

Sharyn Munro

(The Bimblebox Alliance Inc.)

(<http://bimblebox.org/naturerefuges>)

(www.sharynmunro.com)

Submission re Landholders' Right to Refuse (Gas and Coal) Bill 2015

I wish to draw the Committee's attention to the adverse impacts on landholders' mental, emotional and physical health from their current lack of rights regarding the coal and gas industries – and thus a primary reason why this Bill is essential and has our support.

Having seen the human cost as coal was increasingly allowed to dominate the mid-upper Hunter Valley of NSW, overshadowing, overtaking and obliterating farms, villages, communities and established and sustainably longterm landuse, in 2010 I undertook two years of first hand and background research into the situation nationally.

The result was my book, 'Rich Land, Wasteland' (Pan Macmillan/Exisle, 2012; see www.richlandwasteland.com).

I write to you as its author, and also as a committee member of The Bimblebox Alliance Inc. (T.B.A.), at the request of its President, Paola Cassoni. This group was formed in 2014 to help save Bimblebox Nature Refuge in Queensland's Galilee Basin from mining, and to prevent mining on other privately owned and legally dedicated protected areas.

From travelling through five states, looking at areas being impacted by current or impending extraction activities, and talking to affected landholders, I learnt that these industries had rapidly grown way out of proportion, in scale of operation and impact. To those in their path, they seemed out of control and unstoppable.

The coal and unconventional gas industries were – and are – being allowed by our mining and petroleum laws to inflict great pain on people and great damage to our water sources and to both agricultural and environmental areas, with seemingly little concern for any of these.

My book is full of real life stories from such people and real examples of such places ruined; of broken, drained or polluted rivers and creeks, of now-useless bores.

Most harm was done legally, under a biased and toothless system so full of loopholes as to be worthless, but exacerbated and extended by the apparently arrogant, irresponsible and uncaring behaviour on the part of the companies involved.

Rural people give and expect trust and honesty in their dealings with neighbours and many found themselves facing a very different eventual reality after making agreements with a company, which they felt they had no choice but to do.

The impression given to landholders was that the companies could and would do whatever they needed to because they had the rights on their side; that no matter what delays the landholder put them through, they would win in the end and the landholder would simply be out of pocket.

And besides, it was just for exploration... a test or two...minimal impact, total rehabilitation, compensation if needed...

Token compliance with the eventual access agreements meant little in reality; a landholder had to be ever vigilant, monitoring activities, reporting breaches, complaining, locking gates to halt a breach, to find chains cut and work continuing regardless...

Few were strong enough to keep this up; and what farmer has such spare time? Yet to fight to keep your livelihood viable in the face of such intrusion means losing the time you need to make that livelihood.

The time of one partner, often the wife, would be taken away from the farm and family and totally consumed by the battle, researching to become an expert to match those employed by the bottomless pockets of major and mostly foreign companies, wading through thousands of obtuse pages of Environmental Impact Statements or Assessments, trying to understand their legal rights, desperately seeking help...

Tactics reported to me seemed universal, regardless of company or industry or state of operation; they ranged from lack of transparency and disclosure to straight out lying; from impossible promises and sweet-talking to bullying and threats; to begin the domino effect by targeting weaker landholders first, such as the elderly, alone or ill, turning up on their doorsteps unannounced, or ringing often, to apply pressure.

Over the last few years, public exposure of bad behaviour and the raised awareness created by support networks, both local, and national, such as Lock the Gate, has perhaps slightly lessened the chances of landholders being initially 'taken in' – but nowhere near enough to combat the multi-million dollar ad campaigns of the industry bodies or the local donations, with glaring name accreditations – and secret strings – such as to footy clubs and schools, that silence local opposition, questions or concerns.

In this country, it is rare for exploration not to proceed to operations if the resource is found to be viable. The concept of 'no impact or no project' does not exist. And everyone knows from bitter experience that no amount of 'rigorous conditions' will mend the damage; it is too late after the event and no project is stopped and revoked when the promises prove impossible to keep and damage happens. It will be deemed too costly to operate any other way after all and the 'rigorous conditions' will be loosened – or totally untied – to suit.

