GAS SUPPLY AND OTHER LEGISLATION (HYDROGEN INDUSTRY DEVELOPMENT) AMENDMENT BILL 2023

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Dr Rutherford
Committee Secretary
Transport and Resource Committee
Parliament House
George Street
BRISBANE QLD 4000

By email: trc@parliament.qld.gov.au

Dear Dr Rutherford

AgForce is a peak organisation representing Queensland's cane, cattle, grain and sheep, wool & goat producers. The cane, beef, broadacre cropping and sheep, wool and goat industries in Queensland generated around $10.4 billion in on-farm value of production in 2021-22. AgForce's purpose is to advance sustainable agribusiness and strives to ensure the long-term growth, viability, competitiveness and profitability of these industries. Over 6,500 farmers, individuals and businesses provide support to AgForce through membership. Our members own and manage around 55 million hectares, or a third of the state's land area. Queensland producers provide high-quality food and fibre to Australian and overseas consumers, contribute significantly to the social fabric of regional, rural and remote communities, as well as deliver stewardship of the state's natural environment.

AgForce welcomes the opportunity to provide a formal submission to the Committee's consideration of the Gas Supply and Other Legislation (Hydrogen Industry Development) Amendment Bill 2023.

We appreciated being part of the Government's Department of Energy & Public Works – Hydrogen Amendment Bill, Round Table discussions on 5 June 2023 and being part of the consultation group acknowledged in the Bill's Explanatory Notes.

AgForce makes this submission with reference to submission to the Department of Resource's Land Access & co-Existence: A Review of co-Existence Principles and co-Existence Institutions Discussion Paper, which is attached for consideration concurrently with this submission.

AgForce understands that the Bill amendments are part of the state government's commitment to the development of a new hydrogen industry within the state. We recognise the proposed changes to the provision part 1 and 2, with subsequent proposed amendments attempting to provide a clear regulatory approval process to authorise the construction and operation of pipelines for hydrogen, hydrogen blends and hydrogen carriers, as well as other gases in Queensland.

AgForce's interests in the amendments relate to potential implications for our members, other primary producers and for the continuation and growth of agriculture in the state.

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AgForce is optimistically cautious that amendments continue to consider the full scope of the effects of the hydrogen development cycle upon other industries, specifically our agriculture industry's ongoing viability.

AgForce supports the following priorities for our primary producers:

- The highest protections being applied for the safety and privacy of farmers and agricultural production, in the first instance, the safety of primary producers and that the requirements imposed are proportionate to any risk, or increase in risk, that the production and distribution of hydrogen and other gases represents. Any amendments must ensure this outcome is secured.
- The minimisation or limiting of any unavoidable impacts on primary producers and agricultural productivity and production.
- Not infringing on land holder rights, delivering real protections for prime agricultural land and acceptable land access. More specifically as relates to development footprints, such as easements, pipeline corridors and alternate tenures. A preference for use of state-owned land over resumptions or impacts on privately owned or held land is sought by AgForce.
- We understand from the Departmental briefing that environmental approval, regional interest development approval (RIDA) and native title processes will apply, as will existing land access and easement requirements. AgForce has recently raised several concerns with the existing land access system, including the RIDA process, within a submission to the Resource Industry Development Plan Coexistence discussion paper.
- Limit or remove the opportunity cost of hydrogen development over agriculture development and future food security production for the state.
- Ensure prime agricultural land protections, land holder privacy and equal access to vital production resources and supply chain inputs of water, electricity and ammonia remain affordable for farmers to maintain viable businesses into the future.

AgForce would like to see an extension of *Part 3 of the Human Rights Act 2019*, pertaining to *Section 24, Property Rights*, of the proposed amendments to the Bill 2023; to include the privacy elements of *Section 25* of *the Human Rights Act 2019*, within the amendment Bill 2023, which states:

> *Privacy and reputation. A person has the right, (a) not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with*

AgForce would support this to extend beyond the current parameters; to include privacy protections for primary producers that consider the effect of pipe infrastructure development, surveillance, monitoring and maintenance, which may impact upon primary producers; right to privacy (including noise factors); mental health and wellbeing; animal welfare and disturbances and bio-security factors of nearby primary producers' properties. We would like to see this issue addressed including through the hydrogen licencing, as a breach and revocation upon cause approach.

