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9th July 2014
The Research Director
Agriculture, Resources and Environment Committee
Parliament House
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Mineral and Energy Resources (Common Provisions) Bill 2014.

Property Rights Australia (PRA) was formed in 2003 to provide a strong voice for landowners with regard to property rights issues. It aims to promote fair treatment of landowners in their dealings with government, businesses and the community.
Our philosophy is that if the community (or business) wants our resource for any other purpose such as environmental protection then the community must pay fair and unsterilised value for it.
Most of our members are in Queensland but we have members in all States.

SUMMARY

It is laudable that efforts are made for effective simplified, standardised legislation and regulation across all resource activities and some provisions in the Mineral and Energy Resources Bill are sensible and necessary; however PRA believes that on balance that the bill is an erosion of landowner's current rights. The property rights and principles of natural justice of landowners will be severely compromised by many of the proposed changes.
The balance of power between miners and landowners has always been in favour of miners at the expense of landowners and this Bill has provisions which will disadvantage landowners.

The Queensland government had previously invited submissions to two discussions papers presumably to aid in the drafting of this bill. PRA expressed great concern to points raised in these discussion papers and many have remained unchanged in the drafting of this bill. As a further resource PRA is attaching these previous responses.
Appendix 1. Towards a standardised consent framework for restricted land across all resources types[i]
Appendix 2. Mining lease notification and objection initiative—discussion paper[ii]

Objections to Mining Leases

Now that the proposed Bill has confirmed that "directly affected" landowners are only those within the footprint or who provide access to a mining lease our worst fears have been realised. The affects of some mining projects are so wide ranging that PRA would contend that there are many neighbours and even non-neighbours who will be more "directly affected" than many simply offering access. Some will be on the same water course, aquifer or connected aquifer. Others will suffer production losses and/or loss of amenity. Restricting notification and subsequent objection to proposed resource activity to those landowners who are on the footprint of, or who provide access to resources activity is a clear denial of the rights of other landowners. It is also necessary to protect the rights of landholders whose most convenient route to their property is blocked by resource activity. This aspect seems to have been overlooked. There has been at least one difficult to resolve example of this.

To discriminate against landowners whose only aim has been to protect their factors of production, based on a Greenpeace document (which was referenced unsuccessfully in the objection and notification discussion paper) and which most landowners have never heard of or seen is unacceptable. The evidence is that there have been no landowner objections which were not based on genuine concerns. Experience has already shown and predictions suggest that the effects of many resources activities will affect many more landowners and businesses than those within the footprint.

Landowners have also pleaded with Government to lengthen timeframes to respond to mining leases and environmental authorities. The limited notification, concurrent timeframes and short timeframes for time poor landowners to respond to applications by companies, who have fully paid, professional document preparers, readers, negotiators, solicitors and many more will clearly disadvantage some landowners.
The same comments apply to the increase in negotiable areas such as restricted areas and opting out of a conduct and compensation agreement. It is a cynical exercise to claim that property owners have certain rights or enhanced rights if they have no time or ability to exercise them.

Many, many landowners are reporting that at least one member of their business unit is having to become a full time resources person with no allowance for their time. This is particularly the case where landowners are dealing with multiple resources and infrastructure companies.

Public Notification
The Certificate of Public Notice currently issued under the Mineral Resources Act should be issued to not only those within the footprint of a proposed mining or petroleum lease but also to immediate neighbours and everyone identified under the Environmental Impact Statement to be impacted including those for many kilometres impacted by water drawdown in aquifers.

Under proposed amendments in the bill to the Environmental Protection Act 1994 (Qld) it appears that public notification for Environmental Authorities will be further restricted. (Refer Clause 418 – no notification required in an approved newspaper in the area) Communities are greatly impacted by resource projects and have a right to be notified and the opportunity provided to make objections. These provisions are a denial of natural justice.

Currently there is little transparency when an Environmental Authority is to be varied and it appears that the bill does not address this. It is of paramount importance that the landholder on whose land resource activity is undertaken is notified of proposed varying of Environmental Authorities.