So if landholders do not want a vast opencut mine or full blown gas field and the inevitably accompanying noise, air and water pollution, the water loss, the industrial traffic and intrusion of unknown and rurally-unaware workers – they must be legally able to make the choice from the start and say 'NO' to exploration.

From a landholder first learning of an exploration permit over their land it will take years until a project might commence. The stress of living under such a black cloud of uncertainty over their future is enormous. It causes the fracturing of marriages, families and communities.

Do they gamble on staying and fighting, when if they lose there will be no possible buyers but the company, with whom they will then have no bargaining power? Or do they believe the promises that they will be able to carry on, to co-exist, if it proceeds?

Do they give up now and sell out, when their family may have been here for generations and intended to be here for generations more? Since 1895, in one instance I know of; of course they would choose to stay and farm as always if possible.

But the knowledge that the power, the rights, lay with the company and that in the end all the landholder can do is win better conditions causes enormous despair.

As proposed in this Bill, corporations that do not obtain the required landholder consent ought to be charged and penalised; reasonable landholders' court costs ought to be paid by the defendant corporation to encourage compliance and

enforcement regardless of the financial position of the landholder. It is unjust and unfair that landholders would otherwise incur high bills to defend their existing rights, livelihood and the sustainability of their land against gas and mining interests.

An opencut mine or gasfield as a neighbour can render a farming business unviable – and the life there unliveable. When the neighbour finally and only gave in under pressure when newly bereaved,... not fair! All around will suffer.

It may be that for some landholders, the time is right for them to sell and move on if they receive a good offer from a wealthy company. I know of instances where the aging landholder had no inheritors to take it on, or where the farm had been of marginal viability. An example of the latter is the Watermark coal project the Liverpool Plains, where Shenhua bought all the properties it needed by offering up to seven times market value. Opposition to that project can thus only come from the neighbouring and area landholders who rightly fear loss of water.

It may be that landholders feel that the money offered by a gas company is a great addition to the farm income, especially in hard times. But it has to be an informed choice, and without fear of legal action if they refuse, as many in Queensland later found their farms becoming unviable with the pressure drop in their bores and inoperable with the unimagined fragmenting of their land with wells and pipelines and crisscrossing access roads.

Independent assessment of the risks involved must be clearly mandated, as proposed by the Bill.

People have nervous breakdowns long before a project gets final approval, under heavy pressure to sell and the whisking away off all their plans and investment, as I saw happen at Gloucester, in the area under threat from both coal and CSG. Here it fell on both long-established farms and rural residential estates, of older folk who'd moved there to create their last home or young families who'd done so to raise children in a clean and scenic area.

Now AGL has fracked four pilot wells there, with a litany of resulting disasters and breaches and coverups already. BTEX in the water and toxins being flared into the air, just down the road from the distressed and angry residents. Not fair.

Surely the precautionary principle ought to be invoked; fracking is impossible to be employed without harm. We support the proposed ban; many countries have seen the wisdom of such a move. Why should Australia be less responsible?

The farmers on the Liverpool Plains have now been fighting for eight years to keep their precious black soil farms, many run by 4th and 5th generations, free of mining. They did try hard to refuse the company from the start, running a blockade for over 600 days; they also undertook court cases on access issues and won. The government then just changed the law to render that win irrelevant. Not fair.

Highly productive and well watered areas like these are precious to us all; it ought to be our governments who look ahead enough to refuse the request of a company like BHPBilliton or Shenhua to explore there. It ought to be our governments who do not create tenements there or who revoke older ones there.

But then they'd also have to refuse the money involved. \$600 million from Shenhua; what price landholders' rights under such a system?

So it is landholders themselves who have to be given the rights to reject the industrialisation and likely ruination of their land. A group of landholders could then protect their whole area for future food production and water sources even if the government won't.

