




Speech By
Patrick Weir

MEMBER FOR CONDAMINE

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MINERAL, WATER AND OTHER LEGISLATION AMENDMENT BILL

 **Mr WEIR** (Condamine—LNP) (12.47 pm): I rise to make a contribution to the Mineral, Water and Other Legislation Amendment Bill 2018 as a member of the State Development, Natural Resources and Agricultural Industry Development Committee. This bill was initially introduced into the 55th Parliament and the committee was due to report on 3 November. The election was called and parliament was dissolved on 28 October. The bill was reintroduced as an omnibus bill into this parliament on 15 February 2018 and was referred to the State Development, Natural Resources and Agricultural Industry Development Committee. The report was tabled on 19 April 2018.

There are a number of objectives in this bill. They are to: give effect to the Queensland government's response to four recommendations of the independent review of the GasFields Commission; remove the automatic referral of compensation matters to the Land Court of Queensland under the Mineral Resources Act; ensure the consideration of the water related effects of climate change on water resources is explicit in the water-planning framework; provide for the inclusion of cultural outcomes in water plans to support the protection of the cultural values of water resources for Aboriginal peoples and Torres Strait Islanders; provide a mechanism to allow for temporary access to unallocated water held in strategic infrastructure reserves; and establish new powers for dealing with urgent water quality issues. It is a very large bill.

The committee received 17 submissions and a written response to these submissions from the department. A public hearing was held in Brisbane. It became evidence that landowners had a number of concerns regarding the amendments to the compensation for landowners adjoining resource activities. The Lock the Gate Alliance argued that the proposed amendment to section 81 would result in substantive changes. They stated—

Those amendments will limit compensation such that it will only apply to compensatable effects from resource activities which happen on the claimants own land.

The concern is that landholders can be heavily affected by noise and air pollution, but if it is occurring outside their land, they will have no claim for compensatable effects.

Peter Shannon representing Shine Lawyers also expressed concerns, stating—

It removes the right of neighbours who are within the tenement area to claim compensation for the impacts of activities carried on next door to them. Resource activity, particularly gas activity, typically has a huge and very widespread impact and does not only affect the landowner on whose land the activity is conducted.

Tom Marland from Marland Law stated that landowners can be surrounded by hundreds of coal seam gas wells. He said—

They have been previously unrepresented and yet they are now faced with a situation where their property is effectively worth nothing because no-one wants to buy a rural property in the middle of a coal seam gas field ...

The department's response was—

There is no change to the obligation to compensate neighbouring landholders as a result of changes to section 81. That section has always been about compensation for landholders upon whose land advanced activities are being conducted.

...

There is also no provision for a neighbouring landholder to apply to the Land Court for a compensation determination. As such, the view that changes to the wording of section 81 remove landholder rights cannot be sustained.

The committee accepted the department's advice on this, but it was of serious concern to many of the submitters. Just because people are not under the immediate footprint does not mean that they are not impacted by resource activities on adjoining land, whether it be noise, dust or water. There are many unintended consequences. Whilst this amendment may reflect the policy intent as stated by both the minister and the department, recommendation 2 requests that the minister clarify if impacts on adjoining landowners are being adequately addressed by the current legislation. The minister spoke on that in his address.

The bill also proposes a number of amendments to the alternative dispute resolution process. The noninclusion of statutory time frames for the appointment of an alternative dispute resolution facilitator and some clarification around the case appraisal process was a reflection of the complexity that arises in these cases. The bill proposes that arbitration will be an alternative to applying to the Land Court for a resolution as long as both parties agree. AgForce stated that, while they supported the voluntary nature of arbitration as a dispute resolution option—

Our strong preference is for an adequate ADR step prior to arbitration to encourage a full attempt at negotiating differences and to promote transparency, disclosure and release of information, which is of significant concern to landowners.

The department stated—

The Bill has been drafted with this concern in mind. For example, an arbitration election notice must state the consequences of accepting a request for arbitration, including that if the request for arbitration is accepted, an application to the Land Court for a decision about the dispute cannot be made.

The committee in recommendation 3 have recommended that the department develop a comprehensive and extensive suite of educational material and information sessions and report back to the committee in November 2018 with a progress report. This bill has only just come into the House, even though we produced this report six months ago.

Section 91C is one of the most contentious parts of this bill. Section 91C outlines the circumstances in which a party may be represented by a lawyer in the arbitration. A party can be represented by a lawyer if both parties agree to the party being represented or the arbitrator permits the party to be represented. This would result in landowners being placed in an extremely vulnerable negotiating position. AgForce stated—

We strongly encourage the Committee to consider changing this to allow landholders access to legal representation, without the need for other party consent.

This view was supported by the Queensland Law Society, who stated—

The Society does not agree with the proposition that in s 91C that a party will not be permitted to have legal representation in an arbitration unless both parties agree to the party being represented. We feel it is inappropriate that the parties to an arbitration be disallowed legal representation in any circumstances.

The committee recommended that section 91C be removed and both parties have the right to legal representation. This recommendation is, from our position, non-negotiable. I have had personal experience negotiating with a resource company for a compensation agreement. I know what an intimidating process that is. You are heavily outgunned. They are much more experienced in negotiations than most rural landowners. I was pleased to hear the minister's earlier comments in regard to that.

Valuing landowners' time was outside the scope of the bill, but the committee recommended that the minister develop a methodology to compensate landowners' cost of time during negotiations. Tom Marland gave a really good example of that. He said—

I suppose it has never been more poignantly driven home to me about what this means in terms of our responsibility than when dealing with a make-good situation last week. In the course of it the wife burst into tears and said, 'My husband should be harvesting sorghum. I should be at home with the kids. Instead, we are up until 12 o'clock every night reading documents we don't understand.'

The committee recommended that section 91 be removed and that an amendment be made to section 81(4) which would remove any unintended consequences.

There were so many other aspects of the bill. The release of unallocated water, I think, is a good step. There were some concerns about the building of infrastructure to be able to harvest that water. It is over a three-year period. I think the agricultural sector would welcome that. Our main concern was around the land access agreements and compensation. We were comfortable with what the minister said today, so we will be supporting this bill.