Restricted Land

This section of the Bill is very concerning and various legal commentators have said that it offers little to no protection to landowners. It is also not acceptable that distances from infrastructure such as dwellings will be in regulation and landowner pleas for at least 600m to 1km seem to have gone unheard. Some previously protected infrastructure such as bores, dams, water storages and yards has been removed from the restricted areas list. This restriction only applies to activities which are likely to cause surface disturbance or subsidence so some possible factors will not be covered. Noise and dust and just sheer loss of amenity will be ongoing concerns. Activities other than that by a resource company (Powerlink activities for example) are only required to stay 50m from a dwelling or other protected infrastructure. These limited restricted areas will lead to ongoing conflict between companies and landowners.

The granting of restricted access around specified infrastructure only at the time of granting the original resource authority, severely limits the optimisation and flexibility of business and personal goals for agricultural producers and the continuous improvement to its highest and best use.

Governments allowing the devaluing the property of any landowner by any means including lack of protection for future infrastructure is an unacceptable principle and a violation of property rights.

Remediation of Bores

Glen Martin of Shine Lawyers recently raised concerns in rural media[iii] about remediation activities affecting the process of negotiations for "make good" agreements. He is not the only lawyer to raise this concern.
If this is simply a case of inadequate drafting we ask that it be clarified immediately. It should be made clear in legislation that if a bore that is considered "dangerous" is remediated and the bore is a bore used for, or capable of being used for primary production "make good" provisions, preferably a replacement bore, should be immediately implemented.
Amendments proposed for the Petroleum & Gas Act by inserting clause 567, Section 294B appear to allow anyone who is authorised by the Chief Executive to remediate any bore which is emitting gas without any provision for the rights of the landholder including notification and compensation.
This appears to be in conflict with provisions in the Chapter 3 of the Water Act 2000 and would lead to a loss of landholder rights.

Important matters left to regulation
As in other recent legislation too many important provisions have been left to regulation. This creates a difficulty in writing a fully informed submission and creates a concern for the future as regulation can more easily be amended in comparison to legislation.

Clauses 44 Deferral agreements and 45 Right to elect to opt out
PRA believes that both these clauses offer little benefit or protection to the landholder and increases the risk of the landholder being taken advantage of. If the activity is of low impact or the landholder and the resource company have an existing relationship then the Conduct and Compensation Agreement will not need to be complex or provisions in prior agreements can be transferred. It offers very little impediment for a resource project from proceeding. The absence of a CCA will leave the landholder with little rights of recourse.

Non Prescriptive Terms
The use of terms such as "reasonable and necessary" or "where practical" should be avoided for their ambiguity and various opportune meaning. More precise definitions should be use.
This bill is very long and complex and to provide a comprehensive list of the use of these terms would be time consuming; one example can be found at Clause 80 4) (b).

Uncooperative Landholder

The concept of uncooperative landholder should not be enshrined in the Bill even by inference.
PRA objects strongly to the genuine concerns of landowners being overridden in an attempt to speed up the process on behalf of mining companies. If they want to speed up the process they can pay proper compensation and take care of the concerns of landowners.
Landowners simply trying to get a fair deal for themselves, their businesses and their family safety and trying not to have their time wasted are not being uncooperative. Landholder's time is treated as valueless and not compensated for. Mining companies are all too willing to waste time, call unnecessary or unproductive meetings, be inflexible with meeting times and offer no new information. These meetings are held by people who, unlike the landholder are on a payroll. Landholder's time should be paid for and it might not be wasted so readily.
Already the balance of power between miners and landowners is skewed too far in the direction of the mining companies and this attempt to skew it even further is not a sign of understanding or natural justice.

Positives

PRA would like to note the following few positives provisions in the bill that are overshadowed far too many negatives.

- Conduct and compensation agreement to be noted on the relevant property title by the Registrar of Titles
- Resource authority holder to enter into a conduct and compensation agreement with owners and occupiers on neighbouring land, including off-tenure land
- The Land Court may have regard to the behaviour of the parties in the process leading to the application
- Public road authority given the power of Resource companies needing written consent to use the roads; can give direction of the use of a road and a compensation agreement has to be signed.

Recommendations

1. That consultation, parliamentary committee deliberations and redrafting of this bill not be constrained by tight time frames. This is a highly complex bill, the start of a process where five resources acts will be migrated to a single Act. This bill will serve this State for many years in the future and as much time as needed should be allowed to get it right.