AgForce again thanks the Transport and Resources Committee for the opportunity to contribute this submission and welcomes the opportunity to further collaborate with stakeholders, before any legislative changes occur that may affect arrangements concerning environmental authority, native title, water entitlement pricing, water planning or electricity pricing, land access codes or Acts that may inhibit farm production in relation to hydrogen production and distribution.

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If you have any questions or require further information regarding this submission, please contact Sam Forzisi, AgForce Policy Director, by email: [redacted] or mobile: [redacted].

Yours sincerely

[redacted]

Michael Guerin
Chief Executive Officer

Enc: Coexistence Discussion Paper

Submission

Land Access and co-Existence: A Review of co-Existence Principles and co-Existence Institutions Discussion Paper – November 2022, Department of Resources

Executive Summary

- AgForce welcomes the government's recognition of the rights and interests of landowners in relation to resource and emerging sector activities that seek to co-exist with them. This co-existence must operate effectively at the single paddock, to property, regional, sector and state levels.
- It is essential that mutually beneficial relationships between landowners and resource sector participants are achieved and that agricultural land and water assets are protected, with impacts avoided, or minimised if unavoidable, wherever possible. AgForce's land use protection principles should inform this approach.
- It should not be assumed that co-existence can effectively occur everywhere. For certainty and future generations, some areas of intensively used farmland or critical water assets, may be at risk of being so impacted that the precautionary principle should be applied and resource activities not proceed on that land
- Minimum negotiation, access and conduct standards for all alternative land uses seeking to coexist with agriculture should be implemented through legislation or regulation rather than voluntary guidelines.
- Landowners should be empowered by coexistence principles and supporting regulation and institutions to negotiate acceptable outcomes including through:
  - the provision of enabling science-based information
  - supported by free independent legal advice
  - accessible, relevant and fair dispute resolution and court determination processes
  - transparent compliance enforcement
  - their interests (business and family) being respected and access to their property not granted until agreement is achieved, or due process fairly resolves the matter.
- Cumulative management frameworks for resource activities and impacts, such as subsidence and for co-located resource and emerging sector activities should also be established.
- The GasFields Commission Queensland (GFCQ) should be expanded and future proofed by including all land use co-existence matters under their remit with streamlined, common processes applicable to agriculture, gas, mining, renewable, carbon capture and storage (CCS) and emerging uses. A new Board featuring the requisite skill set and wider experience should be established, and the body properly resourced to address the wider scope. It should be neutral with respect to individual sectoral interests and fact based.
- The Office of Groundwater Impact Assessment's (OGIA) remit should be expanded to cover all of the state, all water impact related matters including subsidence and include emerging uses such as carbon capture and storage. A role in establishing robust pre-activity baselines is also indicated. Like for an expanded GFCQ, this should also involve a review of governance and resourcing arrangements to ensure ongoing effective operations and accountability.
- The Land Access Ombudsman (LAO) scope should include disputes preliminary to and in relation to entry notices, negotiations on CCAs and make good agreements and for affected neighbours to projects and the LAO enabled to make recommendations to government.

- AgForce seeks to continue to work with government and other stakeholders in advancing the interests of agricultural landowners and the pursuit of mutually beneficial relationships with proponents that seek to co-exist with them.

Introduction

AgForce is a peak organisation representing Queensland's cane, cattle, grain and sheep, wool & goat producers. The cane, beef, broadacre cropping and sheep, wool & goat industries in Queensland generated around $10.4 billion in on-farm value of production in 2021-22. AgForce's purpose is to advance sustainable agribusiness and strives to ensure the long-term growth, viability, competitiveness and profitability of these industries. Over 6,500 farmers, individuals and businesses provide support to AgForce through membership. Our members own and manage around 55 million hectares, or a third of the state's land area. Queensland producers provide high-quality food and fibre to Australian and overseas consumers, contribute significantly to the social fabric of regional, rural and remote communities, as well as deliver stewardship of the state's natural environment.

Like the resource sector, agriculture in Queensland would itself benefit from the development by the government of an ambitious 30-year vision for a resilient and sustainable sector, with clear action steps by which industry growth can be supported. Effective and respectful relationships with those who seek to also use agricultural land and water assets is a key part of that vision.

Representing owners of significant land and water assets within the state, AgForce welcomes the government's recognition of the rights and interests of landowners (owners and leaseholders) in relation to resource sector activities (and ideally renewable energy and others) that seek to co-exist with them. This co-existence must operate effectively at the single paddock, to property, to regional, to sector and state levels.

