Infrastructure, Planning & Natural Resources Committee

Parliament House

George Street

Brisbane Qld 4000

Submission No. 009
11.1.17
7 April 2016

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Dear Mr Pearce,

RE: Mineral and Other Legislation Amendment Bill – Stakeholder Submission

Thank you for the invitation to submit on the MOLA Bill 2016.

As a fourth-generation Landholder in Central Qld, my family and I have spent over 100 years developing our successful grazing operation. We look upon ourselves as stewards of the land, trying to use it effectively for agriculture that will be sustainable for future generations. In the last 40 years, we have also had to deal with open-cut coal mines and high-pressure gas pipelines being established on parts of our property. We have dealt firsthand with the issues such resource developments create. We appreciate that resource development is important to the economy, but do not believe that it should come at the expense of viable agriculture, community rights, or environmental values.

In 2014 I submitted exhaustively throughout the process that led eventually to the MERCP Act. The MERCP Act represented an enormous threat to the rights of Landholders and Citizens of Qld. The lack of consideration given to public input and concern by the proponents of the MERCP Act was disturbing. It is now a great relief to me and many others that the MOLA Bill is being introduced to repeal areas of the MERCP Act.

I respectfully submit the following comments regarding the MOLA Bill:

Clause 7 of the MOLA Bill amends the definition of Restricted Land in the MERCP Act. The definitions provided in Clause 7 are a slight improvement on the original definitions of Restricted Land in Schedule 2 of the MRA, in that the lateral distance from buildings has been increased to 200m, and a broader definition of Restricted Land now includes areas for intensive agriculture etc.

It is also excellent that artesian wells, bores, dams, water storage facilities, principal stockyards and cemeteries/burial places have been reinstated as Restricted Land. I would like to draw attention to the fact that in Western Australia, principal stockyards are granted a 100m lateral exclusion zone; this would certainly make it easier for landholders to continue utilising their stockyards in the event of resource developments on their property. Another factor that I wish to point out is that in Western Australia land which is used for agricultural purposes (including grazing) cannot have a mining tenement granted over it without the owner's consent. *(Source: Environmental Defender's Office of Western Australia (Inc.) Mining Law Fact Sheet 36)* I would ask the Committee to give consideration to these points.

It is good that resource authorities such as water monitoring authorities and data monitoring authorities are now subject to Restricted Land 50m laterally around areas, buildings or structures defined in section 68 (1).

Clause 9 restores the requirement for the holder of a mining lease to have the written consent of each relevant owner or occupier to enter Restricted Land for the mining lease. This is good as it gives landholder's back the right to control and monitor access to sensitive and commercial areas of their property.

Clauses 74 - 81 reinstate public notification and objection rights for EAs relating to mining leases. This allows community members to be informed of due processes and to have input on matter s that may concern or affect them, which is a positive step.

Clause 84 and 87 restore the original requirement under the pre-amended MRA that a mining claim can only be granted over Restricted Land with the written consent of the owner. This is a very important positive amendment for landholders that gives us back rights and bargaining power.

Clause 88 assists with the restoral of Land Court objection rights relating to assessment of proposed mines and removes the Minister's power to extinguish restricted land, as well as restoring the requirement for a landholder to consent in writing to grant a mining lease over restricted land. Again, these are very important positive amendments that give landholders back rights that they would have lost under the pre-amended MERCP.

Clause 89 reintroduces the requirement for broader notification of mining lease applications; this is positive as a publicly advertised mining lease notice allows members of the community where the mining lease is proposed to be informed of developments that may affect them, and that they may wish to have input into.

However in section **252A Giving and publication of mining lease notice and other information**, **subsection (3)** states that the applicant for a proposed mining lease is to publish information in ***"an approved newspaper circulating generally in the area of the subject land"***. This could result in the notification being published in only a single newspaper which may not necessarily be the local paper in the subject land area. For example in our local area there are at least four newspapers that "circulate generally", but only one of them is considered to be the "local paper" that residents of this area usually read for information on local events. Perhaps it would be better to specify publishing the information in "more than one approved newspaper that circulates generally in the area of the subject land" to ensure a wide group of the local public is exposed.

Also, **subsection (5)** states that ***"the chief executive may decide an additional or substituted way for …the publication of the documents mentioned in subsection (3)".*** From a landholder perspective, it would be hoped that if a "substituted way" of publishing the mining lease notice was decided upon, it would be a method of publication that would reach a wide range of local inhabitants. In many regional areas of Qld, landholders do not have access to quality internet services, so if the internet was chosen as a "substituted way" of publishing a mining lease notice many local landholders may miss the notification. Perhaps it would be better to specify that substituted ways of publishing mining lease notices would include at least three different types of communication media e.g. internet, radio, local council newsletter. Additionally, if the chief executive does decide on a substituted way of publication, how will inhabitants of the subject area know to look for the mining lease notice somewhere other than their local paper?

Clause 90 and 91 restore the broader community objection rights to those that existed in the pre-amended MRA. This is excellent, as loss of community objection rights was a major issue with the MERCP Act as it originally stood

Clause 92 and 93 reinstate the broad range of matters the Land Court can consider when hearing properly made objections. This is very positive, as the Land Court has proved itself to be an effective way of dealing with objections in the past, and there was no need to limit the matters that it could give consideration to.

