

## Submission by Lock the Gate Alliance to the State Development, Natural Resources and Agricultural Industry Development Committee

Please accept this submission to the Mineral, Water and Other Legislation Amendment Bill 2018 (MWOLA).

The [Mineral, Water and Other Legislation Amendment Bill 2018 \(MWOLA\)](#) was [introduced](#) into Queensland Parliament in February 2018. It includes some positive changes for landholders, but it also includes some measures that substantially weaken existing rights vis a vis resource companies.

We would like to see three major changes made to the legislation to best protect farmers are:

1. Ensure that it does not prevent landholders from claiming compensation for damage or nuisance caused by activities outside their properties.
2. Ensure resource companies are required to pay all reasonable costs relating to arbitration and alternative dispute resolution, including covering landholders time.
3. Ensure that landholders are entitled to legal representation in all dispute procedures, including arbitration, which is paid for by resource authorities, and provide landholders with a legal appeal right to arbitration outcomes.

More details are provided on each of the issues below.

### **Problem 1**

Shine Lawyers and the Queensland Law Society have both drawn attention to a major problem with the Bill. Clause 38 of the Bill amends section 81 (4) (a) of the Mineral and Energy Resources (Common Provisions) Act 2014. Those amendments will limit compensation such that it will only apply to compensatable effects from resource activities which happen *on the claimants own land*.

Currently, under that section, a landholder is liable for compensation from resource activities '*in relation to the eligible claimants land*'. This is a broad clause which allows neighbours and other landholders who may be affected by resource activities occurring on other land titles, to claim compensation. Gas activities frequently cause extensive off-site and downstream impacts, including noise and air pollution impacts. The concern is that landholders can be heavily affected by noise and air pollution, but if it is occurring just outside their land, they will have no claim for compensatable effects.

This represents a very substantive change that would have major impacts on families, landholders and communities forced to live in industrial gasfields. We have members and supporters who believe this will substantially impede their ability to protect themselves from gas company excesses, particularly noise.

### **Solution**

Amend clause 37 and any related clauses to retain the current wording of s81 (4) (a) '*in relation to the eligible claimants land*'.

**Problem 2**

The Bill goes some way to covering landholder costs for negotiating with resource companies, but in our view does not go far enough.

**Solution**

The Bill should be amended to make resource authority holders liable for all professional costs reasonably and necessarily incurred by the landholder, including legal costs, and the time spent by the landholder in negotiations and dispute resolution.

**Problem 3**

The Bill introduces a new voluntary arbitration process into the relevant Acts where a landholder and a resource company cannot agree on a Conduct and Compensation Agreement. However, landholders are not entitled to a lawyer during arbitration unless the other party agrees, and the findings of arbitration are binding at law and there is no appeal process. In NSW, arbitration processes have been found to be heavily biased against landholders, and have not delivered fair outcomes for communities. Therefore, it is essential that legal representation is available in all cases, and that an appeal mechanism is available. Furthermore, clause 33 of the Bill allows for a resource holder to enter private land for an advanced activity whilst arbitration is still underway.

**Solution**

Amend clause 45 to ensure that landholders are always entitled to legal representation during arbitration, and provide an appeal mechanism to arbitration findings. Drop clause 33 to prevent resource holders entering land during arbitration.