This happened successfully at Felton on the Darling Downs and Bellata in N-W NSW, but those farming communities full of law-abiding and often very conservative folk had to go onto a war footing to take on government and industry, be prepared for peaceful direct action, civil disobedience. Because they had no legal right to refuse.

They were the protectors of food bowls that were in our national interest to preserve, but were frequently vilified as activists, protestors, extremists. Not fair.

They have the right to refuse any other type of business that might approach them re setting up a new industry – even next door – and to reject the impacts on their own business.

Extractive industries need to be put on that level. They are no longer about keeping the lights on for Australia. They ought not be able to make their profits at the cost of other peoples' lives, livelihoods and lifestyles, their pasts, presents and futures.

Our national interest is best served by looking to the future and preserving our more valuable longterm resources of land and water and irreplaceable natural treasures for the next generations. It is not served by allowing short term extraction projects that ruin them, especially for products that will contribute to the demise of our planet from global warming!

Similarly, legally binding conservation contracts with governments ought to be honoured, not over-ridden by mining or drilling licences. There ought to be a blanket

exclusion of such areas from exploration licences, as with national parks. The much-touted offsets policy makes a sick joke of conservation, always resulting in a net loss of biodiversity. Like is not offset for like; there usually isn't enough 'like' left; that's why the property was conserved!

The property undergoes a lengthy process of assessment to be deemed worthy of preserving for the region and the nation, because under-represented. Landholders sign a binding contract and undertake a great deal of ongoing work to protect and enhance the environmental values of the flora and fauna there; they give up time and income from potential landuse; they must legally abide by the restrictions on the use of their land.

To then give out licences to dig it up and drain its water is appalling. As happened at Bimblebox Nature Refuge, where Clive Palmer's company now has state and federal approval to mine for coal. Not fair.

It is no wonder that I met so many people who felt utterly helpless and frustrated, having tried to work within the system and lost faith in government processes, and in coal and gas extraction company promises; people who had been forcibly made aware of the overwhelming unfair imbalance towards the rights of these companies at the expense of the rights of landholders.

People who were broken– and often broke – after fighting for their rights to determine their own futures – and losing. Disillusioned and desperate. Not fair.

In 2011 there was a Senate CSG inquiry. Its chair was Senator Heffernan, who said that "committee members 'were just blown away with the absolute despair of the people we met and their sense of helplessness' during the Queensland hearings."

"Why don't they hold an enquiry into coal? It's been doing the same to people for longer." (RLWL, p352)

That Committee's interim report 'recommended the suspension of all coal seam gas projects in the area of southern Queensland and northern New South Wales where the Murray-Darling Basin and the Great Artesian Basin overlap, pending new research into water pollution and the effects of "fracking" '. (RLWL, p352)

In what dark drawer is that report languishing, un-acted upon, while the industry powers ahead – or tries to– in those areas??

The only brakes on the damage CSG can do there is from the communities, forced into full time vigilance and 'activism'. Like the Knitting Nannas against Gas! Many good people willing to break bad laws if need be. It should not have come to this in

our society. This Bill can change that and give them back their deserved law-abiding status. We hope that your inquiry will draw on that 2011 report as well as all our submissions.

There is huge damage done already, as much to our people as to our water sources and places of agricultural and environmental value, but this unjust, outdated and shortsighted legal imbalance must not be allowed to continue.

We must remove that sense of hopelessness, that to fight for what we know is right and fair is useless because Big Money will win in the end, since they have the law and government behind them. There should be no more crippling David and Goliath battles, just legal choices.

We strongly support Senator Waters' Bill as urgent and essential.

Yours sincerely,

Sharyn Munro

Submission approved and authorised by The Bimblebox Alliance Committee (T.B.A.), per President, Paola Cassoni, Treasurer Joan Vickers and Committee members Jude Garlick, Noela Edwards, Maureen Cooper and Peter Brown plus members Sheena Gillman and Trish Kelly.