Clause 94, which removes the Minister's power to extinguish restricted land, is a much-needed positive change to the MERCP Act from a landholder perspective. The idea of the Minister being able to grant a mining lease over restricted land before the parties had agreed on any compensation was utterly ridiculous.

Clause 107 places conditions upon a person entering land under section **386V** of the MRA for boundary definition purposes. **Schedule 1, Subsection (3) Consent for entry of occupied land at night** states that a person may *"enter occupied land under section 386V at night only - with the written consent of the owner of the land **or** the chief executive".*

I question why the chief executive is able to give written permission for entry to occupied land at night, when for every other type of entry under Schedule 1, the written permission of the owner and/or occupier of the land is required? Surely night entry should require the written consent of BOTH the owner of the land AND the chief executive. No landowner would wish for persons to be roaming their property at night without written consent. Many rural properties are accessed at night time by pig and kangaroo hunters (with the owner's permission) so it is in the best interests of both safety and accessibility that the owner provides written consent for night entry under section 386V.

Once again I thank you for the opportunity to make submission on the MOLA Bill 2016. I fully support in principal the amendments that repeal those areas of the MERCP Act that eroded the rights of landholders and the community. In order to safeguard the agricultural, environmental and mineral resources of Queensland, and allow them to be utilised far into the future, we need to maintain balance and not sacrifice long-term security for short-term economic gain. I believe that the intent of the MOLA Bill is to help restore some balance between landholders, the community, and resource companies, and I hope you will give due consideration to the points that I have raised.

Yours Sincerely

F Hayward

Mrs Fiona Hayward

Partner, GL Campbell & Co, Graziers

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Supplementary
Submission No. 009

From: fiona hayward
To: Infrastructure, Planning and Natural Resources Committee
Cc: Jacqui Dewar
Subject: Additional Comments RE: MOLA Bill
Date: Monday, 18 April 2016 2:25:46 PM

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18 April 2016

Mr Chairman, Members of the Committee,

Thank you once again for the opportunity to make submission on the Mineral and Other Legislation Amendment Bill 2016. Thanks also to the Committee for the invitation to appear at the Public Hearing in Rockhampton last Thursday 14th April. Following the hearing I had the opportunity to chat with Joanne Rhea from Property Rights Australia, and Stephen Smith who manages the Coal Assessment Hub in Rockhampton for Dept of Natural Resources and Mines.

Dr Jacqui Dewar mentioned that the Committee would be prepared to consider further comments if I thought of anything after the Hearing, and having spoken with Joanne and Stephen I would like to submit a couple of additional comments that may be helpful regarding the MOLA Bill.

Generally my earlier submission relates to dealings with Mining companies rather than Petroleum/Gas resource companies. When dealing with Petroleum/Gas landholders face slightly different circumstances. With mining such as open cut coal mines, the area of the actual mining lease becomes off limits to landholders and the public once operations there commence, so there is less intermixing of resource and agricultural activity in such a situation. However, with (for example) Coal Seam Gas, much of the resource development takes place with the landholders still very much living and working on their property around the areas where gas wells, etc may be constructed. Because of this, landholders are dealing with resource activities much more frequently and this needs to be taken into account as it causes different problems for both landholders and resource companies.

Relating this back to the MOLA Bill, this is why there is concern over the removal of the 600m rule for landholders in CSG (Coal Seam Gas) areas; they now face the prospect of resource companies being able to drill gas wells within 200m of their homes under the Restricted Land definitions. This is also a problem because generally in CSG projects there are multiple wells, access tracks, pipes etc, and the landholder involved will potentially have to deal with these being dotted all over their property (unlike with open-cut mining where you generally just get one large operation in one distinct area). So at least with the former 600m rule, landholders with CSG developments could know that they had an area of 600m radius around their homes where they wouldn't have to worry about gas wells, but now that has shrunk to 200m this is going to add to the stress already being experienced by those landholders with multiple wells on their properties. This also leads into why there is concern over Opt Out Agreements, as having to deal with multiple developments (as in CSG) means that it would be much easier for resource companies to simply get landholders to sign Opt Out Agreements, rather than keep coming back to the landholder every time something new happens in the resource development on their property. So I agree with Property Rights Australia that Opt Out Agreements should probably be taken out of the picture altogether, or at least have a "cooling-off" period. Joanne also mentioned a concern that if a resource company and landholder go to court to sort out a CCA (Conduct and Compensation Agreement) the resource company still has the right to enter that landholder's property while the CCA is being sorted. This is hardly

fair as the access and compensation wouldn't have been agreed on at that point. Considering the Uniting Church of the Darling Downs called for a moratorium on further CSG development in the area due to the enormous stress being suffered by landholders (see the Church's original submission on the MERCP Bill in 2014) it is important that the MOLA Bill covers these issues.

Regarding Jim Pearce's enquires to me at the Hearing regarding hydrogeology, after speaking to Stephen Smith (Manager, Coal Hub DNRM) I would recommend the Committee contact Stephen. When I spoke to him after the Hearing he echoed many of my remarks regarding mining companies and Make Good Agreements. Stephen is the DNRM's man on the ground dealing with coal mining projects in Qld, and he is also one of the people who helped to make changes to the Water Act regarding Make Good Agreements. He seems happy to discuss matters and is certainly the guy with all the experience, so please do get in touch with him.

Thank you once again for considering my comments.
Regards
Mrs Fiona Hayward