PREDICTED IMPACTS TO HUTTON AND PRECIPICE BORES

Landowners across the region should be aware that the impacts of the groundwater extraction associated with coal seam gas (CSG) development may not be limited to the Walloon Coal Measures as originally predicted in the Underground Water Impact Report (UWIR) in 2012.

The revised UWIR was released in draft in March 2016. The report concludes that bores sourcing water from the Hutton Sandstone and Precipice Sandstone aquifers may be impacted by water extraction from the CSG industry.

The aquifer known as the Walloon Coal Measures is the CSG target formation in the Surat Basin. The revised UWIR indicates that a further 64 bores sourcing water from the Walloons Coal Measures are likely to suffer a decline in water level within three years. CSG companies will need to enter into make good agreements with the owners of these bores.

However, there are some 35 water bores sourcing water from the Hutton Sandstone aquifer that are likely to be affected by a decline in water levels by over 5 metres in the long term ie. more than three years from now. The UWIR indicates that most of these bores are likely to experience a decline in water level of less than 10 metres although we are aware of bores in the Hutton Sandstone that are predicted to be impacted by more than 10 metres. In addition, there are nine bores sourcing water from the Precipice Sandstone which are predicted to be impacted in the long term.

The main reasons for these predicted impacts to the Hutton Sandstone and Precipice Sandstone are:

- The interconnectivity between the Walloon Coal Measures and the Hutton and Precipice aquifers which can vary greatly depending on the location of the water bore. Bores sourcing water from the Hutton Sandstone are particularly vulnerable to impairment because the Hutton Sandstone underlies the Walloon Coal Measures.
- The use of water bores by CSG companies in the region to fulfil their water requirements for CSG development; and

- The construction of new, replacement bores as a result of make good agreements that have been negotiated between bore owners and CSG companies following the release of the UWIR in 2012. That report identified that approximately 85 bores sourcing water from the Walloon Coal Measures would be impacted within three years. The *Water Act 2000* (Qld) requirement that these bores be "made good" by the relevant CSG company has resulted in make good agreements which provide for the construction of new, replacement bores to deeper aquifers such as the Hutton and Precipice aquifers.

For those bore owners currently negotiating a make good agreement for an affected bore, it is imperative that any replacement bore be designed to accommodate future impacts from the CSG industry. Any impacts that are greater than the predicted impacts in the UWIR should result in a further make good obligation on the CSG company, however land owners should seek expert advice.

We encourage all landowners to review the status of their bore under the revised UWIR. Those bore owners with deeper bores may be impacted in the future. If you have any questions or concerns about your bore or make good agreements, please contact us for a free, no obligation discussion.

THE MINERAL AND ENERGY RESOURCES (COMMON PROVISIONS) ACT 2014–UPDATE

p&e Law lodged a recent submission on behalf of land owners in respect of the Palaszczuk government's *Mineral and Other Legislation Amendment Bill* 2016 introduced in February 2016. The Bill proposes to amend the *Mineral and Energy Resources (Common Provisions) Act* 2014 (the MERCP Act) which is currently scheduled to commence on 27 September 2016.

On a positive note the Bill will amend the MERCP Act to restore community rights to object to mining lease applications.

There are some provisions of the Bill aimed at protecting agricultural infrastructure like stockyards, bores and artesian wells as restricted land. In our view the amendments take away important existing protections for land owners.

p&e Law in its submission focussed on 4 key reforms that significantly disadvantage land owners. We think the law needs radical change. In particular:

- The new laws do not standardise the industry – gross inconsistencies continue to exist for land owners between mining and Coal Seam Gas mining. For mining on private land such as coal mining there is no requirement to negotiate a Conduct and Compensation Agreement to the significant detriment of land owners;
- The proposal to allow parties to "Opt-Out" of the statutory framework will lead to more misleading and deceptive conduct and unconscionable conduct by gas companies and takes away existing protections and safeguards such as access to the Land Court in the case of disputes;
- The 600m rule protecting landholders from exploration around their house is proposed to be abolished. This means mining company employees and contractors can approach within 200m of households without consent; and
- Overturning the current laws on the protection of water pipelines as "restricted land"- rendering dams and watering points useless. The change should be dropped.

A copy of **p&e Law's** submission was provided to each of the parliamentary cross-bencher members who sit as independents or are members of the Katter Australia Party for their consideration.

To obtain a copy of our submission please email **reception@paelaw.com**.

REHABILITATION COSTS AND THE CHAIN OF RESPONSIBILITY REFORMS

On 15 March 2016 the *Environmental Protection (Chain of Responsibility) Amendment Bill 2016* (**the Bill**) was introduced into the Queensland Parliament. The purpose of the Bill is to amend the *Environmental Protection Act 1994* (EP Act) to:

- facilitate enhanced environmental protection for sites operated by companies in financial difficulty; and
- avoid the State bearing the costs for managing and rehabilitating sites for financial difficulty. (Explanatory Notes p1)

This Bill seeks to ensure that companies in financial difficulty continue to comply with environmental obligations and bear associated management and rehabilitation costs without these burdens falling on the taxpayer.

These changes following the recent moratorium on underground coal gasification (**UCG**) projects and the prosecution of Linc Energy for alleged breaches of the EP Act relating to its UCG trial near Chinchilla.

Importantly the Bill seeks to extend liability for environmental compliance under the EP Act to 'related persons'. The Bill proposes to define 'related persons' as 1. a holding company of the company, 2. a person deemed by the Department to have a 'relevant connection' to the company, or 3. a person who owns land on which the company carries out relevant activities, which includes landowners, native title holders and leaseholders regardless of whether the owner has undertaken the activities themselves.

While **p&e Law** welcomes the expansion of liability for rehabilitation costs to holding companies and people with 'relevant connections' to the company, we do not agree with the extension of liability to owners of land. This is particularly concerning in the context of CSG mining, where gas companies do not usually own the land that they develop. This could lead to perverse outcomes if landowners were held to be liable for a mining or gas company's failure to comply with obligations under an Environmental Authority and be required to undertake costly rehabilitation activities or pay money to the Department.

The Agriculture and Environment Committee was appointed by the Legislative Assembly to examine the Bill and provide comments and recommendations in relation to it. One of the key recommendations made by the Committee that **p&e Law** strongly agree with is to de-list owners of land as 'related persons' under the Bill. This is an important amendment to ensure landowners are protected from liability under the EP Act.

p&e Law will continue to monitor the progress of the Bill to ensure this recommendation is adopted.

If you have questions, please do not hesitate to contact

Adam Phillips, Matt Patterson or **Renee Wallerstein**

Freecall 1300 303 866

Individual liability limited by a scheme approved under professional standards legislation

cairns po box 2337 cairns qld 4870 > 211 draper street cairns qld 4870 > **t** 07 4041 7622 > **e** cairnsreception@paelaw.com
sunshine coast PO Box 841, Maroochydore qld 4558 > suite 4, 59 the esplanade maroochydore qld 4558 > **t** 07 5479 0155 > **f** 07 5479 5070
> **e** reception@paelaw.com > **w** www.paelaw.com > **ABN** 97 836 362 898