Parliamentary Committees

Mineral and Energy Resources and Other Legislation Amendment Bill 2024

Report No. 6, 57th Parliament

Clean Economy Jobs, Resources and Transport Committee

June 2024

Clean Economy Jobs, Resources and Transport Committee

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All web address references are current at the time of publishing.

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Chair's foreword

This report presents a summary of the Clean Economy Jobs, Resources and Transport Committee's examination of the Mineral and Energy Resources and Other Legislation Amendment Bill 2024.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. The committee also examined the Bill for compatibility with human rights in accordance with the *Human Rights Act 2019*.

The inquiry process was thorough and contained site visits to impacted landowners, resource tenure holders and other stakeholders in Central Queensland and Brisbane City. It also encompassed two public briefings from the Department of Resources and the Office of Groundwater Impact Assessment, alongside regional and central public hearings. Within the allocated time, the committee did its best to examine the impacts of this Bill, whilst acknowledging that there is still work to be done.

The committee is pleased that its inquiry process prompted the department to publish an Erratum to the Bill's explanatory notes on Wednesday 5th June 2024. The committee is reassured by the department's commitment to ongoing consultation during and post implementation, should the Bill be passed.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill. I also thank our Parliamentary Service staff, the Department of Resources and the Office of Groundwater Impact Assessment.

I commend this report to the House.

Kim Richards MP

Chair

Recommendations

The committee recommends the Mineral and Energy Resources and Other Legislation Amendment Bill 2024 be passed.

Recommendation 2

The committee recommends the Department of Resources undertake further detailed consultation and activities on the subsidence management framework, that includes:

- consultation on how and when it will engage with stakeholders to develop planning, regulatory and technical requirements
- preparing a full Impact Analysis Statement
- amending the Bill's explanatory notes to clarify the proposed regulatory oversight functions of Coexistence Queensland
- consultation on the composition and structure of technical reference groups, community leaders council and the Coexistence Queensland Board
- consultation on the funding model for the Land Access Ombudsman
- consultation on the current land access code to ensure it is fit for purpose
- consultation on the assessment process for baseline data collection
- consultation on the processes related to the declaration of subsidence management areas
- considering the merit of extending provisions for the public release of information to resource and development activities beyond those relating to greenhouse gas authorities

Executive Summary

The Mineral and Energy Resources and Other Legislation Amendment Bill 2024 (the Bill) was introduced into the Queensland Parliament by the Hon Scott Stewart MP, Minister for Resources and Critical Minerals, on 18 April 2024.

The main objectives of the Bill are to:

- enhance the state's coexistence framework
- provide a framework for managing the impacts of coal seam gas (CSG) induced subsidence
- improve regulatory efficiency
- modernise the Financial Provisioning Scheme.

The Clean Economy Jobs, Resources and Transport Committee (the committee) received 34 written submissions and held public hearings in Toowoomba and Brisbane on 8 May 2024 and 13 May 2024 at which 19 stakeholders appeared. The committee also facilitated 2 public departmental briefings on 29 April and 24 May to gain greater clarity on policy priorities outlined in the Bill.

A number of stakeholders commented on provisions relating to coexistence institutions and CSG-induced subsidence management. In particular, stakeholders commented on the following:

- identification, assessment and monitoring of impacts of CSG-induced subsidence, including baseline data collection, farm field assessments and critical consequence provisions
- subsidence management plans and subsidence compensation agreements
- alternative dispute resolution processes
- funding models for the Land Access Ombudsman (LAO) and the Office of Groundwater Impact Assessment (OGIA)
- technical expertise, oversight, and governance arrangements of the OGIA
- regulatory oversight functions of Coexistence Queensland.

Some stakeholders also expressed concern in relation to the consultation processes in the development of the Bill, the regulatory impact analysis[1] conducted in relation to the Bill, the dissemination of educational and explanatory material relating to proposed CSG-induced subsidence management amendments, and regulations to be prescribed.

The committee assessed whether the Bill complies with the Parliament's requirements for legislation as contained in the *Parliament of Queensland Act 2001*, *Legislative Standards Act 1992* and the *Human Rights Act 2019*.

The committee wrote to the Department of Resources (the department) requesting additional information in relation to matters that could potentially have insufficient regard to the rights and liberties of individuals and the institution of parliament. After additional consideration of the department's response, the committee was satisfied that potential limitations to fundamental legislative principles were reasonable and sufficiently justified in all cases, and that the Bill is compatible with human rights as outlined in the *Human Rights Act 2019*.

The committee has recommended that the Mineral and Energy Resources and Other Legislation Amendment Bill 2024 be passed.

[1] The Department of Resources published summary impact analysis statements relating to the Bill on Monday27 May 2024.

1 Introduction

On 18 April 2024, the Hon Scott Stewart MP, Minister for Resources and Critical Minerals, introduced the Mineral and Energy Resources and Other Legislation Amendment Bill 2024 (the Bill) into Queensland Parliament. In his explanatory speech, the Minister noted that the introduction of the Bill takes steps toward realising actions under the Queensland Resources Industry Development Plan (QRIDP), which 'outlines areas of focus that will support the resources sector to navigate key global trends'.[2]

The Bill was referred to the Clean Economy Jobs, Resources and Transport Committee (the committee) for detailed consideration. The committee was directed to report back to the Legislative Assembly on 7 June 2024.

1.1 Policy objectives of the Bill

The primary objectives of the Bill are to:

- enhance the state's coexistence framework
- provide a framework for managing the impacts of coal seam gas (CSG) induced subsidence
- improve regulatory efficiency
- modernise the Financial Provisioning Scheme (Scheme).[3]

The Bill amends multiple pieces of legislation, including the:

- *Electricity Act 1994* (Electricity Act)
- *Fossicking Act 1994* (Fossicking Act)
- *Gasfields Commission Act 2013* (GFC Act)
- *Geothermal Energy Act 2010*
- *Greenhouse Gas Storage Act 2009*
- *Land Access Ombudsman Act 2017* (LAO Act)
- *Mineral and Energy Resources (Common Provisions) Act 2014* (MERCP Act)
- *Mineral and Energy Resources (Financial Provisioning) Act 2018* (MERFP Act)
- *Mineral Resources Act 1989* (MR Act)
- *Petroleum Act 1923*
- *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act)
- *Public Sector Act 2022*, and
- *Water Act 2000*.

1.2 Background

In June 2022, the Queensland Government released the QRIDP, which committed to 43 actions across 6 focus areas intended to ensure Queensland's resources industry is 'sustainable, resilient, and responsible' in a period of growth and transformation.[4]

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2 Hon. Scott Stewart MP, Minister for Resources and Critical Minerals, Queensland Parliament, Record of Proceedings, 18 April 2024, p 1215.

3 Explanatory notes, p 1.

4 Department of Resources, Queensland resources industry development plan, June 2022, https://www.resources.qld.gov.au/__data/assets/pdf_file/0005/1626647/qridp-web.pdf; Department of Resources, correspondence, 24 April 2024, p 1.

The department advised that the Bill 'delivers on several QRIDP actions to foster coexistence and sustainable communities, improve regulatory efficiency, and strengthen industry's environmental, social and governance credentials, while protecting the environment'.[5]

1.2.1 Coexistence institutions

The Queensland Government's coexistence framework seeks to balance the rights and interests of the resource sector with those of landholders. This consists primarily of:

- the land access framework, set out in the MERCP Act, which requires the negotiation of conduct and compensation agreements (CCAs) prior to particular activities; and
- the assessment and management of groundwater impacts caused by resource tenure holders exercising their underground water (groundwater) rights, including requirements for tenure holders to enter make good agreements (MGAs) with landholders under Chapter 3 of the *Water Act 2000*.

Institutions supporting coexistence outcomes include:

- the Office of Groundwater Impact Assessment (OGIA) which independently assesses and manages the cumulative impacts on ground water from CSG development
- the GasFields Commission Queensland (GFCQ) which seeks to manage and improve the sustainable coexistence of landholders, regional communities, and the onshore gas industry in Queensland
- the Land Access Ombudsman (LAO) which seeks to independently resolve disputes between landholders and CSG companies in relation to CCAs and MGAs.[6]

The QRIDP committed to a review of the roles and responsibilities of Queensland's land access and coexistence institutions.[7]

According to the explanatory notes, despite broad support for these institutions, stakeholders have raised concerns about narrow jurisdictions, service gaps, and emerging coexistence issues beyond the resources sector.[8]

The Bill proposes to 'strengthen the roles of Queensland's land access and coexistence institutions to ensure they are delivering successful coexistence outcomes and catering effectively for both existing and emerging industries'.[9]

1.2.2 CSG-induced subsidence management framework

The explanatory notes stated that landholders had raised concerns about the consequences and management of CSG-induced subsidence on the productivity of high-value agricultural land and intensive cropping activities. CSG-induced subsidence is a component of ground movement that occurs where groundwater is extracted to depressurise coal seams to allow gas production.[10]

The GFCQ undertook a review to identify potential enhancements to manage CSG-induced subsidence. The review made 8 recommendations to government, which outlined a proposed management framework to provide landholders and industry with 'certainty on the process for assessing, remediating and compensating for impacts associated with CSG-induced subsidence on

5 Department of Resources, correspondence, 24 April 2024, p 1.

6 Explanatory notes, p 2.

7 Explanatory notes, p 2; Department of Resources, correspondence, 24 April 2024, p 1.

8 Explanatory notes, p 2.

9 Explanatory notes, p 2.

10 Explanatory notes, p 2.

farming operations'.[11] The Queensland Government supported 6 of these recommendations in full, and 2 in principle, subject to further investigation.[12]

The Bill seeks to introduce a risk-based framework for the assessment and management of CSG-induced subsidence on a regional and individual farm scale. This is based on the model proposed by the GFCQ.[13]

1.2.3 Regulatory efficiency

Key focus area 6 of the QRIDP focuses on improving regulatory efficiency. The Bill's explanatory notes state that this focus area recognises that Queensland's regulatory framework must remain contemporary and fit for purpose and includes reforms that would 'reduce regulatory burden and streamline compliance and assessment activities for resource authorities'.[14]

Action 36 of QRIDP is committed to improving regulatory efficiency and establishing clearer resource project assessment processes leading to business improvement, better quality applications and more transparent and efficient decisions.[15]

The Bill would amend the following Acts (Resources Acts) to assist in delivering QRIDP action 36:

- Fossicking Act
- *Geothermal Energy Act 2010*
- *Greenhouse Gas and Storage Act 2009*
- MR Act
- MERCP Act
- *Petroleum Act 1923*
- P&G Act.[16]

The Bill would amend the Resources Acts to:

- require fossickers to seek permission from mining lease applicants prior to fossicking in areas where a mining lease application exists
- clarify confidentiality periods to provide industry and community certainty about when the information and data collected by the department will be released
- improve the exploration permit framework under the MR Act to allow the Minister to decide how and when land that is suitable for exploration is re-released to support critical mineral exploration opportunities around the state
- enhance the rent management and collection framework by enabling the Minister to defer or alter rent charges in exceptional circumstances
- introduce a threshold-based exemption for aerial surveying conducted at or above 1,000 ft in altitude, so that it will not automatically be considered an advanced activity
- clarify existing provisions and fix minor and technical issues in the regulatory framework.[17]

11 Explanatory notes, p 3.

12 Explanatory notes, pp 2-3.

13 Explanatory notes, p 3.

14 Explanatory notes, p 3.

15 Explanatory notes, p 3.

16 Explanatory notes, p 7.

17 Explanatory notes, p 3; Department of Resources, correspondence, 24 April 2024, p 2.

1.2.4 Modernising the Financial Provisioning Scheme

The Scheme was established in 2019 to replace the Financial Assurance Framework, as it applied to the mineral and energy resources sector. The purpose of the Scheme is to manage the risk to the state of incurring costs resulting from mining companies not fulfilling their rehabilitation obligations as required by their environmental authorities (EAs).

The Scheme risk assesses mining companies' ability to meet their mine site rehabilitation obligations and the likelihood of default and asset saleability. Depending on the outcome of the risk assessment, mining companies are required to either make an annual contribution as a percentage of their estimated rehabilitation cost (ERC) toward an insurance-styled scheme fund or provide surety equal to the full value of ERC. The assessment includes understanding a mining company's probability of default and the probability of the mine's rehabilitation falling to the state, should the mining company default and the mine not be able to be sold.

In 2022 the Scheme was reviewed. While the review confirmed it is operating in line with expectations, several potential refinements were identified.[18]

The explanatory notes state that the Bill 'seeks to promote efficiencies and reduce risk to the State by allowing companies to choose if they undergo a risk assessment in certain circumstances, modernising company risk categories and reducing administrative burden'.[19]

1.3 Legislative compliance

The Bill proposes to reform various pieces of legislation which regulate and control the Queensland resources industry across key focus areas identified in the 2022 QRDIP. Through these reforms, the Bill intends to deliver initiatives in the QRDIP to promote sustainable coexistence between resource and agricultural sectors, and regulatory efficiency.

The committee's deliberations included assessing whether the Bill complies with the Parliament's requirements for legislation as contained in the *Parliament of Queensland Act 2001*, *Legislative Standards Act 1992* (LSA), and the *Human Rights Act 2019* (HRA).

1.3.1 *Legislative Standards Act 1992*

Fundamental legislative principles (FLPs) require that legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.[20] The committee's assessment of the Bill's compliance with the LSA identified issues with the following FLPs:

- potentially insufficient regard to the rights and liberties of individuals
- potentially insufficient regard to the institution of Parliament.

Where relevant, issues which were identified are discussed throughout this report.

As required by Part 4 of the LSA, explanatory notes were tabled with the introduction of the Bill. With the exception of an issue relating to the regulatory oversight functions of Coexistence Queensland, which the Department of Resources is supportive of amending, the explanatory notes contained a sufficient level of background information and commentary to facilitate understanding of the Bill's aims and origins.

[18] Explanatory notes, pp 2-4; Department of Resources, correspondence, 24 April 2024, pp 2-3.

[19] Explanatory notes, p 4; Department of Resources, correspondence, 24 April 2024, pp 2-3.

[20] *Legislative Standards Act 1992*, s 4(2).

1.3.2 *Human Rights Act 2019*

A law is compatible with human rights if it does not limit a human right, or limits a human right only to the extent that is reasonable and demonstrably justifiable.[21]

The committee's assessments of the Bill's compatibility with the HRA are included below. We find the Bill is compatible with human rights. Where there are limitations on a person's human rights under the proposed amendments, we concluded that such limitations were justified in the circumstances. Where relevant, issues which were identified are discussed throughout this report.

A statement of compatibility was tabled with the introduction of the Bill as required by section 38 of the HRA. The statement contained a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights. The committee also contacted the department to seek additional clarification on human rights issues.

1.4 Should the Bill be passed?

The committee is required to determine whether or not to recommend that the Bill be passed.

Recommendation 1

The committee recommends the Mineral and Energy Resources and Other Legislation Amendment Bill 2024 be passed.

2 Examination of the Bill

This section discusses key issues raised during the committee's examination of the Bill. It does not discuss all consequential, minor, or technical amendments.

2.1 Consultation process

Several submitters expressed concern in relation to the consultation process.[22] Concerns included:

- the limited timeframes to make submissions to the committee (17 days)
- the lack of a draft exposure Bill combined with the complex amendments in the Bill which did not allow time for proper consideration, particularly with regards to CSG-induced subsidence, and as a result, stakeholders felt that they did not have adequate time to identify potential unintended consequences
- the need for more stakeholder engagement with landholders
- calls for more robust consultation processes with key stakeholders to resolve policy issues and inform stakeholders prior to implementation
- that the Bill does not reflect feedback previously provided by the agriculture sector in response to consultation papers
- lack of appropriate supporting scientific data and research completed for the consultation
- that impacted farmers may not be aware of the proposed framework and how it may affect them due to the tight inquiry timeline
- that overland flow is within the jurisdiction of the Murray Darling Basin Authority (MDBA), and there is no evidence of consultation with the MDBA regarding the subsidence management framework

[21] *Human Rights Act 2019*, s 8.

[22] See, for example, submissions 1, 4, 5, 6, 7, 9, 10, 13, 16, 17, 20, 26, 27, 29, 30, 31, and 32.

- that public consultation and landholder input during the preparation of the technical guidelines must occur.

Concerns relating to the consultation process were also raised extensively in the public hearings conducted by the committee.[23]

The University of Queensland Gas & Energy Transition Research Centre (UQGET) submitted that the provisions in the Bill are aligned with the recommendations they provided during consultation on the subsidence management framework.[24]

The department noted the concerns of submitters to the inquiry and expressed that stakeholder engagement on the content of the Bill was undertaken through the release of consultation papers in late 2023, and further engagement sessions with key stakeholder groups in 2024.[25] In a public briefing on 24 May, the department advised that 148 submissions were received responding to the consultation papers which had been released by the department since 2023.[26] The department noted they will continue to work with stakeholders to develop the necessary regulatory and technical requirements for implementing the amendments in the Bill.[27]

Figure 1. Committee meeting with local farmers in the Dalby region during a site visit on 7 May

Committee comment

In our consultation on the Bill, the committee travelled to Toowoomba for a public hearing, and visited three farms in the Dalby region which were possibly experiencing the impacts of CSG-subsidence activity.