2. Supporting regulation should be allowed public consultation as well as public submissions and hearing before the parliamentary committee.

3. The definition of "directly affected" landowners and thereby who is allowed to make objections must be expanded to include immediate neighbours and everyone in the local community likely to be subjected to problems of dust, noise, access and loss of amenity including those for many kilometres impacted by water drawdown in aquifers or downstream of mining activity which may affect the water course.

4. Public notifications should be transparent, in plain English and with full details easily available to those in the direct footprint and to immediate neighbours and everyone in the local community likely to be subjected to problems of dust, noise, access and loss of amenity including those for many kilometres impacted by water drawdown in aquifers.

5. The restricted land distance should be 600 metres and landowner's bores must be afforded a greater protection of 600 metres because of the high probability of damage from activities such as seismic exploration, blasting and fracking.

6. A restrictive land distance of 50 metres should apply from infrastructure such as dams, tanks, troughs and associated water pipelines, irrigation dams and ring tanks, head ditches and tail water drains, also stock yards and farm sheds.

7. Make good arrangements should be improved upon, not impeded, by provisions in this bill.

8. We recommend that no mining lease should be granted without Conduct and Compensation agreements in place. That includes no impact or low impact resource activity.

9. The concept of "unco-operative landholder" should not exist much less be built on. There are sufficient legal avenues at every stage for it to be unnecessary.

10. We strongly recommend that landholder rights not be compromised as a result of sensitivity about the actions of third party groups

11. PRA believes that at the conclusion of resource activity the land must be restored to its full productive capacity.

Joanne Rea

Joanne Rea
Chairman
Property Rights Australia Inc

[i] https://www.getinvolved.qld.gov.au/gi/consultation/1918/view.html
[ii] https://www.getinvolved.qld.gov.au/gi/consultation/1919/view.html
[iii] http://www.beefcentral.com/news/letters-to-the-editor/letter-why-landholders-need-to-review-resource-act-changes

Appendix 1:

Towards a standardised consent framework for restricted land across all resources types

Submission on:

Towards a standardised consent framework for restricted land across all resources types

Consultation Regulatory Impact Statement

Submission to:

MQRA Program
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Email: mqra@dnrm.qld.gov.au

Submission from:

Property Rights Australia
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Email: Pra1@bigpond.net.au

Property Rights Australia (PRA) is a not for profit organisation formed to protect the property rights of landowners. We represent many rural businesses in Queensland in particular but have members in all states.

Summary

Property Rights Australia supports the advancement of rights afforded to impacts on neighbours outside a resource authority boundary or a property boundary in this Consultation RIS. It is long overdue and should be standard across all policies, regulations and legislation.

It is laudable that efforts are made for effective simplified, standardised regulation across all resource activities but PRA believes that on balance that the alternative option in this Consultation RIS is an erosion of landowner's current rights.

Queries for stakeholders [page 12 Consultation RIS]

- Do you support a consistent approach across the resources sector for companies to gain access to private land near homes and other critical infrastructure? If not, why not?

Many landowners are experiencing concurrent different resource activity and standardised conditions would save some confusion. However this must be weighed up against any loss of rights for landowners in the proposed changes.

 Do you support a consistent implementation of restricted land across resource types? If not, why not?

The concept sounds good and the Consultation RIS gives Option 2 a good sales pitch but for all activity to be allowed up to 200 metres away would for example in the case of a coal seam gas compressor station be unbearable for a residence.

The provisions in an Environmental Authority must not be subservient to restricted land distance. The monitoring for the likes of noise and dust must be more transparent and landowners have the assurance that they will be enforced.
The determination for the site of major infrastructure should be subjected to greater study before a CCA is signed. The landowner should be able to claim compensation for professional expert services such as an acoustic engineer. The Queensland government should amend the appropriate policies and legislations to expand the professional expert advice to which a land owner can claim compensation.

Landowners access to the courts must not be impeded.

 Do you agree with the distances proposed for restricted land? If not, why not? Is another distance more appropriate?