It is essential that mutually beneficial relationships between landowners and resource sector participants (and ideally renewable energy and others) are sought and that agricultural land and water assets are protected, with impacts avoided, or minimised if unavoidable, wherever possible.

While there is no recognition of the option in the discussion paper, it should not be assumed that co-existence can effectively occur everywhere. Some areas of intensively used farmland, or of specific agricultural land uses, or of endangered or fragile ecosystems may be impacted to such a degree that the precautionary principle should be applied and so resource or other alternate activities do not proceed on that land.

AgForce recognises that mineral or energy resources are owned by the Crown on behalf of all Queenslanders and access to those resources can be enabled for the benefit of all of society. However, it must also be recognised that there is only a very limited area of high-quality arable land in the state and it must be protected from alienating uses and prioritised for food and fibre production for current and future generations in perpetuity. This public good benefit of resource development is also why landowners should not be required to cover the costs of having other uses affect their land and water resources.

Part A of the discussion paper relates to implementing principles into the Land Access Code (the Code) that set out the government's expectations of positive stakeholder behaviours supportive of co-existence. The code is largely a non-enforceable guideline of communication and negotiation practices. Minimum engagement, access and conduct standards for alternative land uses affecting agriculture should be enabled by legislation or regulation rather than in voluntary guidelines.

Part B of this discussion paper relates to a review of the State's land access and co-existence institutions to ensure that they are well aligned, contemporary and efficient. This includes the scope and functions of the Land Access Ombudsman and GasFields Commission Queensland and considering their expansion or rationalisation and whether roles and responsibilities are clear, aligned, and non-duplicative.

AgForce's policy position is intrinsic to our Land use Protection Principles, outlined in Appendix A.

Mutual Benefits Between Sectors

Compensation for impacts from imposed resource sector or other activities should not be seen as a 'benefit', but a required counteraction that may (or may not) fully restore landowners to the position they would be in had it not been for the activity occurring on their property. Ideally compensation should be generous and exceed realised impacts and that may indeed be the case, but should not be assumed.

Co-Existence Framework

The discussion paper outlines the multiple pieces of legislation, administered by different government agencies that set out regulatory requirements and consisting of:

- Resources Acts (including the Mineral Resources Act 1989, the Petroleum and Gas (Production & Safety) Act 2004, the Greenhouse Gas Storage Act 2009, the Geothermal Energy Act 2010 and the Mineral and Energy Resources (Common Provisions) Act 2014 (MERCP)), administered by the Department of Resources.
- Environmental Protection Act 1994 (EP Act), administered by the Department of Environment and Science (DES).
- Water Act 2000 (Water Act), administered by the Department of Regional Development, Manufacturing and Water (DRDMW) other than Chapter 3, which is administered by DES; and
- Regional Planning Interests Act 2014 (RPI Act), administered by the Department of State Development, Infrastructure, Local Government and Planning (DSDILGP).

AgForce seeks a whole-of-government review of these frameworks to ensure that they are delivering effective protection for our irreplaceable cropping lands and providing a pathway for unimpeded activity and growth for our agricultural sector. This is an essential precursor for effective co-existence.

AgForce has made many submissions in the past on the different elements of the framework and identifying improvements that could be made to improve their ability to support sustainable co-existence and a fair go for landowners. This includes to Gasfields Commission Queensland initiated reviews, including of the RPI Act in 2021.

These identified improvements include:

- Having a statutory process (other than referral to the Land Court) that can be invoked where a landowner believes that an impact has occurred that has resulted in a 'compensable effect' on the property.
- The state government remove the costly onus of proof on demonstrating a material impact (like CSG-induced subsidence) on their business or land use on the landowner themselves where the exercise of CSG rights has likely caused or materially contributed to the decline.
- Addressing off-tenure impacts of CSG-induced subsidence which are not currently covered under the compensable effects provision (s 81 of MERCP) – providing landowners neighbouring coal seam gas development with a legislated right to be compensated for compensable effects. Further, compensable effects identified in legislation should be clarified to include subsidence.
- Ensure that the drilling of deviated or vertical wells underneath a landholder's property only be authorised with the appropriate protections of a Conduct & Compensation Agreement (CCA), including alternative dispute resolution processes and legal certainty their interests will be protected.
- RPI Act – revise its purpose to include explicit protection of good quality agricultural lands highly suitable for cropping and of its productive capacity, including associated water assets.
- Defining the term 'material' within the RPI Act and the RPI Regulation

