

Submission - Regional Planning Interests (Condamine Alluvium) and Other Legislation Amendment Bill 2026

Submission No: 054

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Publication: Making the submission and your name public

17 April 2026

Committee Members and Secretariat
Primary Industries and Resources Parliamentary Committee
Queensland Parliament House
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Property Rights Australia submission to the Regional Planning Interests (Condamine Alluvium) and Other Legislation Amendment Bill 2026

Property Rights Australia Inc. (PRA) is a not-for-profit, apolitical organisation which formed in 2003, to protect the property rights of landowners adversely affected by the actions of government, private companies and others who negatively impact on their properties and their right to do business. Our members are small, medium, and large enterprises, mostly in Queensland and a few are from other states. PRA strives for ecologically and economically sustainable natural resource management, whilst protecting private property rights. PRA wants to ensure government policies and natural resource management decisions are based on sound science and responsible economic management.

Introduction

This submission outlines why Property Rights Australia does not support the Bill, except for the water provisions.

This Bill is presented at a time of a national fuel crisis highlighting the need for resource security. The lessons are now apparent of preventative steps that should have been taken in previous years to lessen the current impacts. Even at this time the importance of food security should not be overlooked and the same lessons of preventive measures applied.

It is for this very reason that those farmers who are forced to host the CSG industry among others, and have substantial side effects from industry should not be subject to any disadvantage. Damage should be mitigated and contained. Where damage has already occurred or is not possible to mitigate, compensation should be easily obtained and generous.

The property rights of landowners/occupiers should be safeguarded, at all times.

Whether it is for "net zero" or "drill baby drill" we do not need any continuation or rollout of a government favoured industry which ignores landowner/occupier rights, and their right to conduct their lawful business to its full extent without harm, interference, or loss.

This has not always been the case and this legislation, while making a stab in the right direction by making “subsidence” a compensatable effect in some areas does not cover every nuance. There still exists embedded unfairness and regulatory gaps.

Making directional drilling an advanced activity for new projects is a small step in the right direction.

Not everyone will be covered. Those who already have a Conduct Compensation Agreement CCA or a voluntary agreement will not be covered.

However, the path forward will prove to be out of reach of most landowners as they will bear the onus of proof, which comes with a very hefty price tag.

The Explanatory note says,

“Amendment to the MERCP Act to clarify and expand compensation for CSG-induced subsidence impacts, including to deem directional drilling an advanced activity, and extending compensation rights to specified areas off the area of a resources tenure.”

The amendments to the Act under this Bill are more constrained by what is not said rather than what is said.

Problems with the Bill’s approach

The issue surrounding these proposed amendments is complex. Very complex. For this reason, the timeframe for submissions and four-day extension are wholly inadequate. The information provided is inadequate. Proposed remedies do not reflect the complexity of the situation. Significant regulatory vacuums remain. Submitters to this legislation should have at least six months to consider these amendments and suggest new ones.

To add to this, it appears that committee public hearings and briefings are being held after submissions close. The rush is unseemly and does not give farmers and volunteer organisations adequate time to respond.

Already affected landowners appear to have no full and fair compensatory pathways. Suggested pathways are expensive and complex.

CCAs for subsidence as a compensatable effect puts the permitted 20 days to reach an agreement between a sophisticated national or international player and a farmer into the impossible basket, without the extra dimension that the proponent has information that the farmer does not have access to.

There is no available baseline data. Despite the *Petroleum and Gas (Production and Safety) Act 2004* requiring proponents do no harm, no baselines at a farm or paddock scale have ever been set. What measurements that have been done are not publicly available, not accurate and therefore not suitable for a court hearing, and at a regional scale.

The onus of proof, which comes with a hefty price tag will be on the landowner/occupier. They have been set an impossible task with no suitable, public baseline data available.

The approach is to allow subsidence to occur and maybe have the ability to negotiate compensation, not mitigate it, on Australia’s premium agricultural land. That is a food security issue.

