



QMDC comments on the Environment Protection (Chain of Responsibility) Amendment Bill 2016

31 March 2016

Submission to:

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These comments are presented by the Chief Executive Officer, Geoff Penton, on behalf of the Queensland Murray-Darling Committee Inc. (QMDC). QMDC is a regional natural resource management (NRM) group that supports communities in the Queensland Murray-Darling Basin (QMDB) to sustainably manage their natural resources.

1.0 General comments

QMDC supports the intention and objectives of this Bill.

QMDC has consistently advocated for the improved environmental performance of key sectors - agriculture, energy and mining, construction and building. Integral to our advocacy role is the support we have given to develop each industry's ability to protect the region's natural resources and social capital. Community interest in natural resource management has led to an increasing awareness of the need to avoid and/or manage development impacts within regional landscapes.

Like the Government, QMDC is concerned that current financial assurance and surety bonds are not reflecting true and accurate restoration costs for both the extent of damage and destruction, and the management of abandoned sites or developments in the long term. If full recovery is possible and development proponents cannot afford to pay the real costs of restoration or abandonment, QMDC believe they should not be permitted to proceed with development.



Best practice environmental management needs to seriously consider the cumulative impact of any proposed development in light of the ongoing impacts of market fluctuations, downturns and other business or industry operations in the region especially with regards to groundwater quantity and quality, floodplain management, and biodiversity protection.

QMDC has long been concerned that current financial assurance regimes fall short when it comes to make good arrangements, decommissioning and rehabilitating landscapes, especially contaminated sites.

On-going legal liabilities of operation are a major concern. Best practice environmental management must take into account these liabilities and ensure that the State, local government and community do not inherit corporate and private foibles and the environmental problems they cannot afford to fix or even want to manage.

In QMDC's experience, conditions for coal mines are often poorly written. We do not believe the implementation of restoration standards should depend upon resource consents or permits and merely be applied to whatever degree industry sees fit. There are many mining sites in Queensland that are now abandoned and restoration has not occurred. Liability for current CSG and coal mining sites is likely to continue for over 100 years.

We support the implementation of laws and regulations that ensure companies who have caused the damage and destruction will be liable for 100 years and beyond and which prevent their legacy falling to community, local government and the State. Although solutions to abandoned mines and developments may not be ready made, levels of restoration attainment can be set to clear and concise criteria which include ecological, socio-cultural and economic outcomes.

Overall we support the intention of the Bill, however we believe the measurement of attaining the objectives need to be strengthened. We believe a more stringent approach is necessary especially with regards to the long term and cumulative impacts of mining developments. We believe that restoration standards must be met to the highest degree.

The Bill's integrity will be compromised if permission continues to be given to companies to merely mitigate or manage their impacts. Avoiding destruction or damage at the first instance may be the best action especially when the damage done will not be able to be fully restored or the development is abandoned because of a company's lack of fiscal viability.

2.0 Specific comments

2.1 Applying the precautionary principle

The unwillingness to apply the precautionary principle because of a fixation on "economic growth" and royalties from mining development has undermined environment protection mechanisms available to government. Avoiding destruction or damage of a region's natural resources and social capital at the first instance may reduce the likelihood of financial difficulties becoming a concern for the State.

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2.2 Successful restoration

QMDC acknowledges that mining rehabilitation in the QMDB has been attracting a large amount of financial investment by coal and CSG mining companies over the last 7 years or more. However to date, there has been limited or no consensus as to what constitutes successful ecological and good quality agricultural/strategic cropping land restoration.

Practical criteria for judging ecological and agricultural restoration success in this region are limited. This is especially true in relation to future climate projections and the cumulative impacts of multiple developments on ecological values and regional ecosystems. Stringent evaluations of the ecological consequences of, for example, Environmental Authority conditioned restoration schemes, are scarce and projects cited as restoration successes may in fact not be ecologically successful. This is clearly a problem if protection and maintenance of the regional ecosystems of the QMDB is critical for environmental, social and economic sustainability.

QMDC asserts that the social, economic and ecological assessment of restoration work is crucial to improve a collective understanding of how ecosystems work and for governance and management reasons. Additionally, under national and international conventions and directives, it is paramount that successful ecological restoration is achieved.

QMDC submits that thorough and detailed rehabilitation research programmes have not yet demonstrated that mining prime agricultural land is only a temporary cessation to agricultural production and that disturbed landscapes and soils can be reconstructed to pre-mine capability and productivity.

We assert that soil management requires the coal and CSG industry to view the soil as a finite resource and not a receiving medium for a whole range of toxic substances.