- The ability to self-determine that an activity is not likely to have a significant impact on the PAA or SCA is flawed, with this provision requiring review involving third-party, science-based organisations such as OGIA, GFCQ and agricultural industry organisations such as Cotton Australia, AgForce, Queensland Farmers Federation, Condamine District Irrigators etc, along with DAF and DES.
- Need to more consistent definition and mapping of valuable agricultural lands, as investigated by QFF.
- Addressing exemptions to the RPI Act, apparently including where impacts on neighbouring landowners occur and removing discretionary notification processes for applications.
- Establish a cumulative management framework for resource sector and emerging sector activities, including for subsidence.
- Require tenure holders to provide landholders with information adequate to describe risk analysis of impact of their activity on particular landholder assets and operations ie, basis of self-assessment as to preliminary activity for entry to private land; evidence of self-assessment of compliance with Regional Interests Development Approval (RIDA) requirements of RPI Act; notification and changes to all environmental authorities (Qld) and approvals (Cth EPBC Act) which authorize the activity; and others as appropriate for other activities seeking to co-exist.

Foundations for Sustainable co-Existence

It suggests in the Paper that there are four foundations for sustainable coexistence:

1. Regulation for certainty and proportionate compliance enforcement
2. Impact assessment and management – independent and evidence-based
3. Information & education – to enable good faith interactions and informed decisions
4. Dispute resolution – timely and cost effective, promoting harmonious, respectful sustained relationships.

'Are the four foundations reflective of the key requirements for sustainable co-existence?'

As noted above, regulation can provide greater certainty for all parties and in a range of submissions over the past 15 years, AgForce has identified improvements to the current regulatory framework that would improve co-existence outcomes.

The Discussion paper proposes that regulation alone does not ensure sustainable coexistence however, it can provide a clear accountability for contrary behaviour and compliance enforcement to ensure that expectations are followed.

In relation to compliance enforcement, mandatory obligations should include pathways to ensure evidence as to compliance be provided to landowners. Regulators should be proactively engaged in visible compliance action.

AgForce would like to see the expectation on the resources industry to negotiate all agreements with landowners in good faith embedded in legislation. Full and transparent disclosure of proposed and actual activities and expected impacts by tenure holders is essential for landowners to be able to make informed decisions.

In relation to impact assessment and management, a key foundation is having robust baselines (with evidentiary standing in court) of natural resource conditions, agricultural practices and socio-economic (health and well-being) conditions prior to resource sector activities commencing. This to be accompanied by best-practice, post-commencement on-farm monitoring so that impacts can be avoided or, if unavoidable, minimised and unexpected impacts are identified early and work ceases until the cause(s) can be identified and remedied.

We support the resources industry understanding the needs of landholders and their communities and deliver transparency, credibility and trust. Shared decision making is most effective.

Part A: Co-Existence Principles

According to the discussion paper, these principles are intended to establish government's minimum expectations for the behaviours between resource companies and landowners, with parties encouraged to go above and beyond these minimum standards. It also says that parties should feel empowered to address relevant issues, rights and obligations of those involved.

A government's minimum standards when it comes to managing land use impacts should be enforceable in a regulation or standard, which the guidelines within the Land Access Code does not offer. This deficiency should be addressed in the government's response. For example, a requirement to negotiate in good faith and extending provisions to include all agricultural activities, not just those focused on livestock production and a collaborative risk assessment with the landowner of the impact of the activity on their assets and operations.

AgForce's land use protection principles should be considered in the process of finalising the government's co-existence principles, including application of the precautionary principle, which cautions against development which has the potential for causing harm when scientific knowledge on the matter is lacking.

Specific note should be taken to include that prior to a development, agricultural landowners have equal representation, available resources and bargaining power and that a formal mechanism for agriculture to be involved in assessment be included.

The Independent Review of the Gasfields Commission recommended and the government supported in principle[1], that '*the holder cannot undertake advanced activities on the land without the agreement of the landholder until the arbitration is decided and the 'appeal' period has expired'*. Resource company access to land must not be legally possible until there is a conduct and compensation agreement in place and signed. Why enable exploration or development activities to commence when a matter is in dispute or going to the Land Court? Adhering to a statutory access timeframe while dealing with sensitive and/or unresolved issues does not engender respect or trust from the landowner and reflects a power imbalance within the current system.