It is essential that key stakeholders are adequately consulted in the development of legislation, and that stakeholder feedback is considered. The committee supports the commitment of the Department of Resources to further consultation, including with resource, agricultural, and community stakeholders prior to implementation.

[23] Public hearing transcript, Brisbane, 13 May 2024; Public hearing transcript, Toowoomba, 8 May 2024.

[24] Submission 25, p 1.

[25] Department of Resources, correspondence, 20 May 2024, p 5.

[26] Public briefing transcript, Brisbane, 24 May 2024, p 1.

[27] Department of Resources, correspondence, 20 May 2024, p 4.

The committee also recommends the Department of Resources provide information on how and when it will engage with stakeholders to develop regulatory and technical requirements for implementing the amendments in the Bill.

2.2 Impact analysis statement

In their submissions, the Association of Mining and Exploration Companies (AMEC), Queensland Resources Council (QRC), and Australian Energy Producers (AEP) expressed concern as to why the Bill was not subject to a consultation Impact Analysis Statement, considering the additional regulatory burden, time and cost implications for businesses, and the potential to hinder growth and investment in the resources sector.[28] AMEC stated that it was 'highly concerning that that this Bill has not been assessed as having significant impacts on business or the community and as such has not been subject to a consultation impact analysis statement (IAS) consistent with Queensland Treasury Guidelines'.[29] They recommended a full consultation IAS be undertaken, particularly in relation to the subsidence management framework, LAO and OGIA funding models, as well as financial provisioning and land release framework provisions.[30]

In response, the department advised that they had engaged with Queensland Treasury's Office of Best Practice Regulation as part of the development of the Bill and considered the potential impacts, costs and benefits of the regulatory proposals in the Bill. The outcome of the assessment determined a full IAS was not required. The department accordingly undertook a summary IAS on the relevant reforms. In response to an inquiry from the committee secretariat, the department advised that the summary impact statement would be published during the week of Monday 27 May 2024, which it subsequently was.[31]

Figure 2. Committee visit to a property owned by the Bev and Wayne Newton discussing the potential impacts of CSG-induced subsidence *(L-R) Zena Ronnfeldt, Trevor Watts MP, Kim Richards MP, Joan Pease MP, Pat Weir MP, Wayne Newton, Bev Newton and Wesley Back.*

28 Submission 26 p 1; submission 29, p 1; and submission 30, p 1.

29 Submission 29, p 3.

30 Submission 29, p 1; submission 30, p 1.

31 Department of Resources, *Summary IAS: CSG-induced subsidence management framework*, 28 March 2024, https://www.resources.qld.gov.au/__data/assets/pdf_file/0011/1868915/csg-induced-subsidence-management-framework.pdf; Department of Resources, *Summary IAS: Reform of Coexistence institutions*, 28 March 2024, https://www.resources.qld.gov.au/__data/assets/pdf_file/0007/1868929/reform-coexistence-institutions.pdf; Department of Resources, Summary IAS: Regulatory efficiency amendments to Queensland's Resource Acts, 28 March 2024, https://www.resources.qld.gov.au/__data/assets/pdf_file/0008/1868930/regulatory-efficiency-amendments.pdf.

Committee comment

According to the Queensland Government, an Impact Analysis Statement must be prepared for all regulatory proposals. A full Impact Analysis Statement is prepared for regulatory proposals with 'potentially significant adverse impacts'.[32]

Having heard from stakeholders who have drawn attention to potential adverse impacts arising from the proposed amendments, the committee recommends the Department of Resources consider preparing a full Impact Analysis Statement, including a consultation Impact Analysis Statement, prior to implementation.

2.3 Amendments to the *Electricity Act 1994*

The Bill proposes to amend section 116 of the Electricity Act to require any acquisition of land by an electricity entity to be made in accordance with the process provided for in the *Acquisition of Land Act 1967* (ALA).[33] Further, electricity entities may take land in accordance with the Electricity Act, even where a third party may derive a benefit from action taken on the land after acquisition.

2.3.1 Authority to acquire land

The AMEC expressed concern that the amendments would allow insufficient consideration of the impacts of land acquisition on land users as well as land holders. They submitted that, under current frameworks, when a renewable energy entity seeks to develop a project, they are only required to engage with the landholder. This is because it is the responsibility of the landholder to engage with land users, for example, an explorer who holds an Exploration Permit for Minerals tenement on their property. The AMEC recommended that renewable energy entities should be required by statutory processes to notify land users within their footprint development area. The rationale being that this would benefit land users by providing notification of the overlying interest and provide them with an avenue to engage appropriately with the process and parties.

2.3.2 Fundamental legislative principles – retrospectivity

Legislation should not adversely affect rights and liberties, or impose obligations, retrospectively.[34]

The Bill proposes to insert sections that confirm land taken by an authorised electricity entity under the previous section 116 is taken to be valid and lawful, as if it had been taken after the commencement of the amendment.[35]

The explanatory notes provide that the insertion and amendment of this section intends to 'clarify the current status quo application' of that section.[36] This amendment seeks to put the current operation of the section beyond doubt that, despite any further amendment, the provision of authority to take land has always been subject to, and will remain subject to, section 116.[37] This clarification permits an electricity entity to acquire land even if another entity benefits from the acquisition (for example an electricity generator).[38]

The department stated that the amendment to the Electricity Act is intended to only clarify the provision and is not intended to broaden its scope. The suggestion to create new statutory processes

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32 Queensland Government, Better regulation, 24 March 2022, https://www.getinvolved.qld.gov.au/regulation.

33 Bill, cl 4 (amends s 116(4) in the EA Act). See for example, ALA, pt 2, div 3; pt 2, div 4; pt 3; pt 4.

34 Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: The OQPC Notebook, p 55; *Legislative Standards Act 1992*, s 4(3)(g).

35 Bill, cl 4 (inserts s 116(4A) into the EA Act); Explanatory notes, p 17.

36 Explanatory notes, p 17.

37 Bill, cl 4 (inserts s 116(4A) and 116(5A) into the EA Act).

38 Explanatory notes, p 9.

for notification and review of the multi-land use policy framework was noted by the department, however, it is out-of-scope for consideration in this Bill.[39]

Committee comment

The committee is satisfied that these amendments have sufficient regard to the rights and liberties of individuals.

The explanatory notes appear to confirm that the amendments to the Electricity Act intend to entrench the status quo, and that the retrospective application of the amendment is justified in the circumstances.

2.3.3 Compliance with the *Human Rights Act 2019*

The proposed amendments to the Electricity Act contain potential limitations to:

- freedom of movement[40]
- property rights[41]
- privacy and reputation[42]
- cultural rights – Aboriginal and Torres Strait Islander peoples.[43]

Section 116 of the Electricity Act already provides authority for authorised electricity entities to acquire land for electricity works. There does not seem to be less restrictive and reasonably available alternatives to achieve this purpose.[44] The amendments would ensure that the power conferred by the Electricity Act can be used to acquire land for the same purpose by private third parties, including private electricity companies, and where the land is used by, or benefits, a private entity.

There is a rational relationship between the Bill, which limits these rights, their proposed retrospective application, and the purpose of the amendments. The validation of retrospective land acquisition appears to be a clarification to the status quo. The retrospective validation of past acquisitions is necessary to resolve any doubt that the exercise of this power was appropriate in the circumstances.

Compulsory acquisition of land may impact a person's entitlement to freedom of movement, the right to property, namely the freedom to choose where to live.[45] Land acquisition processes are already strictly regulated by the ALA, and applicable under certain other circumstances, for example, for acquisition which enlivens the applications of the *Native Title Act 1993* (Cth). Importantly, all Australian states, and the *Constitution of the Commonwealth of Australia 1901* (Cth), provide for just compensation where legislation allows for compulsory acquisition of land. The Bill provides for just compensation for compulsory acquisition of land, as well as provisions to allow for persons to be heard and to object. Further, the amendments do not propose to create a new categorisation of such powers, they merely extend existing powers, for an existing purpose. In any event, the entity which purports to acquire land for a designated purpose under the Bill must consider any applicable human rights in doing so.

The purpose of limiting property rights in this instance is to ensure that existing powers for authorised electricity entities to acquire land for the purpose of electricity works are appropriate in scope. The construction of electricity infrastructure is essential, and sometimes needs to take place on land which

39 Department of Resources, correspondence, 23 May 2024, p 6.

40 HRA, s 19.

41 HRA, s 24(b)

42 HRA, s 25(a).

43 HRA, s 28.

44 Explanatory notes, p 4.

45 HRA, s 19; HRA, s 24(b).

is privately owned. This amendment is necessary considering the fact that the electricity industry has been largely privatised.

Committee comment

The committee is satisfied that these amendments are compliant with human rights obligations under the HRA. Where there is a potential limitation of a right contained in the HRA, the committee considers that the limitation is justified and the Bill provides appropriate safeguards.

The committee acknowledges the suggestion by the Association of Mining and Exploration Companies to create new statutory processes for notification and review in the multi-land use policy framework.[46]

2.4 Amendments to the *Fossicking Act 1994*

The Bill proposes to amend various sections of the Fossicking Act, including:

- section 24 which provides the meaning of licensee under the division
- section 25 which qualifies the type of license needed to fossick
- section 27 which requires a licensee to seek permission to fossick on occupied land.

2.4.1 License needed to fossick

The Queensland Sapphire Miners Association (QSMA) expressed concern that provisions relating to fossicking licences may exclude individual fossickers who are not members of a club, including travelling tourists.[47] In a public hearing, the QSMA stated, 'it is unreasonable to legislatively force every tourist who visits the Gemfields and decides to stay and fossick even for half a day, to comply with section 24', and submitted that the amendments would 'be the end of our Central Queensland fossicking areas which through tourism support our caravan parks, our small businesses and our communities'.[48]

In response to these concerns, the department provided the following:

> Clause 7 of the Bill amends definition of licensee under the Fossicking Act 1994 for clarity to ensure that a licensee includes an individual who is the holder of a licence and the entities included in the definition under Clause 8 of the Bill. In other words, a licensee can be an individual that holds a fossicking licence, as well as any of the following:
>
> - a member of a club that holds a licence
> - a member of a commercial tour group if the commercial tour operator for the commercial tour holds a licence
> - a member of an educational organisation that holds a licence
> - a member of a licensee's family, other than a licensee mentioned in paragraphs (a) to (c).[49]

Committee comment

In a public briefing on 24 May, the department further clarified that a licence for general permission to fossick is already a requirement and can be purchased straightforwardly online. Membership of a club is not required.[50] The committee considers that this should provide reassurance.

46 Submission 29, p 5.

47 Submission 2, p 3.

48 Public hearing transcript, Brisbane, 13 May 2024, p 36.

49 Department of Resources, correspondence, 13 May 2024, p 4.

50 Public briefing transcript, Brisbane, 24 May 2024, p 8.

2.4.2 Requirement to get written permission to fossick on occupied land

There was general support amongst submitters regarding the intent of the proposed amendments for fossickers to seek permission from Mining Lease Applicants.[51] However, there is a belief that this could be extended to Exploration Permits and Exploration Permit applications as well.[52] The department clarified that the amendments only apply to fossicking on land subject of an application for a mining lease under the MR Act.[53]

2.4.3 Compliance with the *Human Rights Act 2019*

Freedom of movement is an important human right, and the proposed limitation on the rights of fossickers is considered relatively minor, while the impact on the rights of mining applications is potentially significant.[54] The purpose of the limitation on freedom of movement is to preserve the rights of mining lease applicants while their application is being considered. Fossicking relevant lands is not entirely prohibited where these amendments may apply, as the person who intends to undertake the fossicking may still attain written permission from the applicant. The fine imposed on a person who contravenes this proposed section is not extreme.[55] There do not seem to be less restrictive methods or available alternatives to achieve this purpose.

2.5 Amendments to the *Gasfields Commission Act 2013*

The Bill would amend the GFC Act to provide for the expansion of the role of the GFCQ. The proposed amendments would:

- broaden the GFCQ's existing sectoral coverage from the onshore gas industry to the broader resources industry and the renewable energy industry
- refocus the GFCQ's legislative functions on information, engagement and education services to the community and industry
- allow the GFCQ to identify systemic coexistence issues across its expanded remit
- reduce the GFCQ's regulatory oversight function to provide advice to government and other stakeholders on such systemic issues upon request
- rebrand the GFCQ as Coexistence Queensland (CQ), and prescribe requirements and ideals for membership of the CQ Board
- grant CQ the power to establish multiple community leaders councils with a scope beyond the onshore gas industry to the resources sector more broadly, as well as the renewable energy sector.[56]

2.5.1 Adequate funding

The Queensland Renewable Energy Council (QREC) and AMEC sought assurance from the department that CQ will be adequately funded to support its expanded remit.[57] The department advised that GFCQ will receive a $1.5 million increase to its regular budget over 2023-24 and 2024-25 financial years, via a grant from the Department of Energy and Climate, which will help establish a senior project team and 6 new full-time employees. This funding will also allow for the new CQ to update its IT systems,

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51 Public hearing transcript, Brisbane, 13 May 2024; Public hearing transcript, Toowoomba, 13 May 2024.

52 See, for example, submissions 2, 5, and 9.

53 Department of Resources, correspondence, 13 May 2024, p 4.

54 Bill, cl 10 (amends s 27 of the *Fossicking Act*).

55 The proposed fine is 50 penalty units (Bill, cl 10). The value of a penalty unit is $154.80 under the Penalties and Sentences Regulation 2015, s 3.

56 Explanatory notes, p 4.

57 Submission 4, p 7; submission 29, p 5.

educational abilities, and business plan to ensure that it will be able to effectively deliver its services under the new remit.[58]

2.5.2 Coexistence Queensland's functions

Several submitters expressed concerns in relation to the proposed functions of CQ. Concerns included that:

- the Bill provides for no clear function for managing and improving the sustainable coexistence of landholders, regional communities, the resources industry and the renewable energy sector as outlined in the purpose section of the GFC Act
- CQ should have a role in providing advice when impacts from the resource industry are not sustainable for coexistence and activities should he halted or limited in certain parts of Queensland
- individualised support should be provided to landholders to address their unique needs, such as those relating to management of the Condamine alluvium, for example
- CQ should partner with appropriate entities to deliver educational resources and information about health and wellbeing matters.[59]

The department stated that the functions of CQ are 'intentionally broad to capture a range of information, education and advisory roles that relate to the resources and renewable energy industries and their ability to coexist with landholders and regional communities'.[60] In relation to partnerships and education, the department stated that the Bill will allow CQ to 'partner with appropriate entities to deliver educational resources and information about health and wellbeing matters relating to the sustainable coexistence of landholders, regional communities, the resources industry and the renewable energy industry'.[61]

2.5.2.1 Regulatory oversight functions of Coexistence Queensland

The Queensland Farmers' Federation (QFF) and Cotton Australia questioned why CQ's regulatory oversight role would be reduced and sought clarification in relation to the specifics of these amendments and what they would mean in practice.[62] UQGET, Glendon Farming Co, and South West Queensland Regional Organisation of Councils (SWQROC) also raised concerns about CQ's loss of regulatory oversight and advice roles.[63]

The GFCQ raised concerns that the overview of the role of the GFCQ in the explanatory notes incorrectly identifies a reduction in its role in relation to its regulatory oversight function to provide advice to government and other stakeholders on such systemic issues.[64] This reduction is implied by outlining that this advice would only be given upon request from government. The Bill does not make this distinction.[65] The GFCQ suggested in their written submission, and at a public hearing on 13 May, that their ability to perform an advisory function should not be limited or impeded.[66]

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58 Department of Resources, correspondence, 23 May 2024, p 9.

59 See, for example, submissions 6, 7, 8, 11, 12, and 14; Public hearing transcript, Toowoomba, 8 May 2024, p 25.

60 Department of Resources, correspondence, 13 May 2024, p 6.

61 Department of Resources, correspondence, 13 May 2024, p 6.

62 Submission 17, p 2; submission 16, p 4.

63 Submissions 25, 27, and 35.

64 Submission 14, p 2; explanatory notes p 4.

65 Submission 14, p 2.

66 Public hearing transcript, Brisbane, 13 May 2024, p 2.

The department expressed support for amending the explanatory notes to ensure they align with clause 16 of the Bill relating to CQ's regulatory oversight functions.[67] The department noted that the proposed functions of CQ are consistent with other government entities with regulatory oversight, and are intended to remove duplicative functions, while retaining the ability of CQ to serve an advice function to government.[68] CQ's advice functions to government would be in relation to 'systemic coexistence issues which may see the provision of advice relating to regulation amongst other things'. These amendments will allow CQ to refocus on 'establishing several community leaders councils, with an aim to expand their on-ground engagement and identify systemic coexistence issues across their expanded remit'.[69]

Committee comment

The committee recommends the Department of Resources considers amending the Bill's explanatory notes to clarify the proposed regulatory oversight functions of Coexistence Queensland.

