Lesson 4: Loss of Amenity is a Real Thing

A company can't set up a business next door and cause a nuisance that interferes with the enjoyment of your land.

Enjoyment of your land is a common law right.

The amenity that defines the enjoyment of your land is real and valid.

Your amenity is a danger to their business.

But they created the business, they caused the nuisance, and they destroyed your amenity, so they need to fix it – not you.

They will gaslight you to make you think the nuisance is not real and that you are the problem.

They will mess with your head and string you along.

They will ask for technical information such as GPS locations, wind direction, wind speed, and even diary records – to make you justify your complaint.

Classic gaslighting, aimed to make you doubt the reality of the nuisance. **You don't need to give them anything.**

They will go phishing for your data.

They need your data to use against you in court.

So, when they ask to come onto your land to "do further noise testing" ..... ***tell them to get stuffed.***

Then immediately contact your lawyer and have a contract drawn up to take possession of the raw data straight from the meters.

The Judge likes to see you have cooperated but rest assured, companies will never agree to hand over the data straight from the meters, the data is too damning.

Instead, they will string you along and claim compliance.

They are trained to make you feel guilty for submitting complaints.

They will patronise you and treat you like a pest.

You have the right for your Amenity to be protected.

Judges are listening – they know your common law right.

Your amenity is personal to you – and only a Judge, not the company reps, local council, EPA, or AEIC has the authority to decide if the interference to your amenity is unreasonably and ongoing.

Your diary evidence and history of complaints determine if the interference is unreasonable and ongoing.

Here are some examples:

- Noise (acoustic amenity) – can't sleep at night, can't enjoy watching TV.
- Odour (olfactory amenity) – the smell is overpowering or annoying, can't go outside.
- View (visual amenity) – a development can't block out or greatly diminish your living space's views.
- Telecommunication (digital amenity) – voice, data, internet, and cloud services – phone and internet drop outs, TV reception interference.

The Common Law of Nuisance

Nuisance is a tort, and Tort Law is based on precedent.

Here are some precedents – for your lawyer:

- Noise Amenity – Uren v Bald Hills Wind Farm Pty Ltd [2022] - The Judgement
- Visual Amenity - [Hutchens v City of Holdfast Bay [2007] – A sea change on coastal views
- Odour – Kevin Carling Green & Ors v Graincorp Oilseeds Pty Ltd [2023] - Right to convert nuisance claim to Class Action

No business can make you feel sick.

A business may have a licence to undertake its operations to a certain level under the conditions of a permit, but it doesn't have a licence to cause you harm.

They have a General Environmental Duty (GED) to protect you from harm.

Companies must take all precautions to minimise the risks of harm to human health or the environment from pollution so far as reasonably practicable.

If you can't sleep at night, can't live in your home, or get sick from the operations of the business, then they obviously haven't taken enough precautions and need to modify or abate the business operations.

The precedent has been set. [Uren 2022]

It is now law that it is reasonably practicable for a company to turn certain turbines off to remove the nuisance, and still continue to operate the business.