As an alternative example, on 28 March 2014 Santos entered into a set of Principles of Land Access with landowner representatives in NSW that it would not undertake drilling activities on private land without the voluntary consent of the landholder – that is the liberty to say yes or no. This was seen by Santos as respecting the views of landholders' regarding drilling operations on private property and intended to give confidence projects would progress is a manner that is safe, sustainable and respectful of landowner rights, in the context of long-term relationships.

Our land use protection principles also stipulate that landowners must have a right to compel action in relation to non-compliance and that non-compliance should trigger cease work provisions.

Landowners should also not be forced to cover the costs of remediating ceased activities, with government ensuring that secured financial assurance is adequate for rehabilitation back to the pre-existing natural conditions.

Understanding and respecting a landowner's needs, business activities, succession dynamics and future aspirations is essential to a good relationship.

In what ways could the principles be improved to deliver better co-existence outcomes?

The set of principles proposed are a great improvement on those originally proposed in the consultation draft and AgForce recognises the positive efforts made by the Department to respond to the feedback we provided on them. Some further improvements are identified in the table below.

[1] Microsoft Word - AMENDED - Government response to the independent review- post cabinet ~ 23 Nov 16

Value	Comment on additional inclusions
Be proactive and engage early	Engagement and information sharing must be done in good faith and as completely as possible
	Consistent relationships are essential – continuity of resource company representation and respecting all prior understandings reached with the landowner if representation subsequently changes
	Baselining and rehabilitation requirements are agreed from the outset
Interact respectfully and transparently	Landowner's personal and family space should be respected as well
	Full details of resource development intentions provided up-front and not withheld in negotiations, including where development may vary once commenced
	Provide independent assessments of resource operations to landowners
	Negotiating in good faith should be an obligation not a principle
	Progress activities on a landowner's property only after a mutually satisfactory agreement is reached with them
	Comply with property biosecurity management plans
Promote understanding	Appreciate the impact of proposed activities on the landowner's home and family
	Firstly, seek to avoid, then to minimise unavoidable, impacts
Act with integrity	Firstly, seek to avoid, then to minimise unavoidable, impacts
	Leave a positive legacy for the community

Are there other ways in which the government could make its expectations about conduct of resource companies and landholders clear?

Yes, the government's minimum expectations on resource sector operators should be legislated and enforceable in a regulation or standard, which the Land Access Code primarily operating as a guideline does not offer.

Part B: Co-Existence Institutional Review

The discussion paper outlines that the institutions to complement and support the regulatory and policy co-existence frameworks include the GasFields Commission Queensland (GFCQ), aimed at managing and improving sustainable coexistence with the onshore gas industry and the Land Access Ombudsman (LAO), to assist with disputes between landholders and CSG companies in relation to already existing conduct and compensation agreements (CCAs) and make good agreements (MGAs).

The independent Office of Groundwater Impact Assessment (OGIA) scientifically assesses and manages the impacts of cumulative groundwater impacts, including engaging and educating the community.

The Engagement and Compliance Unit (ECU) within the Department of Resources provides some dispute resolution functions and compliance responses to breaches.

The Land Court of Queensland provides a point of final determination for disputes relating to land access agreements, but can only make determinations on compensation and can facilitate non-binding dispute resolution services for negotiations concerning CCAs and MGAs.

The paper notes that the scope of this review does not include:

- a broader review of the land access framework,
- government's regulatory and compliance roles, and
- the role of the Land Court as the final arbiter of disputes.

This is a real limitation to the effectiveness of this process as these elements have a significant influence on securing satisfactory and sustained co-existence outcomes. As noted before, AgForce seeks a whole-of-government review of these frameworks to ensure that they are delivering effective protection for our irreplaceable cropping lands and the rights of primary producers, as an essential precondition for effective co-existence.

What is working well with the current institutional arrangements and should be retained?