Although Option 2 in the Consultation RIS makes it sound good, what are the benefits at 200 metres?

Under the Mineral & resource act according to the Consultation RIS for exploration permits and mineral development the 600 metre rule applies. But once the a mining lease is granted it will make no difference in the ability for someone to live the current 100 or 200 metres away from the likes of a coal mine. The infrastructure will either have to be relocated or to be replaced at another location on the property or the resource company purchase the property at fair and unsterilized value for the land itself and provide compensation for relocation.

Activity subjected to the petroleum and Gas Act currently has a 600 metre distance.

It appears that there will be greater protections under the 200 metre restricted land but landowners are asked to give a lot away to achieve this outcome. For landowners it is too great of a price to lose liveable households, safety for young children and amenity.

A more appropriate distance – 600 metres**.**

 Do you agree with the identified infrastructure to which restricted land is proposed to apply? If not, why not? What infrastructure should be included/excluded?

In reference to table 3, a bore or artesian well currently in Restricted Land Category B should be transferred to Category A and be granted the greater restricted distance. This is needed particularly for coal seam gas and especially to allow for a greater distance from CSG well when they are fracked. The possibility of damage at 50 metres is too great to put at risk an essential infrastructure for landowners.

Special mention should be made for stockyards in CCA's. They may not be an infrastructure used all the time but certain resource activity could make handling of livestock difficult due to animal behaviour issues and the aspect of animal welfare should be considered.

Clarification is need that covered in Category A (a) are sheds and rental accommodation including buildings used for holiday homes and farmstays.

Clarification is also needed that watering points including tanks and troughs and location of polypipe interconnectivity should be included in Category B (d).

 Do you have another proposed approach?

Queries for stakeholders [page 18 Consultation RIS]

 Do you agree with proposed parallel amendments to the threshold for requiring a CCA, in particular with for no/low impact activities regardless of distance from a residence? If not, why not?

It appears the greatest advantage for the removal of CCA's for low impact activities will be the resource companies. There is never no impact; the phrase to landowners who live with resource activity on their land and in the same business space is an oxymoron. Low activity will result in fewer provisions to be included in a CCA and less time needed to complete one. The greatest cost to landowners is time since it is not yet an industry practice to give full compensation for the landowner's time. All other professional costs used by the landowner in negotiating a CCA are recouped. An unwanted result of removing CCA's for landowners will be their ability to freely access legal advice. This is a major erosion of landowner rights which can lead to exploitation by the resource companies.

Landowners have learnt at their cost that they can take no notice of any verbal undertakings. Simple agreement with the landowner is not sufficient. Resource companies use various tactics and sleight of hand to gain agreement from a landowner whether by unauthorised assurances from access officers, misinformation, non-disclosure of the full extent of the project, enticements, engender obligations and intimidation. No meaningful agreement will have any value unless written down.

If CCA's are removed for low impact activity landowners must be afforded protections. In any case the Queensland government should amend the appropriate policies and legislations that the liability for any weed outbreak and the contamination of farm product rests with the resource companies.

Another option is that if a CCA is removed for low impact activity, that a licence agreement is written in its place with all legal costs covered by the resource company. This will ensure the resource company is aware of agreed protocol while accessing the land and there are time limits for the access in order to reduce disturbance for the landholder. An appropriate licence fee can be negotiated for expected landholder time needed for the consultation process and to ensure that all activity is clearly defined as low impact.

 Are there any on-ground scenarios where the proposed approach will result in 'unintended' or 'unworkable' outcomes? Please provide examples.

Even low impact resource activity has the ability to damage roads, leave chemical residues for which it appears landholders will be liable under an NVD, leave open pits for animals to fall into, garbage which sometimes finds its way to an animal's stomach or wrapped around it, spread weeds or unauthorised use of landowner water from watering facilities. There must be an agreement so that a landowner has recourse if his business is affected.

All access needs to have clearly defined access conditions such as fresh weed washdown certificates reroute to property(unintentional weed spread), acceptable agreed access roads(dust nuisance),defined speed limits e.g. 30 km per hour (dust nuisance/safey/livestock disturbance), when ground conditions are wet, suspend all entry to Land until sufficiently dry that vehicle movements will not leave wheel ruts (erosion or deterioration of road networks),leaving gates as found (open or shut). Access should be defined in mapping to ensure no wandering at large over the land which can add to disturbance on businesses.