The committee supports the commitment to establish community leaders' councils and encourages continued dialogue and partnership working between Coexistence Queensland and stakeholders. This was a central theme of the committee's process in examining the Bill and one which the committee is keen to see continue constructively.

2.5.3 Membership of the Coexistence Queensland Board

Membership of the CQ Board is proposed to be made up of people with the requisite knowledge and expertise in the renewable energy and broader resources sectors to enable CQ to discharge its new functions.[70]

Several submitters suggested that CQ Board membership should represent a range of agricultural businesses to improve diversity, including graziers, intensive cropping, and irrigators who have experience across all resource activities.[71] Submitters also suggested that experience in land management should be considered as a prerequisite for membership. QREC supported the provisions to include a member of the CQ Board to have knowledge of, or experience with, the renewable energy industry and suggested that members should have experience in Queensland policy settings. QREC suggested that the CQ Board should have equal representation between the resources and renewable energy industries.[72]

The department noted that the need for equal representation, diversity, and relevant experience can be taken into consideration, but that '[a] provision requiring equal representation is not considered necessary as this is achieved through the other requirements of the provision'.[73] In relation to agricultural representation on the CQ Board, the department stated that it was 'supportive of an amendment to this provision to clarify that Coexistence Queensland will include a member who has knowledge of, or experience with, the interests of the agricultural sector'.[74]

67 Department of Resources, correspondence, 23 May 2024, p 11.

68 Department of Resources, correspondence, 23 May 2024, p 11.

69 Department of Resources, correspondence, 20 May 2024, pp 7-8.

70 Department of Resources, correspondence, 24 April 2024, p 11. See also Bill, cl 18 (amends s 9A of the GFC Act).

71 See, for example, submissions 8, 11, 12, 13, 16, and 19.

72 Submission 4, p 5.

73 Department of Resources, correspondence, 13 May 2024, p 6.

74 Department of Resources, correspondence, 20 May 2024, p 9.

Committee comment

The committee recognises the importance of considering diverse and relevant experience when appointing members to the Coexistence Queensland Board. We recommend the Department of Resources provide for the inclusion of agricultural sector representation on the Coexistence Queensland board and appreciate acknowledgement by the department on their suggested amendment to this effect.

2.5.4 Gasfields community leaders council

Many submitters expressed preferences in relation to the membership of the community leaders council. Several submitters suggested that the proposed membership should be expanded to include representatives from the agricultural sector.[75] Western Downs Regional Council (WDRC) and the Local Government Association of Queensland (LGAQ) suggested that community and industry representation of regional areas should also be included in community leaders council.[76] The QREC suggested the establishment of multiple community leaders councils. The QREC also called for increased cooperation across government departments to provide greater clarity and a simplified approach for both the community and the renewable energy sector.[77]

The department was supportive of recommendations to clarify the existing provisions so the scope and membership of community leaders councils clearly includes the agricultural sector.[78] In response to calls for increased cooperation and coordination between government departments, the department provided that both the Minister for Resources and Critical Minerals and the Minister for Energy and Clean Economy Jobs 'work together to ensure a coordinated approach to implementation and the ongoing administration of the refocused statutory body'.[79]

Committee comment

The committee recommends the Department of Resources:

- consider providing for the establishment of multiple community leaders councils
- clarify membership of community leaders' councils and inclusion of representatives from the agricultural sector.

2.5.5 First Nations interests

The Environmental Defenders Office and Lock the Gate (EDO/LTG), and SWQROC, submitted they do not believe First Nations interests are reflected in the proposed functions of CQ. They stated that the Queensland Government and CQ need to build trust with landholders and First Nations peoples to ensure they provide meaningful support.[80]

The department stated that CQ will work with landholders and regional communities, including First Nations peoples, to promote and facilitate positive coexistence outcomes. When appointing members, the Minister will be able to take into consideration the need for equal representation, diversity and relevant experience when appointing members to CQ, including the interests of First Nations peoples.[81]

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75 See, for example, see submissions 8, 11, 12, and 13.

76 Submission 6; Submission 7.

77 Submission 4, pp 5-6.

78 Department of Resources, correspondence, 13 May 2024, p 7.

79 Department of Resources, correspondence, 13 May 2024, p 7.

80 Submission 31; submission 35.

81 Department of Resources, correspondence, 23 May 2024, p 11.

2.5.6 Health impacts

In her submission, Gayle Pedler drew attention to potential physical and mental health impacts on residents and landowners in impacted areas, and suggested a review into these impacts be undertaken, and that educational resources and information be delivered in relation to health and wellbeing matters.[82] In a public hearing, Stuart Armitage drew attention to depression and suicide in rural areas and suggested the Bill 'is designed to isolate and intimidate farmers'.[83]

Committee comment

The committee notes that this inquiry has proven to be challenging for some stakeholders involved and that tensions can run high where disputes arise. The committee also notes that the Bill is intended to support positive coexistence. Care and sensitivity should be taken when working with impacted landowners and other affected parties as part of the ongoing consultation to be undertaken should the Bill be passed.

2.5.7 Progression of Coexistence Queensland amendments

Arrow Energy and Origin Energy recommended progressing the amendments for CQ in a separate Bill to allow for in-depth consideration and refinement to optimise the subsidence management provisions.[84] In a public hearing, Arrow Energy stated that, while they were supportive of a subsidence management framework, they would like 'the opportunity to work through some of the details and provisions more fulsomely and work with government to ensure these provisions are removed from the bill but returned later, after we have had time to consider them more fully'.[85] The department noted the feedback from these submitters.[86]

2.5.8 Fundamental legislative principles – delegation of legislative power

A Bill may allow for the delegation of legislative power only in appropriate cases and to appropriate persons, and the exercise of delegated powers must be sufficiently subject to the scrutiny of the Legislative Assembly.[87]

The Bill proposes to expand which renewable energy sources come within the ambit of the GFC Act to include not only the 'onshore gas industry' but also 'the resources industry and renewable energy industry' more broadly.[88] The regulation-making power under the GFC Act is delegated to the Governor in Council.[89] By delegating the power to determine what renewable energy sources may form part of the functions of the GFCQ, the fundamental legislative principle of delegation in appropriate circumstances may be impinged.

The explanatory notes provide that the rapid evolution of technology will likely have an impact on coexistence considerations between landholders and land users. Coexistence issues relating to particular sources of renewable energy may no longer be relevant or significantly reduced.[90]

Committee comment

82 Department of Resources, correspondence, 23 May 2024, p 11.

83 Public hearing transcript, Toowoomba, 8 May 2024, p 18.

84 Submissions 26 and 23.

85 Public hearing transcript, Brisbane, 13 May 2024, p 16.

86 Department of Resources, correspondence, 23 May 2024, p 10.

87 *Legislative Standards Act 1992*, s 4(4)(a)-(b).

88 Bill, cl 31 (includes new definition of 'renewable energy source').

89 GFC Act, s 46.

90 Explanatory notes, p 10.

The committee is satisfied that these amendments have sufficient regard to the institution of Parliament.

The explanatory notes state that it is appropriate for the sources of renewable energy that will not be captured under the amended GFC Act (and the proposed *Coexistence Queensland Act 2013*) to be prescribed by regulation, to 'allow the framework to be responsive to these technological changes.'[91]

There will be some level of oversight in circumstances where the Governor of Queensland is still required to act with the advice of the Executive Council in the exercise of their regulation-making power under the GFC Act.[92] Additionally, transitional regulations made in accordance with the proposed amendments will be subject to parliamentary scrutiny through the disallowance procedure.[93]

2.5.9 Compliance with the *Human Rights Act 2019*

The Bill proposes to reform coexistence institutions in Queensland and enhance their functions, in part, by increasing their information-gathering capacity. The Bill engages section 25(a) of the HRA, which protects a person's right to privacy. The Bill proposes to require persons to give certain private information to government bodies to ensure that Queensland's coexistence bodies have access to appropriate information necessary to carry out their functions. Access to information is a rational way of ensuring that those bodies are able to carry out those functions, as they cannot operate in an information void. Importantly, there are safeguards contained in the Bill to protect commercial-in-confidence information.[94]

Committee comment

The committee is satisfied that these amendments have sufficient regard to the rights and liberties of individuals.

The proposed interference with the right to privacy under the Bill is minor, and typical in terms of facilitating the function of administrative and regulatory bodies. The limitation is necessary in order for coexistence frameworks to be able to perform their functions to the benefit of stakeholders, including those divulging information, and more broadly, to provide long term benefits to Queenslanders generally.

2.6 Amendments to the *Land Access Ombudsman Act 2017*

The Bill would amend the LAO Act to expand the role of the Land Access Ombudsman (LAO). Currently, the LAO Act establishes an independent LAO with the jurisdiction to investigate disputes about alleged breaches of CCAs or MGAs. The proposed amendments to the LAO Act would:

- expand the LAO's jurisdiction to investigate alleged breaches of access agreements and subsidence management plans as well as existing CCAs and MGAs
- expand the LAO's functions to provide dispute resolution services during negotiation, the making of agreements or where there is a material change in circumstance to an existing agreement, land access matters or compensation
- convert the LAO from a statutory authority to a statutory body
- establish an advisory council to accompany the LAO's re-establishment as a statutory body.[95]

91 Explanatory notes, p 10.

92 *Constitution of Queensland 2001*, s 27.

93 *Statutory Instruments Act 1992*, s 50.

94 Statement of compatibility, p 14.

95 Department of Resources, correspondence, 24 April 2024, p 12; explanatory notes, p 5.

2.6.1 Alternate dispute resolution

The Queensland Small Miners Council (QSMC) expressed concern that the LAO's alternative dispute resolution (ADR) function will cause delays and additional costs for mineral resource tenure applicants and holders in resolving disputes. They also expressed concern that the ADR provisions may lead to an increase in conflict between parties to proposed agreements under the Bill.[96] The QSMC commented that they found the legislation rudimentary and unrefined, noting that 'the department's own quality team were recently unable to clarify parts of the legislation'.[97] They suggested the amendments relating to the LAO be withdrawn pending consultation and the investigation of alternative options.[98]

WDRC and the LGAQ suggested that the LAO, or another appropriate body, provide individualised support, mentoring and education for landholders taking part in the ADR process.[99] WDRC also suggested that landholders are provided with financial support for costs incurred in taking part in the ADR process. Zena Ronnfeldt suggested ADR services be provided to landholders for free to resolve disputes in relation to crossing and causing access land for the purpose of needing to carry out a subsidence activity.[100] Gayle Pedler submitted the LAO's ADR jurisdiction should cover land access disputes relating to unregulated deviated well agreements.[101]

In response to concerns relating to the LAO's ADR functions, the department noted that the ADR process is optional. If parties cannot reach an agreement through ADR, the Land Court can make a determination, or alternatively parties can go straight to the Land Court for a determination. The department stated that it does not believe the LAO's proposed ADR functions will increase legal conflict, as it is focused on investigating breaches of specific agreements and plans under Resources Acts, along with facilitating resolution of disputes relating to the establishment of these agreements.[102]

In relation to the cost of ADR, the department noted that, 'in most cases the cost of the ADR facilitator will be covered by the tenure holder'. However, 'the cost incurred by each party in obtaining legal services or other specialist advice to support them in an ADR process is borne by each party'.[103] The department further noted that there are other avenues in the subsidence management framework to claim the costs reasonably and necessarily incurred in negotiating subsidence management plans and agreements, including the costs of legal and technical advice. These are the same costs that can be claimed under the current Conduct and Compensation Agreement framework.[104]

In relation to education, mentoring and support, the department noted that this is not an intended function of the LAO, and that 'Coexistence Queensland has a role in providing information, education and advice about the resources and renewable energy industries and their ability to coexist with landholders and regional communities'.[105]

96 Submission 5, pp 7-8.

97 Public hearing transcript, Brisbane, 13 May 2024, p 35.

98 Public hearing transcript, Brisbane, 13 May 2024, p 35.

99 Submissions 6 and 7.

100 Submission 12.

101 Submission 11.

102 Department of Resources, correspondence, 20 May 2024, p 11.

103 Department of Resources, correspondence, 23 May 2024, p 16.

104 Department of Resources, correspondence, 20 May 2024, p 12.

105 Department of Resources, correspondence, 20 May 2024, pp 11-12.

In relation to deviated well agreements, the department responded that LAO's ADR services will not apply to deviated well agreements, as these are unregulated voluntary agreements.[106]

Committee comment

The committee acknowledges the input from submitters in relation to the LAO's proposed ADR functions. We agree that landowners should not incur costs in relation to ADR facilitation.

2.6.2 Self-assessment of resource activity subject to land access disputes

Various submitters expressed concern that tenure holders would be able to 'self-assess' activities as preliminary or advanced and suggested that the LAO should play a role in determining the threshold for preliminary or advanced activity, particularly in relation to deviated wells.[107]

The department noted that, in response to feedback previously received, the proposal to empower the LAO to assess preliminary or advanced activities would not be progressed through the Bill at this time.[108]

Committee comment

The committee encourages the Department of Resources to consider whether provisions amending the LAO Act allowing for the self-assessment of activities by tenure holders are appropriate.

The committee considers that the OGIA will have a role to play as it relates to the classification of land, including categorising land that should not be subject to CSG extraction, particularly where this relates to deviated wells.

2.6.3 Funding for the performance of functions

Several submitters opposed the industry levy to fund the LAO.[109] The QSMC expressed concern that costings and estimates have not been provided, and there were no details on how the levy will impact tenure holders. AEP similarly submitted that industry is unable to endorse this cost burden without further information about the magnitude of the levies and how they will be set across different tenure types.[110] The QRC expressed several concerns, including:

- lack of method for calculating service or cost recovery fees or levies
- lack of justification for industry funded model
- uncertainty as to whether the annual levy covers administrative costs only
- the requirement for quarterly forecasts of cost recovery fees, even when no ADR process is ongoing, imposes unnecessary administrative burden and costs
- ensuring cost recovery fees are linked to incurred costs
- that the LAO can request supplementary fees from resource authority holders without a clear process for challenge.[111]

The department advised that the details and methodology of the LAO industry levy will be developed through the subordinate legislation. In response to the QRC's concerns, the department provided further details clarifying the intention and intended operation of the LAO industry levy. They noted that 'the precise figures that tenure holders can be expected to pay are not able to be provided at this time, as it is currently too early to accurately gauge the demand for the LAO's services under its

106 Department of Resources, correspondence, 20 May 2024, p 17.

107 See, for example, submissions 1, 11, and 12.

108 Department of Resources, correspondence, 13 May 2024, p 9.

109 See, for example, submissions 5, 29, and 30.

110 Submission 26.

111 Submission 30.

expanded remit, and precisely which tenure holders are anticipated to create more demand than others'.[112] With respect to supplementary fees, the department advised that the Bill requires that the LAO must first seek approval from the Minister, who must then recommend to the Governor in Council that the supplementary fee be imposed.[113]

The department stated that the burden to holders is not anticipated to be significant. This is because the LAO, rather than the tenure holder, assumes responsibility for determining the fees payable to relevant holders for a quarter. The LAO will prepare a forecast of the cost which could reasonably be incurred by the holder for the assessed quarter, on the basis of previous costs occasioned by the tenure holder in the previous quarter, and the anticipated costs of providing services in the current quarter. Consideration will also be given to the manner in which cost recovery fees are imposed, to allow adjustments to ensure that any surplus fees not required for the administration of the LAO's functions can be reimbursed to holders. Finally, consideration will be given to ensuring that supplementary fees are equitably apportioned where required, to ensure tenure holders are not unduly burdened.[114]

Committee comment

The committee recommends the Department of Resources commit to further consultation with stakeholders regarding the LAO's funding model, and provide further information, including anticipated costs and impact on relevant stakeholders.

2.6.4 Fundamental legislative principles – retrospectivity

Section 45 of the LAO Act confers a power on the LAO to enter land which is subject to a 'land access dispute'. The Bill proposes to amend the LAO Act to align with the proposed amended definition of 'land access dispute'.[115] The definition refers to land subject to (and in a dispute regarding) an 'agreement or plan' (including an access agreement, subsidence management plan or subsidence compensation plan).