Positive elements of the current arrangements include:

- The review function of the GFCQ on applicable frameworks and the raising of identified issues and deficiencies with the government with a call for reforms, such as with the RPI Act review.
- The information presentation function of the GFCQ and OGIA to stakeholders.
- OGIA's science-based assessment of CSG activities and impacts and associated community engagement, including the regular underground water impact reports (UWIR), identification of emerging issues such as subsidence and continuous improvement efforts on their modelling and capability.
- ECU – record keeping and register of complaints and resolutions.
- the Land Court's User group enabling stakeholder engagement towards improved court processes.

Issues Identified in the Discussion Paper

1. The institutional arrangements need to provide support across all land access negotiations

Would it improve coexistence outcomes if the jurisdiction of the LAO was expanded to include other dispute resolution functions relating to resource company and landholder interactions, for example, when negotiating CCAs and MGAs?

If expanding the jurisdiction of the LAO were to improve coexistence outcomes, which interactions between resource companies and landholders should be included?

According to the paper, between September 2018 and June 2021, the LAO received 81 enquires, of which only 14 were in, or potentially in, their jurisdiction. The 2021-22 LAO Annual Report[2] indicated that the Office received 50 overall dispute enquiries, an increase of 6% since 30 June 2020 however, 49 were out of their jurisdiction, with preliminary enquiries undertaken for one case, which once assessed did not proceed to the investigation stage. A wide range of matters were raised with the LAO.

This suggests that the scope of the LAO is not communicated effectively or aimed at, or inclusive of, the vast majority of issues of real concern to affected people. The report itself highlights that the LAO can only provide help with a dispute where a signed Conduct and Compensation or Make Good Agreement is in place.

[2] LAO-Annual-Report-2021-22_0822_WEB.pdf, page 8

At its initiation, AgForce called for[3] the jurisdiction of the LAO to enable access for landowners in disputes when negotiating land access CCAs or water resource MGAs. We still support that expanded access, where resource and indeed other operators are seeking access.

We also supported allowing landowners who neighbour resource developments without access requirements or a CCA and who are experiencing significant impacts to also access LAO dispute resolution processes.

The LAO is in a position to identify, if not address, policy or legislative issues and in the 2021/22 report identified producer concerns relating to subsidence on prime agricultural land, Cross Directional Drilling on neighbouring properties without CCAs in place and the late issuing of Entry Notices to landholders. We would support an ability of the Ombudsman to make recommendations to government on issues identified with their policies or existing legislative frameworks and for these to be publicly reported.

It would be good to consider including resource company assessments as to whether a proposed resource activity is a preliminary activity or an advanced activity, in order to determine whether a CCA is required when there is a difference of opinion. Legislative clarification is preferred, built on a process of engagement and negotiation amongst stakeholders.

2. Landholders do not feel empowered to engage in negotiations on land access, including CCAs and MGAs with resources companies

7. Are there other ways the coexistence institutions could help to empower landholders in their dealings with resource companies?
8. Would a co-existence institution focused on providing information and educational support to key stakeholders help to empower landholders in negotiating CCAs and MGAs?
9. What information and independent assessments are required to empower landholders in negotiations with resource companies?

AgForce agrees that having an institution with a clear role to provide information and educational support would help to empower landholders in negotiations. That role sits largely with the GFCQ whose remit could be expanded (see below).

AgForce recommends that GFCQ, Queensland Government and other stakeholders continue to progress an industry delivered extension project to fill this information and education gap. The high trust levels secured and the engagement successes of the earlier AgForward CSG & Mining Landholder Support Project are a foundation on which to build an effective project. That project could have a wider remit to also address existing and emerging land use coexistence issues and new industries across the state.

In relation to facilitating knowledge and understanding, these needs include:

- Minimising information asymmetries that exist between parties, including knowledge and understanding about the regulatory framework that is in place.
- Jurisdictional and agency regulatory and other responsibilities should be clarified and landowners provided with accessible information on whom to contact on various matters, including dispute resolution steps, approvals and objection processes. This could include more use of maps and flow charts of various Departmental or Unit responsibilities and compliance functions.
- Landowners having an ability to access the necessary information about processes and negotiation practices to support them in their dealings with resource companies, including outreach or educational forums which landowners can attend to learn about these matters amongst their peers. This should include equal access to groundwater and subsidence information by landowners and proponents.

[3] 00000008.pdf (parliament.qld.gov.au)

- Clear information about how impacts are required to be avoided, assessed, managed and regulated and how compliance is enforced, ideally with the ability of a landowner to compel compliance action.
- Consolidate publicly available information about resource and emerging projects in one place.
- Open data portals, with AgForce supportive of applications such as Queensland Globe in being able to provide ready access for landowners to the status of resource industry projects in proximity to their properties.