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Summary of approach (Sub heading from the Consultation RIS)

Certainty is no more than a known fixed outcome; it can be good bad or indifferent. PRA does not support the certainty of a loss of rights.

Proactive discussion between resource companies and landowners can only produce good outcomes for all parties if they have equal negotiation power. This situation does not exist currently and the proposals in this Consultation RIS would not improve the situation.

PRA supports the advancement of rights afforded to impacts on neighbours outside a resource authority boundary or a property boundary in this Consultation RIS. It is long overdue and should be standard across all policy, regulation and legislation.

Identification of the problem

It is laudable that efforts are made for effective simplified, standardised regulation across all resource activities but PRA believes that on balance that the alternative option in this Consultation RIS is an erosion of landowner's current rights.

Landowners must not be forced into shorter timeframes to consider an agreement because the resource company is worried about delays to starting a project. The resource company has the advantage of a long timeframe of planning before the landowner is even aware that activity will occur on their property. Landowners need time to consider the impacts on their future business and the alternatives to where resource infrastructure is sited.

We also are of the opinion that limiting the timeframes will most disadvantage landholders who have to fit it around work schedules and often have poor communications including easily disrupted mail services and poor internet connections. The justifications given of providing certainty and improving business efficiencies for resource companies is disingenuous considering the small amount of cost to any medium to large mine or coal seam gas project seems insubstantial in the overall cost and time to establishment of any such mine but can result in substantial constraints on rural business.

Table 5: benefits and Costs of Options

PRA believes that both the benefits and costs in this table have been inflated. Already covered in this submission is the lesser relevance for landowners the concepts of certainty and the saving of 20 days against something that may have an impact for decades. Based on past performance of resource companies PRA rejects the concept of no impacts and the encouraging of verbal "informal negotiation".

Recommendations

- The provisions for neighbours to be protected outside a resource authority boundary or a property boundary should be included in all resource regulation and legislation.

- The restricted land distance should be 600 metres

- Landowners bores must be afforded a greater protection with a restricted land distance of 600 metres

- Resource companies must be made to bear the full liability for weed infestations and for farm product contamination. Changes to appropriate regulation and legislation should be made to bring this into effect.

- Improvements must be made to dust noise monitoring and be strongly enforced. Landowners protections under Environmental Authorities must not be diminished.

- Compensation of professional costs should be broadened under the appropriate regulations and legislations to enable the landowner to access qualified experts. Currently arrangements are ineffective to enable the determination of how far to site infrastructure from a residence because of noise.
    - *"While the EA provides a level of protection to landholders, the buffer between sensitive receptors and resource activities generally required to meet environmental nuisance conditions can vary significantly and* ***is often not readily discernible on-ground."*** page 10 Consultation RIS

Yours Faithfully,

Joanne Rea

Joanne Rea
Chairman
Property Rights Australia Inc.

Appendix 2:

Mining Lease notification and objection initiative- discussion paper

27th March 2014

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Property Rights Australia Inc
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Submission to Mining Lease Notification and Objection Initiative

Property Rights Australia (PRA) is a not for profit organisation formed to protect the property rights of landowners. We represent many rural businesses in Queensland in particular but have members in all states.

Summary

Property Rights Australia objects strongly to some aspects of the proposed changes to the Mineral Resources Act and Environmental Protection Act as in the *Mining Lease Notification and Objection Initiative discussion paper including Regulatory Assessment*.

There are no definitions in this discussion paper and very importantly no definition of "directly affected landholders" who will be the only landholders notified of a mining lease application and allowed to object to the granting of a mining lease.

The concurrent assessing of mining leases (ML) and environmental Authorities (EA) effectively giving landholders only one chance to object and in a shorter total timeframe. Landowners have long asked for longer timeframes as they must fit review and analysis around work schedules. Unlike mining companies they do not have floors of experts at their disposal.