This amendment vests power in the LAO to enter premises without a warrant.[116] The Bill proposes to insert sections into the LAO Act to put it beyond doubt that the LAO is able to exercise its powers under section 45 of the LAO Act to enter disputed land, irrespective of whether the plan or agreement which is subject to the dispute (or the dispute itself) arose before or after the commencement of the amended definition. The current definition of 'land access dispute' is relatively broad to include a dispute about an alleged breach of conduct and compensation, or make good agreements between a landowner and resource tenure holder. Therefore, disputes purportedly included by virtue of the amended definition may already be captured by the current definition. The explanatory notes do not provide justification for this potential infringement.

Committee comment

The committee is satisfied that these amendments have sufficient regard to the rights and liberties of individuals.

The LAO's power to enter a premises under the amendments is only intended to be exercised in limited circumstances, to perform its functions under the LAO Act to 'investigate, and facilitate the timely resolution of, land disputes'.[117] It may create an operational inconsistency, and undermine the

112 Department of Resources, correspondence, 23 May 2024, p 18.

113 Department of Resources, correspondence, 23 May 2024, p 18.

114 Department of Resources, correspondence, 20 May 2024, pp 13-14.

115 Bill, cl 42 (inserts s 7 into the LAO Act).

116 *Legislative Standards Act 1992*, s 4(3)(e).

117 LAO Act, s 16(1).

purpose of this power, if particular parcels of land were excluded from the operation of the power by virtue of the date a dispute arose.

2.6.5 Fundamental legislative principles – delegation of legislative power

A Bill may allow for the delegation of legislative power only in appropriate cases and to appropriate persons, and the exercise of delegated powers must be sufficiently subject to the scrutiny of the Legislative Assembly.[118]

The Bill proposes to expand the role of the LAO to investigate and assist in the resolution of 'land access disputes' and proposes that annual levies (and in certain circumstances, supplementary levies) are paid by each 'prescribed resource authority'.[119]

The details of the proposed levies are to be prescribed by regulations, which are determined by the Governor of Queensland (rather than the Parliament).[120] The explanatory notes justify this approach in these circumstances, as there may be difficulty in determining what financial resources will be required by the LAO moving forward, therefore, it is appropriate for these levies to be prescribed by regulation.[121]

There is no explanation of the proposed changes to the identification of 'prescribed resource authority' by regulation.[122] Similarly to the proposed amendments under clause 31 of the Bill, there will be some level of oversight in circumstances where the Governor of Queensland is still required to act with the advice of the Executive Council in the exercise of the regulation-making power under the GFC Act.[123] Additionally, transitional regulations made in accordance with the proposed amendments will be subject to parliamentary scrutiny through the disallowance procedure.[124]

Committee comment

The committee is satisfied that these amendments have sufficient regard to the rights and liberties of individuals.

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

The Bill would amend the MERCP Act to expand the role of the OGIA. The proposed amendments would expand the OGIA's remit to include:

- providing for cumulative assessment of CSG-induced subsidence, including modelling, monitoring and a regional risk assessment to support the proposed subsidence management framework - as part of this assessment process, OGIA will prepare a subsidence impact report every 3 to 5 years
- providing advice, on request, on broader matters relating to subsidence from petroleum and gas activities across Queensland.[125]

The MERCP Act currently sets out Queensland's land access framework. However, according to the department, the current land access framework does not provide for the assessment or management

118 Legislative Standards Act, s 4(4)(a)-(b).

119 Bill, cl 50 (amends ss 4 and 4(c) of the LAO Act; new ss 31B, 31B and 31H into the LAO Act); explanatory notes, p 10.

120 LAO Act, s 66.

121 Explanatory notes, p 10.

122 Explanatory notes, p 34.

123 *Constitution of Queensland 2001*, s 27.

124 *Statutory Instruments Act 1992*, s 50.

125 Explanatory notes, p 5; Department of Resources, correspondence, 24 April 2024, p 13.

of CSG-induced subsidence at a regional scale or farm scale.[126] The Bill would provide for the implementation of a framework for managing the impacts of CSG-induced subsidence.[127] The proposed subsidence management framework aims to:

- ensure that CSG-induced subsidence is managed and mitigated in areas where priority agricultural land uses occur
- support coexistence between the resources and agricultural sectors.

To implement the subsidence management framework, the Bill would provide for:

- a head of power for the chief executive to declare a subsistence management area to which the subsistence management framework will apply
- the preparation of a subsidence impact report for the subsistence management area to be prepared by the OGIA - the report will include a regional risk assessment, with land categorised as A, B or C based on the outcome of the assessment
- relevant holders within the subsidence management area to undertake land monitoring and baseline data collection in accordance with a prescribed methodology
- relevant holders within the subsidence management area to undertake a farm field assessment, which will characterise existing and predicted CSG-subsidence and its impacts on the land and the use of the land
- a relevant holder to enter into a subsidence management plan, where a farm field assessment indicates that CSG-induced subsidence will have more than a minor impact on any agricultural activities on the land
- relevant resource authority holders to compensate landholders for any compensable effects suffered because of the impacts or predicted impact of CSG-induced subsidence through a subsidence compensation agreement
- opportunities to access ADR services to resolve disputes in relation to subsidence management plans and subsidence compensation agreements, with an ultimate determination through the Land Court, or alternatively for subsidence compensation agreements, arbitration
- the chief executive to take compliance and enforcement action on any breaches and an ability for the LAO to investigate any alleged breaches of subsidence management plans
- the chief executive to give a subsidence management direction for a resource tenure holder to carry out land monitoring, baseline data collection or a farm field assessment where the chief executive believes agricultural land in the area is being impacted or is likely to be impacted by CSG-induced subsidence in the future
- landholders to be able to apply to the chief executive for a farm field assessment in particular circumstances
- landholders to apply to the Minister for a decision about whether a critical consequence has or will occur on agricultural land as a result of CSG-induced subsidence.[128]

[126] Department of Resources, correspondence, 24 April 2024, p 13.

[127] Explanatory notes, p 5.

[128] Department of Resources, correspondence, 24 April 2024, pp 14-15.

The Bill also proposes amendments to the MERCP Act to improve regulatory efficiency, including:

- enhancing Queensland's rent management and collection powers
- introducing a new threshold-based exemption for aerial surveying conducted at or above 1,000 ft in altitude.[129]

2.7.1 *Mineral and Energy Resources (Common Provisions) Act 2014* amendments – general issues

2.7.1.1 Preliminary and advanced activities

The Bill provides for an exemption from the preliminary/advanced activity framework for aerial surveys at or above 1,000 ft. Subsidence activities can be either preliminary or advanced, in accordance with sections 15A and 15B of the MERCP Act. The department noted that this amendment is intended to reduce the regulatory burden where there is minimal impact on the underlying land and underlying land use.

Some submitters raised questions in relation to the definition of preliminary or advanced activities, including whether directional drilling or subsidence activities are preliminary or advanced activities.[130]

The department noted that the amendments relate to aerial surveying and do not amend the threshold for where preliminary activities are automatically considered advanced activities or change the definition of preliminary activity as it applies to directional drilling.[131]

2.7.1.2 Aerial surveying

AgForce and the QFF raised concerns in relation to the amendment to remove the requirement of entry notices for aerial surveying at or above 1,000 ft. They considered that, in some circumstances, this would have an impact on livestock.[132] The QRC recommend that aerial survey exceptions are modified to aerial surveying below 1,000 ft.[133] In response to these concerns, the department stated that it does not consider that aerial survey conducted above 1,000 ft would impact livestock. They noted that the Civil Aviation Safety Authority identified 1,000 ft as the minimum altitude over built up areas, as well as an altitude that will not impact aerial livestock operations.[134]

2.7.1.3 Entry to private land outside authorised area to undertake subsidence activity

The Bill provides for entry to private land outside of an authorised area to undertake subsidence activity.[135] Landholders and agricultural groups raised concerns relating to off-tenure land access including:

- the impact on landholders of negotiating notice of entry for multiple resources companies and activities
- the need for a new land access code that applies in relation to subsidence activities being undertaken on intensely cropped and irrigated land
- there are no requirements for access agreements or for resource authority holders to give landholders entry notices or access reports or arrangement times to cross access land

129 Explanatory notes, p 8.

130 Submissions 11, 12, and 31.

131 Department of Resources, correspondence, 23 May 2024, p 21.

132 Submission 13; submission 17.

133 Submission 30.

134 Department of Resources, correspondence, 20 May 2024, p 16.

135 Explanatory notes, p 47; Bill, Cl 78.

- that there are no entry condition requirements and no penalty for contravening section 53E
- clarifying whether damage to 'works on the land' includes damage to crops, pastures, etc
- general concerns that the rights of landowners and in particular entry to private land needs to be acknowledged and reasonably protected given that many farming enterprises are also the location of family homes.[136]

The department advised that the Bill specifically provides for entry to land to undertake subsidence activities off-tenure. Relevant holders 'must not cause or contribute to unnecessary damage to any structure or works on the land, which would generally include unnecessary damage to crops and pastures.'[137] The land access framework will also apply to the subsidence management framework and may necessitate a requirement for an access agreement. The department stated that, if necessary, it will consult with stakeholders to ensure the current land access code is fit for purpose for the subsidence management framework.[138]

2.7.1.4 Power imbalance between farmers and resources companies

Several submitters drew attention to power imbalances between farmers and resources companies that impacted negotiations in processes such as subsidence management plans and ADR processes.[139]

Committee comment

The committee recommends the Department of Resources consult with relevant stakeholders to ensure the land access code is fit for purpose for the subsidence management framework and provide for amendments to require an access agreement for off-tenure entry prior to entry.

The committee also acknowledges the power imbalance that exists between farmers and resources companies and urges the department to ensure that landowners voices are heard as part of the ongoing consultation should the Bill be passed.

2.7.2 CSG-induced subsidence management – general issues

2.7.2.1 Compensation for costs in relation to the subsidence management framework

AgForce and Zena Ronnfeldt expressed concern that landholders would not have the ability to be compensated for time, costs, losses, and damages throughout the various stages of the framework.[140]

The department noted that the Bill does not specify that compensation can be provided for the time it takes to negotiate and develop subsidence management plans and subsidence compensation agreements. However, these costs could be negotiated as part of the agreement process. To allow flexibility, the Bill does not specify how compensation is to be calculated or over what timeframe. Where a material change has occurred, subsidence compensation agreements and subsidence management plans may need to be re-negotiated.[141] It was recognised, as stated at 2.7.1.4, that this process is not always straightforward given the ongoing disputes and power imbalances between farmers and resource companies.

136 See, for example, submissions 11, 12, 13, 16, and 17.

137 Department of Resources, correspondence, 23 May 2024, p 22.

138 Department of Resources, correspondence, 20 May 2024, p 17; Department of Resources, correspondence, 13 May 2024, pp 11-12.

139 See, for example, submissions 11, 20, 22, 27, and 33.

140 Submission 12, p 28; submission 12, p 5.

141 Department of Resources, correspondence, 23 May 2024, p 25.

2.7.2.2 Administration of subsidence management framework

Some submitters considered that the Department of Agriculture and Fisheries (DAF) should administer the subsidence management framework or have a role in managing the impacts of CSG-induced subsidence.[142] NPH Farming Syndicate expressed concern that the OGIA has a limited knowledge and understanding of agricultural impacts and is not suited to decide the methodology for managing CSG-induced subsidence in relation to priority agricultural areas. They suggested DAF has access to suitably qualified persons.

The department advised that DAF would play a key role in developing any technical requirements for completing farm field assessments and subsidence management plans in conjunction with the Department of Resources. They further noted that 'OGIA has been gradually expanding its skill base to cover all aspects relating to assessment and management of subsidence'. The OGIA must also consult on the proposed subsidence impact report including the categorisation of agricultural land in the area and proposed management strategy.[143] As discussed below, the department further stated that the OGIA technical reference group will include capacity for agricultural expertise.[144]

2.7.2.3 Technical advice

Celia Karp suggested that landholders should have access to free and independent advice from experts relating to CSG activities, subsidence, hydrogeology, geology, agronomy, and land survey techniques. This information could be provided by Geoscience Australia and funded by industry or government. The information is needed to potentially oppose any findings from the OGIA.[145]

The department noted that the relevant tenure holder is ultimately responsible for ensuring relevant experts are engaged and they comply with the regulatory requirements. They stated that DAF will have a key role in developing any technical requirements for completing farm field assessments and subsidence management plans in conjunction with the Department of Resources.[146]

2.7.2.4 OGIA governance arrangements

NPH Farming Syndicate, AgForce and Zena Ronnfeldt raised concerns about the OGIA's governance arrangements. It was suggested that the OGIA requires an independent board, with similar functions to the GFCQ and the LAO, for adequate accountability, governance, transparency and oversight.[147]

In response, the department stated that 'concerns regarding transparency and accountability are addressed under the proposed framework which provides for a technical reference group to peer review elements of the OGIA's scientific methodologies'.[148] The department also reiterated the transparency and disclosure provisions applicable to the OGIA, noting that the chief executive of the *Water Act 2000* will approve the members and terms of reference of the technical reference group, in consultation with the OGIA. Group members will be subject to standard disclosure of interest requirements and adhere to the terms of reference for the group. The qualifications of each member will also be made publicly available.[149]

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142 See, for example, submissions 1, 11, 20, 22, and 27.

143 Department of Resources, correspondence, 23 May 2024, p 23.

144 Department of Resources, correspondence, 23 May 2024, p 36.

145 Submission 22.

146 Department of Resources, correspondence, 23 May 2024, p 15.

147 Submissions 12 and 13.

148 Department of Resources, correspondence, 23 May 2024, p 64.

149 Department of Resources, correspondence, 23 May 2024, p 64.

2.7.2.5 Jurisdiction of Land Court

Ian Hayllor sought clarity on which matters in the subsidence management framework fall within the jurisdiction of the Land Court.[150] The department provided that the following matters in the subsidence management framework may proceed to the Land Court:

- alleged breach of an access agreement, subsidence management plan or subsidence compensation agreement
- disputes about negotiation and preparation costs for entering a subsidence management plan or subsidence compensation agreement
- payment of costs for non-attendance at ADR
- disputes about entering into a subsidence management plan or a subsidence compensation agreement
- disputes about a material change in circumstances affecting a subsidence management plan or a subsidence compensation agreement
- an appeal about:
  - a decision to give a subsidence management direction
  - a decision to give a farm field assessment direction.
- an appeal against:
  - an application for a critical consequence decision
  - a direction if critical consequences are likely to happen
  - a direction if critical consequences have happened.[151]

2.7.2.6 Scientific, economic, and environmental knowledge

Submitters expressed concern that further work is needed to inform the subsidence management framework, including:

- scientific analysis and research so the risks and impacts of CSG production in prime agricultural areas are better understood
- comprehensive economic analysis to assess the long-term costs ahead of any further CSG development
- investigations to understand if and where CSG extraction is specifically contributing to subsidence
- a risk assessment of environmental damage caused by CSG-induced subsidence.[152]

Stuart Armitage suggested there may be a shortage of experts to undertake subsidence management activities.[153] Glendon Farming Co suggested a lack of independent agronomic expertise was provided for in the subsidence management framework.[154]

The department advised that the OGIA will consider all existing and predicted impacts of CSG-induced subsidence through data collection and modelling when developing the subsidence impact report. It will impose obligations on resource authority holders to undertake land monitoring, base line data

[150] Submission 15.

[151] Department of Resources, correspondence, 23 May 2024, p 27.

[152] See, for example, submissions 20, 22, 27, and 30.

[153] Submission 20.

[154] Submission 27.

collection and farm field assessments based on risk of impacts from CSG-induced subsidence.[155] The department noted the comments by Stuart Armitage, and in relation to the comment by Glendon Farming Co, noted that '[r]elevant specialists will be prescribed by regulation and could include an agronomist'.[156]

2.7.2.7 Landholder third party liability

Zena Ronnfeldt raised concerns that landholders may be exposed to liability from third parties for subsidence activities that occur off tenure under section 563A of the P&G Act. Glendon Farming Co raised concerns that the subsidence management framework forces landholders to knowingly permit and accept harm through subsidence management plans and subsidence compensation agreements that may leave them exposed to future liabilities from neighbours.