The legislation seeks to limit the liability of resource companies.

The Land Court as an endpoint of this requirement has its own limitations.

Negotiations should be fair with power in the hands of the owner/occupier, and not under the usual time constrained and unbalanced means of a CCA unless it is a free choice. Legal advice from a specialist lawyer before taking this course of action is strongly advised.

The proposed courses of action where either party, not just the landowner, can bring on an action will bring on a rash of proponent-initiated actions with landowners left without data and a huge expense in a constrained timeframe.

This is just allowing and facilitating proponents to limit their liability with scant regard for landowner rights.

There are no cumulative management areas where subsidence could be the result of the combined effect of more than one company.

What happens when the subsidence occurs across more than one tenure or outside a tenure?

Due to these problems, Property Rights Australia does not support these components of the Bill.

Compensatable Effect

The headline that the amendments to legislation makes subsidence a compensatable offence reads well.

When one gets to the detail, it is a gift to international resource companies to limit their liability.

This legislation does not unequivocally allow for full and fair compensation. Instead, it embeds a process which has always been producer unfriendly and is not so much a negotiation as an acceptance of the least, worst option. The option of the resource proponent using the Land Court as a stick to force an agreement, rather than a trusted umpire who will come to a fair decision.

In spite of multiple bodies being made aware that subsidence would be an issue and that it would be ongoing, no proper, accurate, publicly available records are available to ensure that such compensation can be easily accessed. This legislation does not address any of that. Costs to claim compensation will be prohibitive. It will simply limit the liability of CSG companies.

The landowner is the aggrieved partner who has suffered and may continue to suffer damage and yet the onus of proof is on the landowner rather than the resource company having to show that it did not cause damage. Because of the extreme complexity of the matter, this involves extreme costs against international companies which must be borne by family businesses.

Farm records and photographs need to be recognised as evidence for the existence and effects.

Co-existence under these conditions has more in common with “The Burning Bed” than a true partnership.

Amendments to the *Mineral and Energy Resources (Common Provisions) Act 2014 MERPC*

Most of our submission will address the amendments to the *MERPC Act* although some comment will be made on the other proposed amendments.

Subsidence

Property Rights Australia supports the recognition of subsidence as a compensatable effect. The execution needs refining. It also needs to lean more towards being user friendly for landowners rather than limiting the liability of resources companies.

In the case of subsidence, the landowner/occupier is very much the aggrieved party, and it should be their choice whether, how, and when they want a matter settled and under what terms.

Attempts to override private contracts and deem them CCAs is not a good precedent. Governments should not override lawfully made contracts without the consent of all parties to the contract.

A much longer consultation with landowners affected by subsidence and their lawyers should have occurred before this legislation was presented.

Recommendations into CSG subsidence of what was then known as Gasfields Commission, have not made an appearance. Those recommendations should have been a serious part of the discussion for this Bill.

They flagged the lack of a baseline for CSG induced subsidence and a number of remedies other than the present flawed CCA agreement route and the Land Court.

Multiple expert agencies predicted that CSG would cause subsidence. For example, the Office of Groundwater Impact Assessment OGIA, Geoscience Australia and the Independent Expert Scientific Committee IESC have all predicted subsidence.

However, comparatively small elevation changes do not necessarily imply low impact. For some Australian CSG operations are co-located with intensive agriculture, where small terraformed gradients are used to control flood irrigation of crops. Changes to these gradients have the potential to adversely affect surface drainage and yield.¹

and

Coal seam gas (CSG) production is currently taking place in Queensland and New South Wales, Australia, and it is possible that CSG production will occur in Australia for the next half a century. For both current and future production, the potential impacts of subsidence on adjacent industries, particularly agriculture, must be managed.²

The IESC is a very qualified panel of scientists and it has done some valuable work on CSG caused subsidence. However, it states often that its area of concern is the environment. It does not look after landowner rights but has stated on a least one occasion that it hopes someone else is.