Conventional notification is not sufficient. If only directly affected landholders are to be notified, no public notification is to occur and given tight timeframes, a more efficient and certain form of notification must occur than reliance on an easily disrupted country mail service and unreliable and slow internet connections. Shifting of "water" and other "factors of production" to the Planning and Environment Court will only work if the Planning and Environment Court has the power and expertise to award compensation to landholders. PRA would need to be convinced that this was to the advantage of landholders.

PRA is concerned at the unexplained concept that it will build on the idea of unco-operative Landholder. If this is to be followed through with there needs to be a tight set of criteria which do not include landholders simply trying to establish a bargaining position for themselves and not having their time wasted. The code needs to apply to mining companies as well.

The initial discussion paper was meant for small and/or alluvial miners and is definitely NOT appropriate for mines such as those proposed for the Galilee Basin.

The property rights and principles of natural justice of landowners will be severely compromised by the proposed changes.

The proposed savings of $6m are insubstantial and will cost landholders much, much more than $6m worth of damage.

ML's given without conduct and compensation agreement and after 3 months of no agreement being sent straight to the Land Court is an unreasonable. No ML's should be given without Conduct and compensation agreements and this includes low or no impact mines.

The MRA will list grounds for objection in the Land Court but we do not know what they are. Having this discussion without them is impossible.

No full parliamentary committee inquiry as has been the case for other proposed legislative changes has been carried out. These changes are substantial for landholders.

Introduction

It is impossible to comment accurately on the paper without definitions and particularly a definition of a "directly affected" landholder. This will affect who has the right to object and is vital to the submission. It appears that the intent is that only those landholders within the footprint of the mine site will have the right to object to the Mining Lease. Any landholder who has land over an affected aquifer or is on adjacent aquifer where leakage or depressurisation may occur is a "directly affected" landholder and should be recognised as such. This legislation seems tailor made to stop objections such as those already made to the Land Court by landholders who are concerned that they may lose one of their factors of production, namely water. This is a very important issue and landholders should not be disadvantaged to accommodate medium to large mining projects.

"Make-good arrangements" for water loss is not a right under the Mineral Resources Act and it should be for all landholders within a given set of potentially affected aquifers. Presently, companies are refusing "make-good" agreements to many landholders and those that they do make are subject to confidentiality clauses. Property Rights Australia considers that the property rights of many landowners in the vicinity of any medium to large mine may be adversely affected. Any potentially affected landholder should have the ability to object to and appeal against a Mining Lease and the attempt to limit the classes of landholders who have these rights does not conform with the principles of natural justice. The grounds for objection are also unavailable and make serious comment difficult.

We are concerned that a discussion paper which originally purported to be applicable to small and/or alluvial mines has morphed into a document which covers large and medium mines. This is a major shift of policy with major shifts in landholder rights and consultation has been sporadic and insufficient. We note that a recommendation has been made that no impact or low impact mines should be able to proceed without a conduct and compensation agreement. PRA would contend that it is sometimes impossible to tell in advance what impacts there will be. Even in the simplest of cases there exists a potential for impacts such as weeds, damage to roads, death of animals, gates left open, fences cut, unauthorised water use and garbage. The list is not exhaustive. There is always a need for a conduct and compensation agreement. Landowners should not need to subsidise small undercapitalised miners.

The lack of consideration given to the fact that many "directly affected " landholders are still in severe drought or may have only recently emerged from severe drought does not give those landholders any real opportunity to submit or comment on the proposed changes. Water is not just an "environmental concern" for anyone involved in livestock or agricultural production. It is an essential "factor of production" and to bundle it with air, noise, rubbish and amenity is to devalue its importance for rural production.

The government needs to detail to landholders as part of this consultation how moving most landholder objections into the Planning and Environment Court will be to their advantage or disadvantage.

Future research may also see some of the other "environmental concerns" drawn into the arena of " constraints on production" and should therefore be compensatable.

We understand that the Government wishes to limit objections from outside groups and note that the document "Stopping the Australian Coal Export Boom" is referenced twice at page 8.
We strongly recommend that landholder rights not be compromised as a result of sensitivity about the actions of third party groups. However, also referenced at page 8 is *Xstrata Coal Qld Pty Ltd v Friends of the Earth - Brisbane Co-op Ltd & Ors and Department of Environment and Resource Management [201] QLC 013.* While at face value this may seem like just another third party objection, Property Rights Australia considers this to be a very poor example as most of the objectors, and all of those mentioned in the decision were simply landholders who were protecting their rights. Protecting landholder's rights and having them receive compensation and fair conditions when necessary is a just and reasonable outcome. Limiting landholder's rights to object and be paid appropriate compensation or have appropriate agreements in place is not acceptable and we would advocate strongly against this approach.