Paired to this information provision function is access by landowners to independent legal advice as to their rights in their own circumstances and specific to the type of alternate land use seeking access to their property. This type of service was once available from the Legal Aid service.

In relation to independent assessments required and the proactive management of potential impacts:

- Ensuring access to project and property specific information relating to impacts of the proposed development on water resources and land use, including proponents to provide independent assessments of proposed and actual resource operations to landowners, expected impacts and their avoidance and minimisation.
- Provide regular updates of resource projects and compliance activities plus research findings relating to impacts, to enable effective impact assessment and risk management requirements as part of negotiation processes.
- Ongoing access to science based analysis of risks and potential impacts, such as from OGIA concerning water resource and land surface impacts.
- Requiring scientific and legally valid baselines suitable for the affected agricultural land use prior to any alternate land use occurring on the property and paid for by the proponent seeking access.
- Improve resource project assessment processes including coordination and communication among relevant departments and governments.
- AgForce agrees with GFCQ assessment '*there is no clear jurisdictional responsibility to manage the potential impacts of CSG-induced subsidence'* – this should be addressed urgently.
- AgForce sees a need to remedy the GFCQ identified "*no clear pathway for impact assessment, determination or dispute resolution for landholders who believe they have been materially impacted by CSG-induced subsidence other than the Land Court*."
- AgForce fully supports the GFCQ findings that "*there is a need to provide landholders with certainty around the process for assessing, mitigating and compensating for any economic impact to their farming operations*." Moreover, "*enhancing regulatory protections is necessary and the best means to achieve this is by adapting the regulatory framework*."

OGIA retains an important role in providing the scientific basis by which impacts are managed and this could be extended across the state, including new cumulative impact management areas and to include other underground water resource related developments, such as CCS. With an expanded role should also come a review of the governance arrangements that apply as well as securing adequate resourcing and expertise to deliver effectively on a wider agenda. More on this below.

3. The institutional arrangements need to capture the entire resource sector and could be expanded to include renewable energy projects and other emerging industries

How could the design of the institutional arrangements be future-proofed to accommodate emerging co-existence issues and new industries?

There is an identified gap in the current regulatory and institutional arrangements relating to emerging industries, such as carbon capture and storage, including how they integrate with existing minerals, coal and renewable energy projects. AgForce supports clearer inclusion of emerging industries such as renewable energy projects and carbon capture, use and storage projects, within the combined remit of the coexistence institutions.

In order to future proof institutional arrangements, AgForce sees an opportunity to bring all alternate land uses and their coexistence requirements and competing interests under the remit of a common government support and management framework.

To afford all users with an equitable and simplified process with consistent features and common provisions, such that landowners, existing resource activities and new activities seeking access to the same land or water asset would be addressed equally, but with recognition of their unique circumstances, such as the established property rights of landowners.

This could include common:

- Conduct and compensation processes.
- Make good provisions for any impacts.
- Cumulative impact management provisions.
- Negotiation and dispute resolution steps, including Land Court.
- Financial assurance requirements.
- End project closure and rehabilitation requirements.

Thus, the arrangements between existing resource activities and emerging renewable CCS or other emerging industries seeking to co-exist with them, would reflect the arrangements that currently apply to agricultural enterprises. This would simplify the system for landowners with potentially multiple alternate land uses seeking to access their property and for the administrative requirements on government. For equity, any additional rights applied to emerging industries in developing this common framework should also be applied equally to the other pre-existing land uses.

The deficient oversight of the location of renewable facilities in the RPI Act and Regional plans has been identified to governments for many years, but they have failed to act to protect thousands of hectares of cropping land from being removed from production for decades by these energy facilities. This is a deficiency that acts against coexistence with agriculture and needs immediate action. A legislated code of conduct for renewable energy projects is required.

4. Independence and branding are particularly important and there is a risk of perceived bias if dispute resolution services and broader industry engagement or advocacy roles are combined

11. Why is it important to have an independent ombudsman to assist in resolving disputes on coexistence matters?

12. Could the current functions of the LAO be delivered by a different dispute resolution entity?

Independence from governments receiving royalty payments from resource and energy projects is important for trust in the institutions resolving disputes, but effectiveness is ultimately more about the characteristics of the entity itself and its operating ethos than sitting in a separate arrangement.