CSG subsidence is quite rightly recognised in the Bill. However, it is a multi-layered discussion by anyone's standards. It is mostly too intricate to be treated in the manner of other routine compensation matters with science, economics and philosophy all forming an intricate mix.

¹ www.iesc.gov.au/sites/default/files/2024-02/summary-guide-subsidence-associated-with-coal-seam-gas-production.pdf

² <https://www.iesc.gov.au/sites/default/files/2024-02/information-guidelines-explanatory-note-subsidence-associated-with-coal-seam-gas-production.pdf> vii

As proposed, the landowner must show that he has a compensatable effect and to what extent. Future subsidence will require showing a change in circumstance which will be an ongoing, uncertain, expensive process and not designed to be accessible and fair.

Rather than a resource company having to prove that it has not caused subsidence and its ongoing effects, the requirement to prove the subsidence, its significance, and extent of damage on which compensation will be paid, falls to the landowner. To show significant changes to circumstance also falls to the owner/occupier.

This reversal of the onus of proof means that the landowner will be required to pay for various fields of scientific, agricultural, economic, engineering and hydrological advice as well as legal advice. Sometimes this will occur across multiple proponents and with some off tenure. Costs have been weaponised to ensure that very few landowners, if any, are likely to bring a compensation claim against a CSG company.

There is plenty of evidence worldwide to show that CSG extraction causes subsidence so proponents should have been responsible for ensuring baselines were available. Landowners / occupiers have been put in the position by this legislation of proving a position without evidence. Paddock records must be recognised as secure evidence.

There is no publicly available baseline data on subsidence that is either accurate enough to be used in evidence, nor at the paddock scale. Neither the proponent nor the government has collected such evidence.

Government should not be complicit in limiting the liability of resource companies against farmers. It is their job to ensure generous compensation to farmers whose own businesses have been forced to coexist with a destructive industry.

At the moment, fuel security is being lionised on national security grounds.

Governments need to be mindful of the national security effects of laying to waste our most productive agricultural land.

Time will likely show that pushing subsidence into the Land Access Agreement box is unworkable for such a complex issue. It reduces the significance and value of subsidence events to the routine.

Section 48 (3) of the Act: If an owner or occupier has not made an access agreement within 20 business days after being asked to make the agreement by a resource authority holder, the owner or occupier is taken to have refused to make the agreement. Clauses such as this in the MERCP are already difficult to adhere to for routine compensation. For an issue like subsidence, it is entirely unachievable. The landowner must have the ability to walk away.

None of the Alternative Dispute Resolution ADR processes, as in Section 51A of the Act, are suitable for an issue as complex as subsidence liability.

Arbitration is not recommended as the decision is binding with no appeal. It does not have the same status or power as a court to require and consider evidence. The decision is binding on successors and assigns.

Only the landowner should have the ability to request an ADR for a subsidence liability, particularly as the burden proof lays with the land/owner. Proponents will simply be working on limiting liability.

Under S52(1) If a dispute arises between a resource authority holder and an owner or occupier of land (the *parties*) about a matter mentioned in [section 49\(1\)](#), either party may apply to the Land Court for it to decide the matter.

“S101 (2) Either the resource authority holder, claimant or public road authority may apply to the Land Court to decide the dispute.”

Only the landowner should be able to apply to the Land Court as the burden of proof and associated costs is on them, under this legislation.

Landowner rights should be paramount in this case.

Landowners are those suffering the damage. They should not be forced into a costly court process where they have no control over timing or costs.

Only the owner/occupier should have that option. There are probably more appropriate options and should be decided by landowners and their specialist legal advisors.

A major difficulty is that there are no publicly available baselines at a farm or paddock scale. Considering that multiple agencies predicted subsidence, such baselines should have been required as routine before operations commenced.