Page 46 of the discussion paper has examples of decreased numbers and complexity of cases in the Land Court. This is a direct attack on the rights of those who may or will be affected by the operations of some mines.

> *Based on this analysis the following mix of cases is anticipated in the Land Court under each of the options.*
> ***Current:***
> • *Two single person/single Act objections one under the EP Act against standard application by the landholder and one under the MRA by someone other than the landholder- low complexity objections*
> • *Three multiple Act/single person objections by the landholder under the EP Act against standard application and MRA against the ML - complex objections*
> • *Eight multiple Act/multiple person objections under the EP Act against the EA and MRA against the ML of which: o one is an objection under the EP Act about a standard application EA by the landholder and an objection under the MRA against the ML by someone other than the landholder*
> - *Two are third party objections under the MRA and EP Act against the ML and site-specific application for an EA*
> - *Five are landholder/third party objections under the MRA and EP Act against the ML and site-specific application for an EA*
> - *All are highly complex objections*
>
> ***Proposed model (with all of the proposals implemented):***
> • *Two single person/single issue objections against a standard application for an EA and non-landholder objection against the MRA (both low complexity objections) will no longer be lodged*
> • *One multi issue objection against a standard application for an EA by the landholder and ML (a highly complex objection) by non-landholders will no longer be lodged*
> • *Three multi Act single person (landholder) objections against the standard application for an EA under the EP Act and ML under the MRA (complex objections) will become single issue single person (low complexity objections)*
> • *Two multi Act multi third party objections against the site-specific application for an EA and ML (highly complex objections) become single Act multi person objections against the site-specific application for an EA (complex objections)*

Property Rights Australia considers that landholder rights are being severely compromised.

Notification and Objections

The document swings from landholder to landowner on page 19 for eligible objectors and back to landholder again. Once again the lack of definition makes analysis of who may be eligible objectors impossible, particularly in light of the definition of "owner" as in the discussion paper on Regional Planning Interests Bill.

It would seem that the classes of possible objectors have now been made too narrow. It would appear that affected landholders who may not be in the footprint of the proposed mining lease or who are not on the access area will be unable to object to the ML. Affected landholders whose "factors of production," in particular, water, or its potential loss of quality or quantity, may not be able to object. Other factors of production may unfold in the future. This has narrowed the field too far.

Water is the most fundamental issue to any farming enterprise and access to it is vital. If an aquifer is disturbed or dewatered, a primary producer on that aquifer or one affected by it needs access to water today. Mining companies are not being forthcoming in offering effective "make good agreements" with people in the area of any particular aquifer.

We also are of the opinion that limiting the timeframes and opportunities for objections will most disadvantage landholders who have to fit it around work schedules and often have poor communications including easily disrupted mail services and poor internet connections. The justifications given of saving business days and a small amount of cost to any medium to large mine seems insubstantial in the overall cost and time to establishment of any such mine but can result in substantial constraints on rural business. Instead of twenty business days from notification to make submissions or objections we would like to see an increasing scale based on numbers of pages of documentation up to 90 days. In the scale of things the costs are not substantial in comparison to the rights of landholders.

A cost estimate for a professional such as a solicitor to answer an EIS of about 400 pages on behalf of a landholder is $30,000. Increasingly we see landholders expected to bear a large proportion of costs of various sorts for the benefit of a different entity or the community. This is untenable.