The department responded that 'the subsidence management framework is not intended to expose landholders to liability from third parties or neighbours.' The department stated it 'will review existing section 563A of the P&G Act considering the issues raised by the submitters.'[157]

2.7.2.8 Coexistence concerns

Some submitters raised concerns in relation to coexistence within the subsidence management framework, including:

- coexistence is not achievable in all circumstances
- CSG-induced subsidence will impact on the long-term sustainability of farm enterprises and impact succession planning and decisions
- it may disrupt landholders who are already coexisting with the CSG industry and have agreements in place
- whether landholders will benefit from coexistence
- the Bill coercively imposes obligations on landholders and is inconsistent with section 804 of the P&G Act
- some agricultural landholders are satisfied with compensation for the risks associated with CSG-induced subsidence impacts, while others believe that no amount of monetary compensation is worth the damage to their agricultural land.[158]

The department noted this feedback. They advised that Queensland's coexistence framework aims to ensure that resource and agricultural activities can effectively coexist so that the benefits of both sectors can be realised. For this to occur, the interests of both industries must be balanced in a way that both industries can continue to operate and benefit the state. The department also noted that for landholders, some of the flow-on benefits from the resources sector are the construction of on-farm roads, fences, and the provision of water for farm use.[159]

In relation to the subsidence management framework, the department stated that the framework is a risk-based management framework that will see agricultural landholders working with petroleum companies to establish subsidence management plans in areas at high risk of impacts from CSG-induced subsidence to address the impact this will have on farming operations. The establishment of an ADR process supports the negotiation process to achieve a balanced outcome. Where an

155 Department of Resources, correspondence, 23 May 2024, p 28

156 Department of Resources, correspondence, 23 May 2024, pp 31-32.

157 Department of Resources, correspondence, 23 May 2024, p 28.

158 Submissions 20, 22, 23, and 27.

159 Department of Resources, correspondence, 23 May 2024, p 29.

agreement cannot be reached through ADR, the Land Court will decide on the appropriate management measure which will be taken to be the subsidence management plan.[160]

2.7.2.9 Self-assessment in the subsidence management framework

Submitters raised concerns about the level of self-assessment proposed in the subsidence management framework including in relation to baseline data collection, land monitoring, farm field assessments, and choosing and appointing a farm field auditor.[161]

The department advised that the obligation to undertake land monitoring, baseline data collection or a farm field assessment is with the relevant holder. These activities would be required to be undertaken in a way that complies with prescribed requirements, or if there are no prescribed requirements, best practice industry standards. The requirement to comply with the prescribed requirements or best practice industry standards establishes a level of consistency about how relevant holders can undertake land monitoring and data collection and ensures that it is fit for purpose.[162]

2.7.2.10 Interaction with the Regional Interests Planning Act 2014

Some submitters queried how the subsidence management framework would interact with the *Regional Interests Planning Act 2014* (RPI Act). Concerns included whether there would be duplication between the frameworks, whether subsidence management plans and subsidence compensation agreements constitute 'agreements' under the section 22 exemption of the RPI Act, and whether the subsidence management framework would bypass existing protections offered by the RPI Act.[163]

The department advised that the framework is not intended to bypass the protection of priority agricultural areas or strategic cropping areas under the RPI Act. While the RPI Act remains separate to the subsidence management framework under the MERCP Act, both frameworks will apply (where necessary) to ensure each framework can continue to work as intended. The department further stated that the Bill does not make any changes to the RPI Act relating to CSG-induced subsidence, including exemptions under section 22 and 24 of the RPI Act. The department gave assurances that the Department of Housing, Local Government, Planning and Public Works, alongside the Department of Resources, DAF and other relevant agencies will work together to consider the interaction between the regulatory frameworks to ensure the proposed subsidence management framework complements the existing protections and assessment processes relating to subsidence under the RPI Act.[164]

2.7.2.11 LiDAR data

Some submitters raised concerns about the use of LiDAR data, including that LiDAR is not accurate enough for baseline data, or to assist in negotiating a subsidence compensation agreement, or for determining what is a compensable effect.[165]

In a public hearing on 13 May, Zena Ronnfeldt stated that, as the OGIA has stated that its LiDAR data cannot be used to measure subsidence, reports using this data cannot be used in court to prove CSG-induced subsidence:

> … I cannot use the information that the Office of Groundwater Impact Assessment has because, aside from anything else, they have put a big disclaimer all over it saying, 'You cannot use this to measure subsidence. You cannot rely on it. We have not checked it.' Basically, you can use it for pretty much not much. What that has meant, then, is that we have had to commission our own baseline data, which we are expecting to cost us $1½ million by the time it is finished. This is simply just to get a survey of our

160 Department of Resources, correspondence, 23 May 2024, p 29.

161 Submissions 20 and 27.

162 Department of Resources, correspondence, 23 May 2024, p 30.

163 Submissions 1, 11, 12, 16, 17, 20, 22, 23, 26, 27, 29, 30, 32, and 33.

164 Department of Resources, correspondence, 23 May 2024, pp 33-34.

165 Submissions 1 and 12.

> property which will be able to measure the subsidence, because the Office of Groundwater Impact Assessment has said that the lidar cannot measure the subsidence.[166]

Other landowners such as Liza Balmain and Wesley Back also drew attention to issues relating to LiDAR data during the 8 May public hearing in Toowoomba.[167]

The department noted that the Bill does not prescribe the use of LiDAR data to establish a baseline. Methods and tools will be informed by the subsidence impact report, which includes a peer review and consultation process. The Bill also provides that baseline data collection must be undertaken in accordance with the prescribed requirements or if there are no prescribed requirements, best practice industry standards. The Bill also does not specify how compensation is to be calculated.[168] In a public briefing on 24 May, the department commented on the use of LiDAR to measure subsidence:

> On the question of the accuracy of LiDAR, it all depends on the purpose we are using LiDAR for. Can I just take a step back, go back to the monitoring and just explain a little bit about monitoring? First of all, you cannot directly measure or monitor subsidence. That is not possible in the majority of instances. What you actually do monitor is how the ground is moving, and that is what we call ground movement. Ground does move because of soil moisture balance, as all the farmers know. In fact, we have seen about 25 to 30 millimetres in movement up and down.
>
> …
>
> LiDAR accuracy has been quoted at about 50 millimetres, but that does not matter because we are not saying we use LiDAR for that purpose. LiDAR should never be used to compare two different surveys and see how at a point ground has moved, because that is where that 50-millimetre accuracy does come into play. What we say LiDAR should be used for is a technical term called relative accuracy. That means it can very reasonably accurately let you define what the slope change is. If you take two different LiDAR surveys, which could be 100 millimetres apart, if the ground has not moved then both of them will be giving you exactly the same slope. That is where we are saying LiDAR is good to work out how the drainage is changing between two different points, how the slopes are changing, but not how much absolutely the ground has moved. That is where the confusion is coming. Some have said, because it can be 50 millimetres off, 'How can you measure subsidence? It is not designed for that purpose.' We never said that it should be used for that purpose.[169]

Committee comment

The committee acknowledges the comments by submitters in relation to amendments to CSG-induced subsidence management.

We note that submitters have expressed concern in relation to the role of the DAF, the availability and use of experts in undertaking subsidence management activities, and the provision of independent expertise. We also note that submitters have drawn attention to issues relating to third party liability and the proposed subsidence management framework's interactions with the *Regional Interests Planning Act 2014*.

Accordingly, the committee recommends the Department of Resources:

- clarify the role of DAF with regards to the subsidence management framework
- consider the availability of experts to undertake subsidence management activities
- consider providing for independent agronomic expertise in the subsidence management framework, which may be facilitated via OGIA

166 Public hearing transcript, Toowoomba, 8 May 2024, p 9.

167 Public hearing transcript, Toowoomba, 8 May 2024, pp 16, 31-32.

168 Department of Resources, correspondence, 23 May 2024, pp 25-26.

169 Public briefing transcript, Brisbane, 24 May 2024, pp 4-5.

- review the relevant sections of the *Petroleum and Gas (Production and Safety) Act 2004* to ensure landholders are not exposed to liability from third parties or neighbours
- that the department consider, for the MERCP Act, the appropriateness of tenure holder self-assessment regarding baseline data collection, in the context of evidence received by this inquiry that trust has been broken, for example, between landholders and tenure holders in the Dalby region
- consider the interaction between the *Regional Interests Planning Act 2014* and the proposed subsidence management network prior to implementation.

2.7.3 Subsidence management area

The QRC suggested there was a lack of clarity about what is required to declare a subsidence management area.[170]

The department clarified that the Minister's declaration of a subsidence management area will be informed by advice from the OGIA.[171] The department was also agreeable to an amendment to require the Minister seek advice.[172]

Committee comment

The committee recommends the Minister considers seeking advice about whether an area is, or may be, impacted by CSG-induced subsidence before declaring that area to be a subsidence management area, prior to a declaration of subsidence.

2.7.3.1 Fundamental legislative principles – delegation of legislative power

A Bill may allow for the delegation of legislative power only in appropriate cases and to appropriate persons, and the exercise of delegated powers must be sufficiently subject to the scrutiny of the Legislative Assembly.[173]

The Bill proposes to vest the following legislative powers:

- The Minister to make a decision and declaration of a subsidence management area, and that declaration may be made by way of gazette notice[174] - however, there are no provisions in the Bill which require certain information and/or data to be taken into account to reach this decision.
- The chief executive may ask the OGIA for information and advice regarding which area should be declared a subsidence management area - but there is no requirement for the chief executive to follow that advice.[175]
- The publication of a gazette notice declaring the subsidence management area must be provided to specified persons and published within 20 days of declaration - however, there is no opportunity for scrutiny by the Legislative Assembly by way of a declaration under section 50 of the *Statutory Instruments Act 1992*.
- The chief executive can create guidelines with respect to the works included in clause 78 of the Bill,[176] which the Bill proposes should operate outside of the primary statute[177] -

170 Submission 30, p 6.

171 Department of Resources, correspondence, 20 May 2024, pp 22-23.

172 Department of Resources, correspondence, 15 May 2024, p 5.

173 Legislative Standards Act, s 4(4)(a)-(b).

174 Bill, cl 87 (new s 184BA).

175 Bill, cl 87 (new s 184BB); explanatory notes, p 50.

176 Bill, cl 87 (new division 4A).

177 Bill, cl 87 (new s 184GA); explanatory notes, p 14.

> there are no provisions in the Bill which stipulate the information that ought to be contained in the guidelines, nor that the guidelines are required to be tabled, therefore, these provisions do not allow for the guidelines to be subject to the scrutiny of the Legislative Assembly.

In response to these concerns, the department noted that, 'to limit any potential breach of this fundamental legislative principle, Resources is agreeable to making an amendment that requires that the Minister must seek advice about whether an area is, or may be, impacted by CSG-induced subsidence before declaring that area to be a subsidence management area'.[178]

The department also advised that, although the Bill does not expressly provide for it, the Minister may also inform their view based on advice from CQ, other relevant bodies such as the University of Queensland's Gas and Energy Transition Research Centre, or even landholders who believe they are being impacted by CSG-induced subsidence.[179]

In relation to concern on the use of guidelines, the department noted that the proposed guidelines will not prescribe any additional requirements and only relate to how land monitoring, baseline data collection and farm field assessments may be carried out. The department noted that compliance with guidelines is not mandatory and is therefore not unduly burdensome. The department listed several benefits in making guidelines, including that they provide consistency, can easily be adapted over time in response to scientific advances, and would allow responsible holders a means to demonstrate compliance.[180]

Committee comment

The committee is satisfied that these amendments have sufficient regard to the rights and liberties of individuals.

2.7.4 Subsidence impact report

2.7.4.1 Right of review

The Queensland Law Society (QLS) and Zena Ronnfeldt submitted that the subsidence impact report process provides limited rights of review.[181] In response, the department noted that a draft subsidence impact report would be made publicly available for consultation, and the consultation period would be at least 20 business days. All submissions will need to be considered by the OGIA prior to the draft report, with a summary of submissions to be provided to the chief executive of the MERCP Act.[182]

2.7.4.2 Technical reference group

The Bill would provide for a technical reference group which would undertake a mandatory peer-review of the proposed subsidence impact report. The purpose of the technical reference group is to review the scientific methods used in preparing the report. This is intended to provide scientific rigor and credibility to the report and framework more broadly.[183]

178 Department of Resources, correspondence, 15 May 2024, p 5.

179 Department of Resources, correspondence, 15 May 2024, p 5.

180 Department of Resources, correspondence, 15 May 2024, p 5.

181 Submission 10, p 3; submission 12, p 38.

182 Department of Resources, correspondence, 13 May 2024, p 13.

183 Explanatory notes, p 11.

Submitters raised various concerns in relation to the accountability, transparency, and function of the technical reference group, including that:

- the proposed accountability measures are not fit for purpose
- a member of the technical reference group should have relevant agricultural experience
- conflicts of interests must be declared from any technical reference group members
- the terms of reference and composition of the technical reference group should be determined by the chief executive
- the role of the technical reference group is not robust given the OGIA's level of responsibility and the risk CSG activities imposed on landholders.[184]

In response to these concerns, the department noted that the OGIA is an independent office, and that 'various checks and balances have been put in place to ensure a robust scientific process is adhered to'.[185] They advised that the technical reference group's function is to 'undertake peer reviews of the OGIA's scientific methods used to prepare a subsidence impact report and ensure the methods are fit for purpose and scientifically sound.'[186] The department also noted that the OGIA has discretion about the technical refence group's membership and may decide agricultural expertise is required. Members would be subject to standard disclosure of interest requirements, and the terms of reference of the group would be publicly available.[187]

In a public briefing on 24 May, the department provided additional information regarding the technical reference group, noting that an 'informal' technical reference group has been operating since approximately 2010, and that 'what is proposed in the subsidence management framework is to actually formalise that kind of technical peer review process.'[188]

Committee comment

The committee recommends the Department of Resources consider including member(s) with agricultural expertise in the OGIA's technical reference group.

2.7.4.3 Determining impact of CSG-induced subsidence

The QRC submitted that there appears to be 'no indication of OGIA's methodology for determining the impact of CSG-induced subsidence when preparing a subsidence impact report'.[189]

The department clarified that the Bill provides that a subsidence impact report must include a cumulative assessment and regional risk assessment for the subsidence management area. These assessments will examine the impact of CSG-induced subsidence on the land, as well as categorise land based on the outcome of the assessment. Matters to be considered in the assessment are set out in the Bill. According to the department, additional checks and balances, including peer reviews of OGIA's scientific methods are also provided for.[190]

184 Submission 1; submission 12, pp 38-39.

185 Department of Resources, correspondence, 13 May 2024, p 15.

186 Department of Resources, correspondence, 13 May 2024, p 15.

187 Department of Resources, correspondence, 13 May 2024, p 15.

188 Public briefing, Brisbane, 24 May 2024, p 3.

189 Submission 30, p 6.

190 Department of Resources, correspondence, 20 May 2024, pp 22-23.

2.7.4.4 Regional risk assessment

The QFF suggested that landscape-wide work must include analysis of impacts to overland flow. They also sought clarity as to the process and protections for landholders, should a regional risk assessment turn out to be incorrect with more impact than expected occurring over time.[191] Cotton Australia also supported landscape-wide reporting.[192] The GFCQ concluded that in circumstances where CSD-induced subsidence has taken place, there is a high likelihood that the productivity of the land will be compromised, particularly in the Condamine alluvial floodplain, where Dalby is located.[193]

In response, the department advised that a regional risk assessment can be amended if incorrect. While regional risk assessment does not explicitly include a consideration of overland flow, the impacts on the land must be considered, which could include overland flow. Overland flow may also be considered as part of the cumulative subsidence assessment.[194]

2.7.4.5 Definition of 'more than a minor impact'

The QRC expressed concern that the Bill does not contain criteria for what constitutes 'more than a minor impact', which would trigger the requirement to prepare a subsidence management plan.[195]

The department noted that 'more than a minor impact' was not defined in the Bill, as each farm field is likely to be impacted differently due to differences arising from factors such as landscape and the nature of the farming operation. The department advised it will consult with key stakeholders to develop guidance material on what may be considered 'more than a minor impact'.[196]

2.7.4.6 Consultation on the subsidence impact report

The EDO/LTG suggested additional requirements to public consultation on the subsidence impact report, including:

- notices of consultation should be provided to all potentially impacted landholders as well as authority holders
- requirements for the notice should be prescribed in the Act or regulation and detail a timeframe for making a submission of at least 30 days
- public consultation should also be required for minor amendments.[197]

The department advised that the Bill already provides for the OGIA to publish a notice of consultation on the proposed subsidence impact report under section 184CE. This provision does not explicitly require the published notice to be sent to each landholder potentially impacted, although the chief executive can prescribe for OGIA the way the notice is to be published. This provides flexibility in how a notice may be made available. A draft subsidence impact report will be made publicly available for consultation to provide relevant holders, landholders and the broader community an opportunity to review and provide comments on the proposed report.[198]

The department also noted that minor amendments are limited to amendments that correct minor errors, update relevant holder details, are not changes of substance, or are agreed to by both OGIA

191 Submission 17, p 2.

192 Submission 16, p 7.

193 GFCQ, *Final Report: Potential consequences of CSG-induced subsidence for farming operations on the Condamine alluvial floodplain*, July 2023, p 20-21 and Appendix A.