2.3 Aboriginal values

It is important the government sets restoration standards for describing, classifying and valuing ecosystem functions, goods and services in a clear and consistent manner. Equally important is linking these ecosystem functions to core ecological, socio-cultural and economic valuation methods.

The methodologies and measurements used for determining restoration standards and financial assurance must be informed by Aboriginal values. This will require a commitment to ongoing engagement with Traditional Owner groups and Aboriginal communities. The Government can assist cross cultural collaboration by putting in place appropriate financial assurance mechanism and governance structures to ensure restoration standards are met according to socio-cultural values.



2.4 Approval process

QMDC would also recommend Government applying restoration standards to the approval processes to help determine whether a development should go ahead in the first instance. If a development, for example, is going to degrade, damage and destroy an ecosystem that cannot be fully recovered and if it is deemed in the public interest that this ecosystem must be fully restored but it is uncertain or unlikely to be possible owing to, for example, economic cost or unavailable scientific data or evidence, the development should not be approved.

2.5 Increasing resources to support compliance

In Queensland, there has for too long been a lack of resources made available to regulatory bodies and affected communities to ensure compliance. Nor have state research priorities been set for the scientific analysis on threshold limits for Queensland's natural resource assets.

Regulations to support *suitably qualified persons* including *auditors* to perform regulatory functions are also dependent on adequate government resourcing to increase the availability of people who not only have the relevant skills, knowledge and experience but also have the ability to adapt and apply new products, technologies and information to their local and regional needs.

QMDC recommends the implementation of regulations which build the capacity to deliver further important knowledge and technological advances to Queensland and its regional communities. This will ensure the regulations will advance the Bill's effectiveness and efficiency.

2.6 Public review of financial assurance agreements

Financial assurance and surety bonds have not been publically reviewed to ascertain whether they are fiscally adequate to provide for full restoration and meet future needs of communities. Such a review is essential and should be conducted on a regular basis. If the proposed Bill is to have teeth and provide a platform for full recovery, this transparency is necessary.

Community were clearly concerned that the key 'economic growth' driver of the recent approved expansion of the New Acland coal mine (NAC) provided no assessment of the boom/bust syndrome. We believe, this lack of assessment is not addressed in the current NAC financial surety. Community still consider the expansion is economically unviable in terms of sustainable productivity.

NAC identified during the EIS process a large number of activities that have the potential to cause land degradation and contamination. QMDC remains concerned that the expansion will become a long term liability because of the number of activities proposed in the expansion that either involve major soil movement, long term storage ponds or facilities or have inherent contamination risks. We assert that the land associated with the expansion that is deemed strategic cropping land will not be able to be reinstated or fully restored to strategic cropping land condition. The development will therefore permanently alienate rather than temporarily diminish productivity which should have required NAC to demonstrate that restoration could be guaranteed.

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The expansion is occurring within existing and/or proposed food production areas, which will result in a fragmented landscape with inadequate buffers. Failure to protect agricultural areas will impact on landscape features that support agricultural systems, resulting in either complete losses of agricultural uses on affected lands or diminished productivity. QMDC submits that by focussing on existing land use the opportunity to secure strategic cropping areas that will prove invaluable as climate refugia for cropping in the future was overlooked. Financial assurance required from NAC almost certainly hasn't taken this in to account.

QMDC does not support the "commercial-in-confidence nature of financial assurance" so that proponents do not have to disclose what that assurance is. Regional communities need to be assured that companies like NAC can fulfil this obligation adequately to account for cumulative impacts. We do not believe NAC's financial assurance has taken into consideration the impacts of climate change and variability on the project.

We welcome the Bill's intention to factor in possible impacts caused by economic recession, both local and global. We would also recommend financial assurance and approval evaluations address global crises such as world food shortages when considering developments like NAC which decrease agricultural capacity.

2.7 Baseline data

QMDC believes a coordinated collection or cross-referencing of baseline data produced by EISs across the State is urgently needed to support the Bill. This information once available will facilitate State intelligence on the site specific and cumulative impacts of all developments on regional and state-wide natural resource assets and regional communities, towns and cities.

Mapping presented in an EIS is often, in QMDC's opinion, of poor quality. The mapping does not provide proper legends, metadata or data sources and currency etc. Standards must be raised so that all maps are provided with this sort of detail and using legends according to best practice cartography standards.

Additionally all other information produced must be at a standard level that can be readily used to assess a project against identified key data sets, in order to, for example:

- add to baseline data recording a region's natural resource assets;
- identify current or potential risk and hazards to those assets from the proposed petroleum and mining projects;
- identify whether the projects in the entirety or certain activities or associated infrastructure pose unacceptable risks and environmental harm to those assets; and
- assess level of cumulative impact on an asset and whether its threshold limit will have been reached.