The hearing of site specific appeals by the Land Court after an EA has been granted is to turn the Land Court into a rubber stamp, undermines its authority and leaves landholders with no bargaining power. Property Rights Australia objects to this change in the strongest possible terms**. No mining lease should be granted without Conduct and Compensation agreements in place.** That includes no impact or low impact mines. This is a significant change and the degree of consultation with landholders has been insufficient and may be counterproductive at any rate. It may just result in more cases in the Land Court and longer timeframes. Minister Seeney at the Brisbane hearing of the RPI Bill 12/2/14 said,

> *In relation to affected persons, we have very deliberately limited that to people who are affected and, once again, it enlivens the debate about the definition of 'affected'—who is actually affected—because we want to, not just in this instance but more broadly, put an end to the situation where somebody in California, Melbourne or somewhere else can unduly hold up the consideration of an assessment process here in Queensland, and that is happening. It is happening within the existing resource legislation and we are considering ways of preventing it from happening. There is absolutely no intention, nor will we allow an outcome, that takes away the ability of a genuinely affected person to have their right of appeal, and that is consistent across all legislation . Public Hearing—Inquiry into the Regional Planning Interests Bill 2013 Brisbane - 53 - 12 Feb 2014*

Property Rights Australia considers that the measures proposed to reduce assessment times are an unacceptable restriction of the property rights of landholders and much more thought and consideration must be given to the proposals with a more genuine process to hear landholder's views.
Running the application for ML and EA concurrently and giving a landowner only one chance to object or make submissions is also not acceptable.
Landholders have consistently asked for more time for objections and they are being offered less time.

Unco-operative Landholders

Before this pejorative term is applied to landowners Property Rights Australia finds it essential that it be defined in the discussion paper. This is not done.

We object strongly to the genuine concerns of landowners being overridden in an attempt to speed up the process on behalf of mining companies. If they want to speed up the process they can pay proper compensation and take care of the concerns of landowners.

Landowners simply trying to get a fair deal for themselves, their businesses and their family safety and trying not to have their time wasted are not being unco-operative. Landholder's time is treated as valueless and not compensated for. Mining companies are all too willing to waste time, call unnecessary or unproductive meetings, are be inflexible with meeting times and offer no new information. These meetings are held by people who, unlike the landholder are on a payroll. Landholder's time should be paid for and it might not be wasted so readily.

Already the balance of power between miners and landowners is skewed too far in the direction of the mining companies and this attempt to skew it even further is not a sign of understanding or natural justice.

Restricted Areas

The use of some restricted areas could be a simplification of a full mining lease reapplication but what this discussion paper is proposing is too simplified. Simple agreement with a landholder is not sufficient. This opens the door to bullying which has been a feature of the behaviour of some mining companies.
All houses and dwellings including temporary accommodation, rental accommodation and holiday homes as well as other presently restricted areas should be unable to be mined without application as well as consent of the landowner or occupier. Many landholders live in sheds or other temporary accommodation as a matter of necessity. They also run farmstay businesses as a matter of necessity. Such housing deserves legislative protection.

If there is a Swiss cheese set of restricted areas as claimed in the discussion paper the mining company should buy the property.

Datum Post

This requirement could be substituted with a list on DNRM-electronic website with link to the actual application.

Recommendations

1. This is a major change of policy and a major shift of rights away from landowners, landholders and occupiers. Before such sweeping changes are made nothing less than a parliamentary committee inquiry with submissions on the parliamentary website, public hearings and wide public discussion is acceptable.

2. **We recommend that no mining lease should be granted without Conduct and Compensation agreements in place.** That includes no impact or low impact mines.

3. PRA would need to be convinced of the benefits of moving most landholder objections to the Planning and Environment Court rather than the Land Court. We recommend that there be more broad ranging public debate on this issue.

4. We recommend that time frames for submissions objections be widened not contracted. The proposed process is a clear attempt to limit landholder objections at all levels.

5. If there is to be no public notification there need to be safeguards in place to ensure that "affected "landholders" are notified in sufficient time to prepare proper submissions and objections.

6. The concept of "unco-operative landholder" should not exist much less be built on. There are sufficient legal avenues at every stage for it to be unnecessary.

7. We strongly recommend that landholder rights not be compromised as a result of sensitivity about the actions of third party groups.

Conclusion

Quite simply, this Bill just once more pushes the balance even more in favour of the mining companies at the expense of the landholders.
"Frustration" at what amounts to a minor hold-ups and minor cost savings in a process that will inevitably take years anyway is not sufficient reason to further reduce the rights of landholders.

Regards

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