194 Department of Resources, correspondence, 20 May 2024, pp 24-25.

195 Submission 30, p 6.

196 Department of Resources, correspondence, 20 May 2024, p 28.

197 Submission 39.

198 Department of Resources, correspondence, 23 May 2024, p 24.

and any relevant holder affected by the amendment, and consequently, public consultation is not required.[199]

2.7.4.7 OGIA oversight

Celia Karp submitted that the OGIA should be subject to oversight from a panel of independent experts knowledgeable in hydrogeology, hydrology and agriculture.[200] Submitters also suggested an independent pool of experts is needed to potentially oppose any OGIA findings that may be in conflict with what others determine to be the real impact.[201] Arrow Energy suggested the pool of experts should be funded by the resources industry or government.[202]

The department responded by reiterating that checks and balances will be put in place to ensure a robust scientific process is adhered to in the subsidence management framework and noted that there will be a public consultation process on the draft subsidence impact report. The department also noted the role of the technical reference group to ensure the methods are fit for purpose and scientifically sound.[203]

2.7.4.8 Fundamental legislative principles – natural justice

Legislation should be consistent with the principles of natural justice, including the right to hearing or review in respect of an administrative decision of an entity under statute.[204]

The Bill amends the MERCP Act by including provisions which allow for the imposition of obligations under a subsidence impact report;[205] and a cost recovery process which can be commenced on resource tenure holders, as a power vested in the chief executive.[206]

The department responded by noting that the process for developing the subsidence impact report, that is technical and scientific in nature, combined with the peer review and public consultation processes, offset the need for review and appeal rights on the subsidence impact report. The department stated that it further considers that if the subsidence impact report is able to be reviewed or appealed, it may go towards undermining the scientific integrity and independence of the OGIA. For these reasons, the department advised that the potential infringement on the rights and liberties of individuals is considered justified.[207]

In relation to cost recovery, the department noted that cost recovery without an ability for relevant holders to seek a review of or appeal the decision to take action in this circumstance was considered appropriate, as the relevant holder has the opportunity to appeal to the Land Court. It stated that the process for cost recovery was modelled on the *Water Act 2000* that applies in relation to water bores and allows the chief executive to recover costs associated with taking an action if a resource holder has failed to comply with an emergency direction. The department considered the potential infringement on the rights and liberties of individuals was therefore justified.[208]

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199 Department of Resources, correspondence, 23 May 2024, p 39.

200 Submission 22.

201 Submissions 20, 22, and 23.

202 Submission 23.

203 Department of Resources, correspondence, 23 May 2024, p 40.

204 Office of the Queensland Parliamentary Counsel, Fundamental legislative principles: the OQPC Notebook, p 25; Legislative Standards Act, s 4(3)(b).

205 Bill, cl 87 (new ch 5 into the MERCP Act); explanatory Notes, p 11.

206 Bill, cl 87 (new ch 5 into the MERCP Act); explanatory Notes, p 11.

207 Department of Resources, correspondence, 15 May 2024, p 2.

208 Department of Resources, correspondence, 15 May 2024, p 4.

Committee comment

The committee is satisfied that these amendments have sufficient regard to the rights and liberties of individuals.

2.7.5 Identification, assessment, and monitoring of impacts of CSG-induced subsidence

2.7.5.1 Baseline data

Various submitters expressed concern in relation to baseline data collection. Several submitters commented that baseline data collection methodology has not been adequately specified and called for clarity. It was noted that crucial details were being left to guidelines and regulations.[209] The LGAQ recommended that the OGIA undertake regular reviews of baseline data to ensure it meets prescribed requirements.[210]

A central theme was inquiry into how the framework would account for scenarios when baseline data is collected for land already experiencing subsidence.[211]

The Barfield Road Producer Group raised concerns about ambiguity and subjectivity in proposed section 184EF and the requirement for data to be provided in a form that is reasonably likely to be understood by the owner or occupier.[212] WDRC expressed concern regarding how there would be uniformity in how relevant holders undertake baseline data collection. They suggested landholders should be consulted in developing these practices.[213]

The EDO/LTG suggested that the element of a 'reasonable excuse' should be removed from the requirement to undertake baseline data collection, because it introduces an element of uncertainty, and it is not clear what a reasonable excuse means. They also suggested that there should be a power for landholders to nominate their land as potentially likely to be impacted, so that they can obtain data.[214]

In response to these concerns, the department advised that the relevant holder must ensure that baseline data is collected in accordance with the prescribed requirements or best practice industry standards if there are no prescribed requirements.[215] In relation to baseline data for land already experiencing subsidence, the department acknowledged that establishing a true baseline may not be possible where CSG-induced subsidence has already occurred. In such cases the technical requirements would prescribe a methodology to reconcile historical data and to establish a baseline based on best available data. This would likely include a combination of survey data capture and modelling to recreate landforms pre-CSG development.[216] In a public briefing on 24 May, the department noted that the OGIA can make indirect conclusions about what the baseline is for areas which are already impacted. The OGIA relies on multiple land surveys to determine what the landform was before CSG.[217]

209 Submissions 12, 23, 26, and 27.

210 Submission 7, p 5.

211 See, for example, submissions 1, 11, 12, and 22.

212 Submission 8, p 3.

213 Submission 8, p 9.

214 Submission 31.

215 Department of Resources, correspondence, 13 May 2024, p 16.

216 Department of Resources, correspondence, 13 May 2024, p 16.

217 Public briefing transcript, Brisbane, 24 May 2024, p 3.

In relation to proposed section 184EF, the department noted that the term 'reasonably likely' has been used in recognition that what may be easily understood by one landholder may differ from what is easily understood by another.[218]

In regard to consultation with landholders, the department stated that 'it is not appropriate that landholders be consulted about how baseline data collection should occur because the relevant holder must adhere to the prescribed requirements or best practice industry standards' and that the department 'acknowledges that the requirements to be prescribed in regulation in relation to these obligations for relevant holders is not currently available'.[219] The department noted that it would consult with relevant stakeholders in the development of guidelines for data collection.[220]

In relation to 'reasonable excuse', the department noted that, where a relevant holder is required to undertake baseline data collection on or before the due day specified in the subsidence impact report, the term 'reasonable excuse' ensures if the baseline data collection has been unable to occur for reasons out of the relevant holder's control.[221]

The department also noted that landholders will be able to make submissions to the OGIA through its consultation process ahead of developing updated subsidence impact reports. This may include further evidence that may suggest a change in category is necessary. The chief executive can also issue a subsidence management direction, which can direct a relevant holder to undertake baseline data collection.[222]

Committee comment

The committee notes the Department of Resources has advised that requirements for relevant holders in relation to baseline data collection are to be prescribed in regulation and are not currently available.[223]

The committee recommends that the Department of Resources should provide details of these requirements as soon as can reasonably be expected. Given that existing disputes in relation to baseline data collection have been ongoing for many years, the committee considers that these requirements should have been developed at an earlier stage to allow a full and transparent consultation process.

218 Department of Resources, correspondence, 23 May 2024, p 43.

219 Department of Resources, correspondence, 23 May 2024, p 26.

220 Department of Resources, correspondence, 13 May 2024, p 17.

221 Department of Resources, correspondence, 23 May 2024, p 44.

222 Department of Resources, correspondence, 23 May 2024, p 44.

223 Department of Resources, correspondence, 23 May 2024, p 26.

2.7.5.2 Farm field assessments

Several submitters suggested that farm field assessment should not be limited to singular experts or persons.[224] AgForce and Zena Ronnfeldt suggested more landholder oversight of farm field assessments may be required.[225] Some submitters expressed concern with proposed section 184FC, which provides that a holder must not start to produce CSG until a farm field assessment is undertaken.[226] Issues raised included that:

- the restriction is limited to new wells
- production from new wells should not start until a subsidence management plan and subsidence compensation agreement are made
- it should cease CSG extraction on land identified as Category A and Category B, until the impacts are understood and compensation has been negotiated
- it should extend beyond the farm boundary to impacted neighbouring land.[227]

Arrow Energy additionally considered that where there is an existing CCA or voluntary agreement in place that would otherwise allow production to commence, that property should be exempt from section 184FC.[228]

Other issues relating to farm field assessments were raised by a number of submitters,[229] including:

- unclear criteria for determining relevant considerations
- lack of provisions for landholder consultation, including ability to review
- that auditors are not required to provide communication materials to landholders, only the report
- there is no mechanism to correct materially wrong information
- that notice is not required to be registered on title, resulting in potential new owners being unaware if a farm field assessment has been conducted
- farm field assessment should be undertaken by the OGIA or a pool of registered consultants
- multiple professions will need to contribute to the farm field assessment
- landholders should have an opportunity to initiate and obtain a farm field assessment
- there is no provision requiring the resource authority holder provide all relevant documents to subsequent owners.[230]

The QRC also suggested there was a lack of clarity regarding the nature of the auditing process. They questioned whether the process intends to revisit fundamental principles, such as assessing the validity of the data provided, and suggested this level of scrutiny was unnecessary.[231] The QRC also

224 See, for example, submissions 1, 11, 12, 13, and 30.

225 Submission 12, p 47; submission 13, p 5.

226 Bill cl 87, s 184FC.

227 Submissions 11, 12, 13, and 30.

228 Submission 23.

229 See, for example, submissions 12 20, 22, 23, 25, 26, 27, 30, and 31.

230 Submission 12; submission 30.

231 Submission 30, p 7.

raised concern about the availability of farm field auditors.[232] AgForce and Zena Ronnfeldt objected to provisions that would allow landholders to agree not to require a farm field audit.[233]

In relation to oversight, the department noted that each component of a farm field assessment must be undertaken by a suitably qualified person. Farm field assessments would also be undertaken in compliance with prescribed requirements or best practice industry standards. The department did not consider that landholder oversight of farm field assessments is required, given the 'rigour and robustness' of the proposed prescribed requirements.[234]

In response to questions relating to restrictions on production, the department noted that this restriction applies to wells where production has not yet commenced that are on Category A land. The purpose of the restriction is to ensure that new production does not occur on at risk land ahead of an assessment of the possible impacts.[235] Although the relevant holder is required to reach agreement with each affected owner and occupier to address impacts or potential impacts from CSG-induced subsidence, the halt on producing coal seam gas can be lifted once the relevant holder has reached agreement with those affected owners and occupiers that have petroleum wells within, partly within, or under or partly under the relevant category A land or land the subject of a subsidence management direction.[236]

In relation to subsidence compensation agreements, the department noted that these agreements would not include measures to manage the impact of CSG-induced subsidence and are therefore not relevant to determining when new production can commence.[237]

The department also advised that, if the farm field assessment determines the impacts or predicted impacts are more than minor, the relevant holder must enter into a subsidence management plan to manage the impacts from CSG-induced subsidence. Where parties cannot agree to a subsidence management plan through either negotiation or ADR, the matter is automatically referred to the Land Court which will determine the management measures required to address the impacts from coal seam gas induced subsidence on agricultural land. New production can commence once the subsidence management plan is agreed to, or the matter is referred to the Land Court.

The department advised the Bill would require a relevant holder seek information from owners and occupiers prior to undertaking a farm field assessment, including information relating to land use, farming practices, or infrastructure, or any other information reasonably required.[238]

In relation to the audit process, the department provided additional clarification, noting that 'commissioning an audit of farm field assessments is intended to provide an additional layer of independent expert verification to both the resources authority holder and the owner and occupier of the land'. The department noted that it is committed to consulting with relevant stakeholders to 'ensure that the list of farm field auditors is appropriate in terms of qualifications and availability'. It noted that the chief executive must also publish a list of farm field auditors on the Queensland Government website.[239]

In response to concerns that parties would be able to agree not to require an audit, the department clarified that, if parties agree that a farm field assessment audit is not required, the holder is not

232 Submission 30, p 7.

233 Submission 12; submission 13, p 5.

234 Department of Resources, correspondence, 13 May 2024, p 17.

235 Department of Resources, correspondence, 23 May 2024, pp 25, 50.

236 Department of Resources, correspondence, 23 May 2024, p 50.

237 Department of Resources, correspondence, 20 May 2024, p 29.

238 Department of Resources, correspondence, 20 May 2024, pp 29-30.

239 Department of Resources, correspondence, 20 May 2024, p 30.

required to comply with the requirement to commission an audit of the farm field assessment. The department noted that the purpose of this provision is to 'provide a streamlined process for the landholder and tenure holder where they have a positive relationship'.[240]

2.7.5.3 Fundamental legislative principles – power to enter premises

Legislation should confer power to enter premises only with the occupier's consent or under a warrant issued by a judge or other judicial officer.[241]

The Bill amends the MERCP Act by inserting new provisions which enable resource tenure holders in subsidence management areas (with the authorisation of the chief executive) to enter onto private land outside of the authorised area for the resource tenure holder's resource authority to undertake works under the MERCP Act.[242] The works contemplated by these amendments include:

- land monitoring
- baseline data collection
- farm field assessments
- subsidence management measures under a subsidence management plan
- other reasonable steps under ministerial direction.[243]

The Bill proposes that limits will be applied to the power of entry.[244] However, the explanatory notes did not include justification in relation to granting the power of entry in the absence of a warrant issued by a judge or judicial officer.

Entry without consent should be strictly controlled.[245] The powers that may be exercised during a resource tenure holder's entrance to land are limited. However, the restrictions on what may or may not be done under the authority to enter are weak. For example, a resource tenure holder is only prohibited from causing 'unnecessary damage to any structure or works on the land',[246] and must pay compensation for 'any cost, damage, or loss the owner or occupier incurs' by virtue of the resource tenure holder's activity on the land.[247] This restriction does not contemplate:

- damage to the land itself, not only a structure or works on it
- where a resource tenure holder is required to pay compensation to the owner, but does not have the capacity to do so, there is no means of cost recovery available for owner/occupiers of the land.

In its response, the department noted that it is intended the existing land access framework, including the notice of entry provisions and application of the land access code, will apply to the subsidence management framework in the same way that it applies to the carrying out of all other authorised activities under a resource authority, irrespective of whether the subsidence activity occurs on-tenure or off-tenure. It is also intended that where private land off-tenure must be accessed to carry out a subsidence activity, an access agreement will be required.

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240 Department of Resources, correspondence, 13 May 2024, p 17.

241 Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: The OQPC Notebook, pp 44-5; Legislative Standards Act, s 4(3)(e).

242 Bill, cl 78 (new division 4A into the MERCP Act).

243 Bill, cl 78 (new division 4A into the MERCP Act).

244 Bill, cl 78 (new s 53D into the MERCP Act).

245 Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: The OQPC Notebook, p 45.

246 Bill, cl 78 (new s 53E into the MERCP Act).

247 Bill, cl 78 (new s 53F into the MERCP Act).

The department further stated that 'access agreement requirements under the subsidence management framework have unintentionally been omitted from the Bill and supports amendment to the Bill to address this'.[248]

Committee comment

The committee is satisfied that these amendments have sufficient regard to the rights and liberties of individuals.

The committee supports the department's proposed amendment to include access agreements under the subsidence management framework.

2.7.5.4 Fundamental legislative principles – undue restriction on ordinary activities

Legislation should not, without sufficient justification, unduly restrict ordinary activities, including conducting an enterprise.[249]

The Bill proposes to restrict CSG resource authority holders from producing CSG in a subsidence management area in particular circumstances.[250]

The explanatory notes provide that any restriction would be temporary, and that the CSG resource authority holder is able to commence the production of CSG once assessments are undertaken, and that the result of those assessments do not require a subsidence management plan to be in place.[251] Alternatively, the CSG resource authority holder would be able to commence production where the land owner agrees to the production of CSG in writing.[252] Further, the explanatory notes suggest that the need for such assessments to be undertaken, and for the above requirements to be met in advance of CSG production, it is essential to determine what the likely impact of CSG-induced subsidence may be, and whether any foreseeable impacts are likely to be 'more than minor'.[253]

Committee comment

The committee is satisfied that these amendments have sufficient regard to the rights and liberties of individuals.

The committee considers the Bill's proposed hold on business activities is justified insofar as they are temporary and necessary to minimise the risk of CSG-induced subsidence on agricultural land, and to achieve the purpose of the MERCP Act.

2.7.6 Management of, and compensation for, impacts of CSG-induced subsidence

2.7.6.1 Subsidence management plans

A number of submitters expressed concern in relation to the proposed subsidence management plan provisions.[254] The QRC suggested there was uncertainty regarding what measures may be required to 'manage' CSG-induced subsidence.[255] Gale Pedler expressed concern that the department has not provided examples or templates for subsidence management plans and compensation agreements.[256] NPH Farming Syndicate expressed concern that the subsidence management plan may not account

248 Department of Resources, correspondence, 15 May 2024, p 4.

249 Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: The OQPC Notebook, p 118.

