

Letter to the Editor: Bill risks eroding landholder rights

We refer to the letter to the editor "*Qld gov't seeks to strike the right balance*" (QCL, 7 August 2014) by the Honourable Minister Andrew Cripps.

The Minister states that the Bill "*contains a number of benefits for landowners they have not previously had*". While there is some truth in this statement, it does not paint the full picture.

The *Mineral Resources Act 1989* (Qld) currently affords landholders affected by exploration and mining the benefit of restricted land around their house, sheds, principal stockyards, bores, artesian wells, dams and artificial water storage. Those areas cannot, under any circumstances, be overruled. It is therefore clear that the Bill offers those landholders very little in the way of benefits (an extra 100m around their house and some of their sheds in limited circumstances).

The transitional provisions in the Bill are such that the restricted land provisions will **not apply** to any tenure applied for or granted before the passing of the Bill. There will of course be relevant tenures granted in the future but, as the Minister will be aware, a majority of the tenure relating to the current coal seam gas projects have either been granted or applied for such that the new restricted land provisions will be of no benefit to landholders affected or potentially affected by those projects. The Bill completely removes restricted land areas such as principal stockyards; bores or artesian wells; dams and other artificial water storages connected to a water supply. How is this not an erosion of landowner rights?

Further, the Minister states that "*landowners will have the right to give or withhold their consent for activities to occur close to their homes or businesses*". Again, there is some truth in this but it only paints part of the picture. For mining leases the Bill states that if a landowner withholds their consent the Minister can overrule that consent and grant a mining lease over the entirety of the restricted land areas, regardless of the landowner's position. How is this not an erosion of landowner rights when at present under the *Mineral Resources Act* the Minister cannot override a landholder's decision to refuse consent over those areas?

The Minister notes that "*suggestions that landholders will lose their right to object to a mining lease are, at best, misleading*". We fail to see that and think the statement is itself, at best, misleading. The current position is that any person can object to the granting of a mining lease. The position proposed under the Bill is that only those persons who meet the narrow definition of an "*affected person*" will be able to object to the granting of a mining lease. Neighbouring landholders, community groups and Australian citizens at large, who do not fall under the narrow definition of "*affected person*", have now lost their right to object to the granting of a mining lease. As the Minister will be aware, the impacts of a mine do not stop at the boundary of the mining lease.

It is also important to note that there is a clear difference between the granting of a mining lease and the conditions of the environmental authority – they are not the same and the distinction appears to have been muddled. Whilst the right to object or make submissions on the conditions of an environmental authority for a site-specific application has been retained, the Minister has failed to state that the right to be notified, object or make submissions on the conditions of an environmental authority for a standard application has been lost. This equates to approximately 90% of mining projects. How is this not an erosion of rights?

In relation to "opt-out" agreements, the Minister states that those provisions will only apply in instances of "*longstanding, positive relationships between companies and landowners*", however, the Bill **does not** provide for any such thresholds or pre-requisites. If the Minister is of the view that the "opt-out" provisions will not be the first option pushed on an uninformed landowner, the Minister is simply ignorant or out of touch with the reality of negotiations in the Surat and Galilee Basin. The Bill also does not provide any protections to landowners who sign an opt-out agreement, does not allow a landowner to seek advice and be compensated for that advice and fails to consider the reality of negotiations.

The Bill clearly erodes landowners' rights. We call on the Minister to engage in proper consultation about the Bill including engaging thoroughly with stakeholders and holding an open forum on the Bill as clearly there are differences of opinion on very important issues as is evidenced by the 280 (approximately) submissions made to the *Agricultural, Resources and Environment Committee*.

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