across the resources and renewable energy sectors. We acknowledge the success of the Commission in facilitating win-win solutions for regional communities and the onshore gas industry within Queensland. However, we strongly emphasise the importance of maintaining the Commission's focus on its existing vital work within the gas sector.

Expanding responsibilities must not dilute the Commission's effectiveness in this area. Additionally, we believe the legislative provisions pertaining to the Commission's broadened scope are distinct from the technical reforms proposed elsewhere within the Bill.

Recommendations:

12. We advocate for progressing this section of legislation separately. This separation would allow for the in-depth consideration and refinement necessary to fully optimise the subsidence management provisions of the Mineral and Energy Resources (Other Legislation) Amendment Bill (MEROLA).

Expansion of the Land Access Ombudsman's role and OGIA levy

While we recognise the potential benefits of expanding the Land Access Ombudsman's (LAO) jurisdiction, the proposed changes raise concerns regarding cost implications for the industry.

The Bill outlines a broader scope for the LAO, including Alternative Dispute Resolution (ADR) and investigations into a wider range of disputes, such as those related to subsidence management plans, compensation agreements, and access agreements for various tenures.

Although we are not fundamentally opposed to this expansion, we acknowledge that the LAO, as a statutory body, will recover operational costs from industry. Without further information on the magnitude of these levies and how they will be apportioned across different tenure types, it's difficult for the industry to fully endorse this cost burden.

The legislation also proposes expanding OGIA'S funding model to cover this work. As above, it is imperative that cost recovery remains equitable, transparent, and specific to the services provided by the LAO, without cross-subsidising activities in other sectors. While Australian Energy Producers supports OGIA in undertaking a risk and science based approach to groundwater and subsidence management, an analysis into the quantum of fees being sought, and the approach to which it is applied to industry should have occurred before the legislation was introduced into parliament.

Recommendation:

13. Any new cost recovery remains equitable, transparent, and specific to the services provided, without cross-subsidising activities in other sectors.

Administrative Changes

Amendments to the Mineral and Energy Resources (Common Provisions) Act 2014 (MERCPC) promote safety and minimise landholder disturbance by introducing a new exemption for aerial surveys conducted at or above 1000ft (304m). Surveys within this threshold no longer require entry

notices or periodic entry reports and are not classified as advanced activities. This recognises the low impact nature of aerial surveys.

In this regard, the regulations should also consider the increasing use of drones for quick and safe surveying and infrastructure monitoring. To remove doubt, remotely piloted aircraft below a certain size (RPA) should also be allowed to operate below 1,000ft as a preliminary activity. Consistent with the Civil Aviation Safety Authority regulations that prevent drones from flying in the same airspace as manned traditional aircraft and general aviation requirements which apply above 500ft (commercial aviation generally above 1,000ft). Standard notification requirements continue to apply.

Recommendations:

14. This provision also be expanded to include exemptions for Remotely Piloted Aircraft between 200ft and 500ft.