250 Bill, cl 87 (new s 184FC into the MERCP Act).

251 Explanatory notes, p 13.

252 Explanatory notes, p 13.

253 Explanatory notes, p 13.

254 See, for example, submissions 1, 6, 11, 12, 15, 16, 17, 19, 22, 26, 27, and 30.

255 Submission 30.

256 Submission 11.

for CSG-induced subsidence that has already occurred.[257] Cotton Australia and the QFF recommended the costs of developing subsidence management plans must be the responsibility of the resource developer.[258] The QRC questioned why subsidence management plans are subject to a three-month minimum negotiation/cooling off period while existing conduct and compensation agreements are subject to a minimum negotiation period of 20 business days.[259] The QRC also raised concerns that tenure holders and multiple landholders need to agree to a subsidence management plan and that this could potentially halt development on some properties. Other submitters were concerned that subsidence management plans should include both mitigation measures and remedial actions.[260]

The QRC sought clarification of whether a petroleum well that has commenced production after the subsidence management plan had been entered into would subsequently be required to cease production where the subsidence management plan is terminated and taken to never had any effect.[261] AEP raised concerns in relation to subsidence management directions issued before the first subsidence impact report, submitting that this creates uncertainty.[262]

In relation to CSG-induced subsidence that has already occurred, the department advised that subsidence management measures may include remediation activities to reduce the impacts of CSG-induced subsidence that have already occurred as identified through the farm field assessment. In relation to uncertainty associated with the term 'manage', the department noted that subsidence management plans would differ for specific properties, as each farm is likely to be impacted differently by CSG-induced subsidence. Measures to manage subsidence would therefore be different for each property.[263] The department noted that they would consider the need for examples and templates of subsidence management plans and undertake further consultation while developing these components prior to commencement.[264]

In relation to costs incurred in developing a subsidence management plan, the department noted that the relevant holder would be liable to pay the owner or occupier's necessary and reasonably incurred negotiation and preparation costs in entering or seeking to enter into a subsidence management plan. Where disputes about costs arise, the Land Court can make determinations.[265]

The department advised that the 3-month minimum period for negotiating a subsidence management plan is appropriate for subsidence management plans because of the detailed information that is provided to owners and occupiers at the time the notice of outcome from a farm field assessment is given and negotiations commence.[266]

In relation to concerns that the need for holders and landowners to agree to subsidence management plans would lead to a halt in development, the department noted that, although the relevant holder is required to reach agreement with each affected owner to address potential impacts of CSG-induced subsidence, the halt on production can be lifted once agreement is reached. However, production can occur while the farm field assessment is carried out if the relevant holder agrees in writing with each owner and occupier of the land in question, or if a subsidence opt-out agreement is entered into.[267]

257 Submission 1.

258 Submissions 16 and 17.

259 Submission 30, p 8.

260 See, for example, submissions 22 and 27.

261 Submission 30.

262 Submission 26.

263 Department of Resources, correspondence, 20 May 2024, p 31.

264 Department of Resources, correspondence, 13 May 2024, p 19.

265 Department of Resources, correspondence, 23 May 2024, p 34.

266 Department of Resources, correspondence, 23 May 2024, p 33.

267 Department of Resources, correspondence, 23 May 2024, p 35.

The department noted that the intent of the provision is that a subsidence management plan will take effect when the minimum negotiation period ends. This means that new production will not commence during the cooling off period. The department acknowledged that the Bill could be clearer about when a subsidence management plan takes effect and stated that it would review the Bill in this context.[268]

The department advised that, where parties cannot agree to a subsidence management plan within the minimum negotiation period, the parties will be required to engage in ADR to resolve the dispute. If an agreement still cannot be reached after ADR, the matter will be automatically referred to the Land Court to resolve the dispute. The department noted that 'this automatic referral process ensures that the management of CSG-induced subsidence impacts can occur in a timely manner and that CSG development is not delayed unnecessarily'.[269]

2.7.6.2 Subsidence compensation agreement

A central theme from submissions was concern regarding subsidence compensation agreement provisions.[270] These included:

- how the framework would address ongoing liability for CSG-induced subsidence impacts after a relevant CSG project has ended
- lack of clarity about how subsidence compensation agreements are determined
- compensation should only be paid where a business suffers an economic impact from CSG-induced subsidence
- economic impacts (such as loss of productivity) should be incorporated into calculating the total costs of compensation liability and remediation
- a classification of category A or category B land should trigger an automatic requirement for a subsidence compensation agreement
- landholders should not have to collect evidence or prove compensation for any land levelling or crop production losses
- that the 'over-riding aim of any subsidence management plan, and associated compensation must be the requirement to maintain or restore the land's productive capacity'[271]
- a subsidence compensation agreement cannot be made without first agreeing to a subsidence management plan
- whether compensation agreement provisions will provide a clear pathway to compensation for landholders who have existing CSG-induced subsidence prior to commencement of the Bill.

In response, the department stated that the Bill does not specify how compensation is to be calculated, and it is up to each party to the agreement to determine compensation based on the impacts from CSG-induced subsidence and the costs, damages or losses incurred by the landholder. The department further advised that CSG-induced subsidence impacts by the relevant holder continue or are likely to continue after a relevant CSG project has ended, any costs, loss or damages relating to these impacts should be negotiated as part of the subsidence compensation agreement. A subsidence

[268] Department of Resources, correspondence, 23 May 2024, pp 57-58.

[269] Department of Resources, correspondence, 23 May 2024, p 57.

[270] See, for example, submissions 1, 15, 19, 22, 23, 26, 27, 30, and 33.

[271] Submission 16.

compensation agreement may be entered into at any time after a subsidence management area is declared, irrespective of which category the land falls into.[272]

In response to comments that subsidence compensation agreements must aim to restore the land's productive capacity, the department noted that 'subsidence management framework provides for both management and compensation outcomes to be able to cater for a broad range of scenarios and landholder preferences'.[273]

In response to concerns regarding compensation for those who have existing CSG-induced subsidence, the department noted that where CSG-induced subsidence may have resulted in costs, damage or loss prior to the subsidence management framework being established, a landholder is entitled to compensation. However, compensation will not be provided for any cost, damage or loss that may have already been compensated for under a conduct and compensation agreement.[274]

2.7.6.3 Critical consequences

Several submitters commented on the proposed critical consequences provisions.[275] Concerns included:

- the definition of critical consequences
- examples of what constitutes a critical consequence
- who decides a critical consequence
- how the critical consequence provisions will apply for those farmers already experiencing impacts
- the discretion vested in the Minister is extremely broad with very limited criteria
- whether a trend established through landscape wide modelling for the purposes of regional risk assessment could trigger a critical consequence decision by the Minister under the framework
- that an application should be available at any time where critical consequences become apparent, and not after a subsidence management plan is agreed to
- clarification of 'so unreasonable or intolerable' and explicit limitation to instances where CSG-induced subsidence will cause a significant, demonstrable, and lasting reduction in agricultural productivity
- the decision on whether a critical consequence has occurred is best informed by DAF and the relevant Minister
- the Minister's decision in relation to a critical consequence in accordance with section 184KL must be able to be appealed.

AgForce additionally submitted that any landholder who has sufficient evidence they have suffered critical consequences should have the right to apply for a critical consequence decision.[276]

In response to these concerns, the department advised that provided landholders meet the application requirements under section 184KI, they will be able to apply for a critical consequences determination.[277]

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272 Department of Resources, correspondence, 20 May 2024, p 36.

273 Department of Resources, correspondence, 20 May 2024, p 37.

274 Department of Resources, correspondence, 23 May 2024, p 61.

275 See, for example, submissions 16, 17, 23, 26, 27, 30, and 31.

276 Submission 13.

277 Department of Resources, correspondence, 13 May 2024, p 22.

The department noted that a subsidence management plan is required for a critical consequence application 'to ensure that all avenues to manage the impacts of CSG-induced subsidence have been exhausted before a Ministerial intervention is required', to prevent vexatious or frivolous claims, and to encourage stakeholders to 'follow a path of coexistence'. Where parties have opted out of a subsidence management plan, landholders will still have avenues to be able to make a critical consequence application.[278]

The department clarified that the Bill provides that a critical consequence means any of the following resulting from CSG-induced subsidence that is so unreasonable or intolerable that it affects the viability of the farming practices or business activities undertaken on the land:

- damage to the land that has caused, or is likely to cause, changes to the intensive use of the land for agricultural purposes
- an impact on the farming practices or business activities undertaken on the land or the infrastructure on the land that is essential to support the farming practices or business activities
- another economic loss.[279]

The department further advised that the critical consequences framework is only triggered by an application from an owner or occupier of agricultural land. An application can be made in relation to impacts from CSG-induced subsidence that have occurred or are predicted to occur. When deciding on a critical consequence application, the Minister must consider the application, the farm field assessment, audit report of the farm field assessment of the land, current subsidence management plan and any other information that has been requested from an affected person, the OGIA, the chief executive of a relevant Queensland Government department or other agency or another entity prescribed by regulation, before making a decision. The Bill also enables the Minister to obtain any other further relevant information to inform the Minister's decision on whether a critical consequence has or is likely to occur. This information could include information about, for example, farming practices, economic loss, or hydrology. The decision on an application for a critical consequence decision is appealable to the Land Court.[280]

Committee comment

The committee acknowledges comments made by stakeholders in relation to subsidence management plans, subsidence compensation, and the critical consequences framework. Having considered this feedback, the committee recommends the Department of Resources:

- consider developing and communicating prescribed requirements for subsidence management plans prior to implementation
- clarify when a subsidence management plan takes effect
- provide more detailed guidelines regarding the implications for a landholder opting out of a subsidence management plan
- develop information and educational materials in relation to subsidence compensation provisions prior to implementation
- provide more detail on the role the Department of Agriculture and Fisheries will play in the development of technical requirements for completing farm field assessments and subsidence management plans.

278 Department of Resources, correspondence, 20 May 2024, pp 39-40.

279 Department of Resources, correspondence, 23 May 2024, p 63.

280 Department of Resources, correspondence, 20 May 2024, p 39.

2.7.7 Fundamental legislative principle – consequences must be relevant and proportionate

The Bill proposes to institute new offences and penalties for the failure of a holder of a CSG authority to uphold various obligations under the MERCP Act.[281]

To have sufficient regard to the rights and liberties of individuals, the consequences of legislation must be relevant and proportionate. That is, that the penalty imposed in the event of a breach must be both: proportionate to the offence, and consistent with other penalties included in the legislation.[282]

All of the proposed offences in the Bill carry the maximum penalty units, and all but one of the proposed offences apply exclusively to CSG resource authority holders.[283]

The explanatory notes provide that the proposed offences and associated penalties are comparable to those already contained in the *Water Act 2000* and the *Environment Protection Act 1994*.[284] Further, the proposed offences which carry maximum penalty rates are those which have serious effects on various stakeholders where a CSG resource authority holder does not comply with the requirements of the Act.[285] For example, offences with the highest likelihood of causing significant, detrimental impact to the relevant land attract the highest penalties in the Bill.

Committee comment

The committee is satisfied that these amendments have sufficient regard to the rights and liberties of individuals.

The Bill's proposed offences and associated penalties appear relevant and proportionate, and are generally consistent with the Act, both in content and penalty.

2.7.8 Compliance with the *Human Right Act 2019*

2.7.8.1 The right to property

Section 24(b) of the HRA provides that 'a person may not be arbitrarily deprived of their property'.[286] Mere interference with property is not, at first instance, deprivation of property, and is not an absolute right under international law. It is uncertain how severe such an interference may be for it to amount to 'deprivation' of property. The amendments are compatible with the HRA, as discussed below.

The Bill proposes to provide compulsory access by resource tenure holders to assess and manage CSG-induced subsidence on certain properties under the MERCP Act. The management of CSG-induced subsidence may necessitate access to private land to mitigate or rectify any arising matter; and requires the conveyance of certain basic information, to ensure that CSG-subsidence may be adequately assessed. The relationship between the management of CSG-induced subsidence and access to private land is rational.

The restriction on property rights is necessary to ensure against, or minimise, CSG-related harms to land. The resource holder's authority to enter such land is not prescribed 'at large'. For example, the

281 Bill, cl 87 (new s184DC, DD, DE, DF(2), DG(2), EC, ED, EE, EF, EH(2), FC(2), FD(1)-(2), FE, FF(1), FG(2), HC(1), HE(2), ID(2), KO, LC(3) into the MERCP Act).

282 Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: The OQPC Notebook, p 45; Legislative Standards Act 1992, s 4(2)(a).

283 Bill, cl 87 (new s184DC, DD, DE, DF(2), DG(2), EC, ED, EE, EF, EH(2), FC(2), FD(1)-(2), FE, ff(1), FG(2), HC(1), HE(2), ID(2), KO, LC(3) into the MERCP Act). NB: Bill, cl 87 (new s184LA(2) into the MERCP Act applies a penalty to a current or former public servant who disclose information in contravention of the Act.

284 Explanatory notes, p 12.

285 Explanatory notes, p 12.

286 HRA, s 24(b).

holder must give notice of entry to the land,[287] and may not enter a structure (used for residential or agricultural purposes) without consent.

The adoption of a framework to address and manage CSG-subsidence helps to manage risk, as well as the relations between resource and agriculture industries, which are both key aspects of Queensland's economy. This framework is also to protect Queensland's environment.

The right to property is important, but is limited under the Bill in a way that serves a mutual benefit to the person accessing the property, as well as the person whose rights are interfered with, as both benefit from the proper management of CSG-induced subsidence. Therefore, the interference with the right to property is minimal, and the temporary nature of the interference in these circumstances is outweighed by the benefit incurred by the authorisation of the interference. The persons whose rights are interfered with gain a benefit in the form of a robust and sustainable approach to coexistence in the CSG industry.

The Bill proposes to require certain landholders to provide certain personal and commercial details to tenure holders, and the OGIA, to facilitate the proper and informed assessment of risks in CSG-induced subsidence and creation of risk management plans.

The requirement to convey certain basic information, such as that relating to agricultural activities, is rational to allow for the risks of CSG-subsidence to be adequately assessed. It is not possible to engage in the proper assessment of risk without certain information, and the Bill provides safeguards to ensure that confidential information is not released.

2.7.8.2 The right to privacy

Section 25(a) of the HRA provides that 'a person has the right not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with'.[288] A person's privacy must not be unlawfully or arbitrarily interfered with. As these interferences are proposed to be provided by law, the issue of arbitrariness is relevant. Arbitrariness must be considered through an assessment of proportionality.[289]

2.7.8.3 Cultural rights of Aboriginal and Torres Strait Islander peoples

The Bill proposes to provide compulsory access by resource tenure holders to assess and manage CSG-induced subsidence on certain properties, which may temporarily restrict the rights contained under section 28 of the HRA, including where a holder is authorised to access land, on occasion, which hold cultural significance. However, the interference with the right to property is minimal, and the temporary nature of the interference in these circumstances is outweighed by the benefit incurred by the authorisation of the interference. The persons whose rights are interfered with gain a benefit in the form of a robust and sustainable approach to coexistence in the CSG industry.

2.7.8.4 The right to be free from forced labour

Section 18 of the HRA provides that 'a person must not be made to perform forced or compulsory labour'.[290] There was some community concern that certain proposed amendments in the MERCP Act interfere with this right, by requiring parties, namely landholders and mining tenure holders, to prepare for and negotiate agreements.[291]

However, there is no such 'requirement' included in the amendments, as there is no penalty for the failure to do so. While the failure to conclude the agreement contemplated by the amendments will

287 Bill, cl 78 (new s 53D of the MERCP Act).

288 HRA, s 25(a).

289 *Johnston et al v Carroll et al* [2024] QSC 2, [363].

290 HRA, s 18(2).

291 Bill, cl 87 (new s 184HH of the MERCP Act).

complicate the resolution of disputes where they arise (and increase the risk of such a dispute becoming the subject of judicial proceedings), that is not a 'penalty'. It is a more complex and expensive form of dispute resolution in lieu of a failure to work on pre-emptive dispute resolution, but a party would not be penalised by choosing to allow it to happen. Therefore, the right under section 18 of the HRA is not engaged and is therefore compatible with the HRA.[292]

Committee comment

The committee is satisfied that these amendments are compatible with the HRA.

2.8 Amendments to the *Mineral and Energy Resources (Financial Provisioning) Act 2018*

2.8.1 Estimated rehabilitation cost

Metro Mining Limited expressed concern in relation to the impact the proposed increase in estimated rehabilitation cost (ERC) would have on small and junior mining operations.[293] They recommended that future amendments to the prescribed ERC be accompanied with at least a two-year transition period and recommended amendments to allow for EAs, for the purpose of determining the ERC, to be amalgamated where they relate to a single integrated operation.[294]

In response to comments relating to increased ERCs, the department noted that the majority of the entities representing the impacted EA holders were supportive of the change. The Bill would also allow any of the affected EA holders to elect to remain in the risk assessment process.[295] The department also noted that transitional arrangements were originally proposed but were removed after consideration of stakeholder feedback.