Based on the 2021/22 annual report of the LAO, calls within its current remit are very low and so it could be rolled into a broader focussed ombudsman entity that covers a wider range of stages in development processes and across a wider range of competing activities.

5. The land access space is crowded, with each entity performing slightly different (yet sometimes overlapping) roles and functions

Are there too many institutions operating in the co-existence space or would clarifying the roles and functions of the current institutions assist stakeholders in understanding where to go for relevant information and services?

Would a single land access entity that included dispute resolution, information and education services and impact assessment and management functions be an effective and efficient arrangement to promote co-existence?

What would be the barriers to such an arrangement, if any?

As above, AgForce supports the Queensland Government review of the land access institutions to ensure they are well aligned, contemporary and efficient. In this it is vital that the consideration of the unique circumstances of agriculture continues, including protection of established property rights with no disadvantage occurring when other land uses seek access. It should also be remembered that the large majority of agricultural enterprises are small businesses and largely not resourced to carry significant additional imposts under these circumstances.

AgForce sees potential benefits in having a single land access entity for all co-existing land uses operating under common principles and processes. Clear understanding by stakeholders of the roles and functions of institutions is required, independent of the number of institutions operating.

There is an opportunity to expand the remit of the GFCQ (under a new name and governance arrangements) as that primary land access institution, including:

- Information collation, extension and education services.
- Engagement and facilitating networks and building of relationships.
- Legal advice on processes applicable to individual circumstances (but not replacing legal advice to landowners in negotiations).
- Promoting information sharing and transparency across government departments.
- Improved data systems to integrate and match information on land use activities.

It could be supported by separate institutions applying across the spectrum of all co-existing land uses:

- Government land access policy and regulatory development.
- Government regulatory compliance enforcement (ECU).
- Research and scientific impact assessment services (OGIA).
- Expanded Land Access Ombudsman for independent dispute resolution.
- Land Court as the final arbiter of disagreements across land users.

An expanded GFCQ would need to be a neutral party in relation to the varying interests of competing land uses and not get involved in promotion of any one sector, but take on a single key role of providing support for all parties in improving co-existence negotiations and outcomes. It could also continue to advise government and provide recommendations on improvements to the streamlined regulatory and management system.

An expanded GFCQ would need to be properly resourced and its governance and funding arrangements would need to be revised to account for the broader remit.

Funding of the Institutional Arrangements

Would you be supportive of a revised institutional arrangement that required greater levels of funding but provided better coexistence outcomes?

Providing access for resource and other companies to the mineral or energy or other resources on or under a landowner's property for the benefit of the people of Queensland represents a wider public good.

Funding for institutions managing and promoting co-existence should be provided by the Queensland government and proponents as part of their royalty payments and/or operating costs.

Given their pre-existing rights to use of the land and water assets, landowners who are by law required to accommodate alternate land uses should not have to pay for co-existence institutions or their activities.

Appendix A: AgForce Land use Protection Principles

As the body for agriculture, AgForce requires that alternative and potentially impacting land uses ensure:

1 There is recognition that natural capital has an inherent value
2 Human health and well-being must not be sacrificed
3 A precautionary approach that avoids negative legacy effects on natural resources including air, soil, water and biodiversity
4 There are no negative impacts on existing or future sustainable agricultural opportunities

Before:

- Recognize that resources are finite.
- All projects are assessed on environmental, social and economic criteria.
- There is a formal mechanism for agriculture to be involved in assessment.
- Projects should not be assessed in isolation and cumulative impacts assessed.
- Potential impacts need to be objectively, and accurately quantified rigorously and independently reviewed.
- Agricultural landholders to have equal representation, available resources and bargaining power.

During:

- All projects must have comprehensive monitoring and transparent reporting.
- Non-compliance will trigger cease work.
- Enforcement is primarily the responsibility of government, but landholders must have a right to compel action.
- Industry and Government must proactively identify and manage cumulative impacts, both individual project cumulative impacts and multiple projects cumulative impacts.

After:

- Land needs to be rehabilitated to be the pre-existing natural conditions.
- Financial assurance needs to be adequate for rehabilitation.

See: https://www.agforceqld.org.au/knowledgebase/article/AGF-01250/