Those baselines that do exist are at a regional scale and have confidence intervals that make them unsuitable for court use.

Photographic, diary, and other regular agronomic records need to be recognised by the court.

What is intended for compensation for future increases in subsidence, perhaps over decades, is muddy at best.

There are no pathways for landowners who have multiple proponents to deal with.

There is no proposed cumulative management protocol for areas which may be cumulative across tenures.

Off tenure and outside the prescribed area, subsidence is not covered.

Part 3 Sections 101G to 101P needs further consideration and could not be provided within the short timeframe for submissions. More time to do this would have been helpful.

Subsidence when not an authorised activity or affects neighbouring land

Clauses in the MERCPC all offer subsidence as a “compensatable effect” for an “authorised” activity. There is no provision for owners/occupiers who suffered directional drilling without notification and where resource companies were subsequently fined³, and have a “compensatable effect”.

‘Eligible subsidence claimant’ means the owner or occupier of affected land who is eligible to claim compensation for CSG-induced subsidence as described under section 101J(2) or 101K(2);

³ <https://www.theguardian.com/australia-news/2022/mar/31/coal-seam-gas-company-arrow-energy-fined-1m-for-breaching-queenslands-land-access-rules>

'Subsidence compensatable effect' means an effect suffered as a result of CSG induced subsidence that:

- (a) results from activities authorised under a CSG resource authority, regardless of whether they were carried out on the owner's or occupier's land; and
- (b) affects the owner's or occupier's ability to undertake agricultural activities on their land, or affects the productivity of agricultural activities on the land; and
- (c) that is a kind of compensatable effect covered in the existing section 81(4) of the MERCP Act (for example, diminution of the land's value), or would be if the authorised activities were carried out on the owner's or occupier's land.

What happens when the subsidence occurs across more than one tenure or outside a tenure?

The Condamine Alluvium Plain is probably some of the best cropping country that we have in this country. Protections for the surface of the land seem to have been ignored in favour of a damage and compensate mantra.

This is not acceptable to Property Rights Australia

Removal of the Condamine Alluvium from the *Regional Planning Interests RPI Act 2014*

Property Rights Australia is vigorously opposed to that amendment.

Non-compliance and non-enforcement are not a reason to remove anything from a piece of legislation.

The claim that it is a duplication is incorrect. The RPI protects agricultural land whereas the scope of the *Environmental Protection Act EPA* is only the environment. Any duplication can be streamlined through improving internal processes across departments.

"What we are seeing is an absolute disaster for this region going forward," Cecil Plains farmer Ms Liza Balmain said. "They're removing all protections."

Ms Balmain was scathing of the suggestion that a minister would be able to intervene, saying that was not robust legislation.

"You can't rely on the whims of the minister of the day, hoping that he will intervene," she said.⁴

The EPA process is generally viewed as compliance-based, making sure the gas company follows rules, whereas the RIDA process is impact-based, or asking if the activity should happen there at all.

Although governments sometimes do take actions to "improve investor confidence", this should not happen at the expense of our farmers and particularly those on our high-quality agricultural areas. Those sorts of actions then precipitate food security as a national security issue.

Farming some of the responsibilities out to other departments for whom it is out of scope does not solve any problems.

⁴ <https://www.queenslandcountrylife.com.au/story/9212096/pat-weirs-gold-standard-promise-may-unravel-with-new-gas-laws/>?

Amendments to the *Environmental Protection EP Act 1994*

Property Rights Australia supports the “deemed condition” in the EP Act to enhance the environmental authority (EA) process to ensure the water quality of waters in the Condamine Alluvium CSG area are protected from long-term, detrimental impacts of newly approved CSG activities”.

Existing authorities should already have such requirements within the conditions of their authorities. It is incumbent on the government to ensure that those authorities are complying with their Development Approvals DAs.

Further information

If you require further information or clarification on any points raised in the submission, please contact Joanne Rea at PRA by email on [REDACTED]