In relation to amalgamation of EAs, the department advised that provisions already exist for companies with their own EAs working together in an integrated operation, to amalgamate those EAs into one.[296]

2.8.1.1 Fundamental legislative principles – natural justice

The Bill proposes that a scheme manager is granted the power to set an 'annual review allocation day' for each entity it controls,[297] which triggers an assessment of the entity's financial position, with the intention of assessing their risk and ability to remediate damage resulting from a resource activity.[298]

The explanatory notes provide that these changes are proposed with the intention of alleviating administrative burden for certain entities by consolidating their reporting to once-per-year.[299] However, the Bill does not contain provisions which allow the entity to contest the determination of the date when it is initially set.

Committee comment

The committee is satisfied that these amendments have sufficient regard to the rights and liberties of individuals.

The explanatory notes explain that this breach is justified where an entity is able to request that the date is changed by the scheme manager (in circumstances where the date may not be appropriate, or

292 HRA, s 18(2).

293 Submission 18, p 2.

294 Submission 18, p 2.

295 Department of Resources, correspondence, 20 May 2024, p 42.

296 Department of Resources, correspondence, 20 May 2024, p 42.

297 Bill, cl 96 (new s 27A into the MERFP Act).

298 Bill, cl 113 (amends s 47 of the MERFP Act).

299 Explanatory notes, p 108.

the entity's financial reporting dates change),[300] and the decision would be subject to review under the *Judicial Review Act 1991*.

2.9 Amendments to the *Mineral Resources Act 1989*

2.9.1 ADR process for compensation agreements

The Bill would amend the MR Act to provide for processes for compensation agreements to resolve disputes consistent with the process and timeframes for ADR under the MERCP Act.[301]

In their submission, the QSMC took issue with the ADR process. They were not supportive of an ADR process where costs, including costs to engage with the ADR process, are awarded against a tenure application or holder. They also opposed paying the other party's costs for not attending, without considering unforeseeable events. They expressed a preference for educating parties regarding their existing rights and settling disputes that cannot be resolved through the Land Court. The QSMC also noted that there was confusion in relation to the term 'party' and 'interested party', and requested clarification regarding who is involved in the ADR process.[302]

In response to the QSMC's concerns, the department advised that the expanded jurisdiction of the LAO to undertake ADR is intended to serve as an alternative means of resolving disputes without going to court, if both parties are agreeable. It does not prevent parties from undertaking ADR with a different party or going to the Land Court.

With regards to costs, the department advised that, if a party agrees to an ADR process and does not attend, the non-attending party is liable to pay the attending party's reasonable costs. If the non-attending party did not have a reasonable excuse, the Land Court can order the payment of costs. The department stated that 'parties', for the purpose of ADR processes for compensation, are specified in Clause 133 of the Bill and section 85 of the MR Act. An applicant is the person or company that has applied for grant of a mining claim and the interested party is the owner of land subject to the application and of any surface access to that land (each an interested party).[303]

2.9.1.1 Fundamental legislative principles – conferral of immunity

Legislation should not confer immunity from proceeding or prosecution without adequate justification because persons who commit a wrong when acting without authority should not be granted immunity.[304]

The Bill proposes to insert new provisions into the MERCP Act and the MR Act, to grant protections and immunity to facilitators of statutory alternative dispute resolution (ADR) processes, which is also granted to an ADR convenor under the *Civil Proceedings Act 2003*.[305] The explanatory notes do not provide a justification for the potential infringement.

The inclusion of immunity provisions of this kind is not uncommon to facilitate ADR processes, so that ADR facilitators are able to resolve such disputes without 'external influences such as a fear of personal liability after the fact'.[306]

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300 Bill, cl 109 (new s 41A into the MERFP Act).

301 Explanatory notes, p 116.

302 Submission 5, p 9.

303 Department of Resources, correspondence, 20 May 2024, p 42-43.

304 Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: The OQPC Notebook, p 64; Legislative Standards Act, s 4(3)(h).

305 Bill, cls 88 (new s 196M into the MERCP Act), 133 (new s 85AD into the MR Act) and 138 (new s 238F into the MR Act). See *Civil Proceedings Act 2003*, s 52.

306 Law Council of Australia, 'Judicial immunity', Media Release (1 September 2023).

Committee comment

The committee is satisfied that these amendments have sufficient regard to the rights and liberties of individuals.

Section 52 of the *Civil Proceedings Act 2003* limits the immunity provided to facilitators only to performing the functions of their position prescribed by the relevant Act. Any conduct which occurs outside of the scope of their role may not be applicable to the prescribed immunity and any aggrieved person may seek judicial recourse to correct any perceived wrong against them by someone who may serve the role of ADR facilitator under an Act.

2.9.2 Strategic land release

The AMEC and the QRC suggested that proposed amendments to strategic land releases may disadvantage junior explorers who lack the resources to bid for larger aggregations of land.[307]

The department clarified that the Minister may consider a range of relevant matters before using this power, including the impact on various stakeholder groups, including junior explorers. The department noted that specific groups of explorers may be disadvantaged if there is 'an overriding strategic benefit to the state that gives cause for the Minister to make use of this power'.[308]

2.9.3 Prescribed mining leases

The QSMC and WDRC submitted that they were unclear as to what constitutes a prescribed mining lease, where prescribed mineral thresholds can be found, and the need for this amendment.[309]

The department advised that the Bill does not introduce prescribed mineral mining leases or prescribed mineral thresholds, and that these definitions can be found in the MR Act and in the Mineral Resources Regulation 2013. The Bill would make amendments to provisions relating to prescribed mineral mining leases to clarify existing processes.[310]

2.9.3.1 Fundamental legislative principles – retrospectivity

Legislation should not adversely affect rights and liberties, or impose obligations, retrospectively.[311]

The Bill proposes to include amendments which introduce conditions on the holding of a mining lease, in which the transitional amendments stipulate that those conditions would apply to mining leases granted both before and after commencement of the amendment.[312]

The explanatory notes stipulate that the retrospective nature of the amendments is justified in circumstances where 'the *MR Act* already enables consistent mandatory conditions to be introduced after a resource authority has been granted and changed from time to time'.[313] Further, the explanatory notes suggest that the absence of retrospective application of these standards would result in inconsistent conditions over all leases, which would be inconsistent with the objectives of the Act.[314]

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307 Submission 30, p 3.

308 Department of Resources, correspondence, 20 May 2024, pp 43-44.

309 Submission 5; Submission 9.

310 Department of Resources, correspondence, 20 May 2024, p 44.

311 Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: The OQPC Notebook, p 55; Legislative Standards Act, s 4(3)(g).

312 Bill, cl 135 (amends s 276 of MR Act) and cl 147 (inserts new s 901 into the MR Act).

313 Explanatory notes, p 15. See for example, MR Act, s 276(1)(l)-(n). See generally, MR Act, s 81(f); *Coal Mining Safety and Health Act 1999*, s 29-41.

314 Explanatory notes, p 15. See MR Act, s 2.

Committee comment

The committee is satisfied that these amendments have sufficient regard to the rights and liberties of individuals.

The explanatory notes emphasise that tidy operations and efficient safety procedures are already mandated under various other mine safety legislation, so any retrospective application of these standards would not impact holders who abide by existing legislative standards.

2.10 Amendments to the *Water Act 2000*

2.10.1 Industry levy for OGIA funding

Having expressed similar sentiment in relation to the industry funded LAO model, the QRC submitted that they were also not supportive of an industry levy to fund the OGIA due to a lack of detail and consultation about how the funding model is intended to operate. QRC considered that the OGIA should be a state funded entity due to the nature of their activities within a coexistence framework and given the industry contributes to government revenue through the payment of royalties.[315]

In response, the department advised that the subsidence management framework levy is based on a cost-recovery model where resource authority holders are charged for the cost of OGIA completing work related to their resource authorities. The department noted that this model 'aligns with the Queensland Treasury's principles for fees and charges.'[316]

The department further noted that the OGIA is currently wholly funded through an industry levy which is paid for by resource authority holders. The levy is calculated separately for the coal and petroleum and gas tenure holders. Through the industry levy, the OGIA raises approximately $4.5-6 million per annum in total. The levy is estimated to provide an additional $1.6 million of funding in the first year.[317]

2.11 Amendments to the *Geothermal Energy Act 2010* and *Greenhouse Gas Storage Act 2009*

In their submission, EDO/LTG suggested the provisions for public release of information relating to greenhouse gas storage authorities could be similarly extended to all resource and development activities as a means to increase transparency.[318]

Committee comment

The committee recommends the Department of Resources consider the merit of extending provisions for the public release of information to resource and development activities beyond those relating to greenhouse gas authorities.

315 Submission 30.

316 Department of Resources, correspondence, 20 May 2024, p 45.

317 Department of Resources, correspondence, 23 May 2024, p 71.

318 Submission 31, p 6.

Appendix A – Submitters

Sub #	Submitter
1	NPH Farming Syndicate
2	Queensland Sapphire Miners Association
3	Wesley Back Family Trust
4	Queensland Renewable Energy Council
5	Queensland Small Miners Council
6	Western Downs Regional Council
7	Local Government Association of Queensland
8	Barfield Road Producer Group
9	North Queensland Miners Association
10	Queensland Law Society
11	Gayle Pedler
12	Zena Ronnfeldt
13	AgForce Queensland
14	Gasfields Commission Qld
15	Ian Hayllor
16	Cotton Australia
17	Queensland Farmers' Federation
18	Metro Mining Limited
19	Daniel Hayllor
20	Stuart Armitage
21	unallocated submission number
22	Celia Karp
23	Arrow Energy Pty Ltd
24	Name Withheld
25	University of Queensland Gas and Energy Transition Research Centre
26	Australian Energy Producers
27	Glendon Farming Co
28	Name Withheld
29	Association of Mining and Exploration Companies
30	Queensland Resources Council
31	Environmental Defenders Officer and Lock the Gate (Joint Submission)
32	Origin Energy Limited
33	Tabitha Karp

34 Heritage Minerals Pty Ltd

35 South West Queensland Regional Organisation of Councils

Appendix B – Officials at public departmental briefings

Monday, 29 April 2024

Department of Resources

- Claire Cooper, Executive Director, Georesources Policy
- Sanjeev Pandey, Executive Director, Office of Groundwater Impact Assessment

Queensland Treasury

- Will Ryan, Head of Fiscal

Department of Energy and Climate

- David Shankey, Deputy Director-General, Energy

Friday, 24 May 2024

Department of Resources

- Shaun Ferris, Deputy Director-General, Georesources
- Roisin McCartney, Director, Georesources Policy, Georesources, Department of Resources
- Sanjeev Pandey, Executive Director, Office of Groundwater Impact Assessment
- Amber Wenck, Acting Director, Georesources Policy, Georesources, Department of Resources

Appendix C – Witnesses at public hearing

Toowoomba - Wednesday 8 May 2024

Western Downs Regional Council

- Andrew Smith, Mayor
- Jodie Taylor, Chief Executive Officer

Individual Witnesses

- Zena Ronnfeldt
- Lisa Balmain
- Stuart Armitage
- Glenn Odgen

Wesley Back Family Trust

- Wesley Back, Director

Brisbane - Monday, 13 May 2024

Gasfields Commission

- Warwick Squire, Chief Executive Officer

Queensland Law Society

- Wendy Devine, Principal Policy Solicitor
- James Plumb, Deputy Chair – QLS Energy and Resources Law Committee

Queensland Resources Council

- Janette Hewson, Chief Executive Officer
- Lidia Gossmann, Resources Policy Advisor
- Nicole Duguid, Policy Director

Arrow Energy

- Rachael Cronin, Vice President, Safety, Sustainability and People

NPH Farming Syndicate

- Bev Newton

Association of Mining and Exploration Companies

- Sarah Gooley, Director Queensland, AMEC

Australian Energy Producers

- Keld Knudsen, Director Queensland

Cotton Australia

- Michael Murray, General Manager
- Queensland Farmers Federation
- Jo Sheppard, Chief Executive Officer

Queensland Miners Council

- Kevin Phillips

Queensland Sapphire Miners Association Inc

- Alan Freeman, Vice President

Metro Mining Limited

- Mark Imber, Manager, Environment, Communities and Tenements

Graincott Farming Co

- Ian Hayllor
- Daniel Hayllor

Appendix D – Abbreviation/acronym

Abbreviation/acronym	Definition
ADR	alternative dispute resolution
AEP	Australian Energy Producers
ALA	*Acquisition of Land Act 1967*
AMEC	Association of Mining and Exploration Companies
CCAs	conduct and compensation agreements
CQ	Coexistence Queensland
CSG	Coal Seam Gas
DAF	Department of Agriculture and Fisheries
EAs	environmental authorities
EDO/LTG	Environmental Defenders Office and Lock the Gate
Electricity Act	*Electricity Act 1994*
ERC	estimated rehabilitation cost
FLPs	Fundamental legislative principles
Fossicking Act	*Fossicking Act 1994*
GFC Act	*Gasfields Commission Act 2013*
GFCQ	GasFields Commission Queensland
HRA	*Human Rights Act 2019*
IAS	Impact Analysis Statement
LAO	Land Access Ombudsman
LAO Act	*Land Access Ombudsman Act 2017*
LGAQ	Local Government Association of Queensland
LSA	*Legislative Standards Act 1992*
MERCP Act	*Mineral and Energy Resources (Common Provisions) Act 2014*
MERFP Act	*Mineral and Energy Resources (Financial Provisioning) Act 2018*

MGAs	make good agreements
MR Act	*Mineral Resources Act 1989*
OGIA	Office of the Groundwater Impact Assessment
P&G Act	*Petroleum and Gas (Production and Safety) Act 2004*
QDRIP	Queensland Resources Industry Development Plan
QFF	Queensland Farmers' Federation
QLS	Queensland Law Society
QRC	Queensland Resources Council
QREC	Queensland Renewable Energy Council
QSMA	Queensland Sapphire Miners Association
RPI Act	*Regional Interests Planning Act 2014*
Scheme	Financial Provisioning Scheme
SWQROC	South West Queensland Regional Organisation of Councils
The Bill	Mineral and Energy Resources and Other Legislation Amendment Bill 2024
The committee	Clean Economy Jobs, Resources and Transport Committee
The department	Department of Resources
UQGET	University of Queensland Gas & Energy Transition Research Centre
WDRC	Western Downs Regional Council

Statement of Reservation

LNP Members of the
Clean Economy Jobs, Resources and Transport Committee

LNP committee members support the intent of this bill, however we wish to place on record some concerns. As has become a regular occurrence with the current government, most issues stem from a complete lack of meaningful consultation.

The committee process for this bill was rushed and opposition committee members have concern there was not enough time and opportunity for a proper examination of this far-reaching legislation. The bill and explanatory notes lack clarity and the detail needed for legislation that establishes significant functions of government. This in turn resulted in submitters being unsure about the intent of various aspects of the bill.

The elements relating to fossicking were introduced with no consultation which has caused unnecessary confusion and angst within the fossicking industry. Whilst the department said many of the issues raised would be addressed in regulation, this is of little comfort to those who have concerns regarding the finer detail and implications of this legislation.

CSG induced subsidence has been a known concern for well over a decade. The fact that it has taken the state government this long to act has resulted in the lost opportunity to capture solid baseline data ahead of current extraction activities. The Federal Government has had research underway and subsidence related conditions on activities for many years, while the state has sat on their hands.

Numerous submitters stated the subsidence proposals are lacking in detail and require much more consultation with affected stakeholders, to the extent that both landowners and resource companies were in favour of these elements of this bill to be withdrawn for this process. The management plan must be definitive and outline compensation for measurable impacts of CSG related subsidence. Ideally, this would be developed in conjunction with this legislation. It is important full impacts of any proposed legislative change are understood before a bill is passed. Stakeholders are being asked to take a huge leap of faith with the regulations not yet seen, which underpin this bill.

The committee heard concerns around the measurement of CSG subsidence, and ambiguity around baseline data. Submitters raised conflicting views and opinions as to the accuracy of baseline data and methods of collection. While some studies have been undertaken, it is clear more needs to be done to ensure sound, scientific methods are being used to accurately identify CSG induced subsidence and their impacts on other activities, especially agriculture.

Critical minerals are a centrepiece of Queensland's future, and yet provisions in this bill are likely to reduce investment in this space. Environmental rehabilitation laws are important, and supported by the LNP, however these must be implemented in a well-considered, measured manner. The increase in upfront environmental bonds to a fixed $10million has the opportunity to jeopardise micro projects across Queensland. The bond should be reflective of potential damage to the environment, and not just be an arbitrary figure seemingly plucked from the sky.

Anyone following this committee process would be aware that there were numerous other issues raised, however these were either outside of the scope of the bill, or unable to be properly reviewed

due to the lack of time available. The department should review all these issues, and ensure that other legislation is acting and being enforced as intended for the benefit of Queenslanders.

Pat Weir MP
Member for Condamine
Deputy Chair

Bryson Head MP
Member for Callide

Trevor Watts MP
Member for Toowoomba North