



## **Inquiry into reducing regulatory burdens for Queensland’s Agriculture and Resource Sector**

Regulatory Burdens

Submission

### **Submission To:**

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This submission is 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 resource assets.

### **1.0 High level of protection for the QMDB and better policy development**

QMDC supports the need to reduce existing and future statutory regulation if that reduction results in regulation that provides a high level of protection for the QMDB consistent with the aspirations of the Regional NRM Plan. QMDC recognizes that the health of the economy and social fabric of the people of the QMDB depends on the health of the natural resources. There is therefore a community expectation that the legislation and policy regulating the agriculture and resource industries supports an environmental bottom line that provides a high level of legislative protection represented by a set of minimum industrial standards for environmental management.

### **2.0 Cumulative impacts**

QMDC asserts regulatory reform must take into consideration not only the individual impacts of each development or business licence application but also the cumulative impacts of both a whole industry e.g. the resource sector, and the total number of businesses or industries impacting on the ecologically sustainable development of a region.

### **3.0 Recognition of NRM bodies as key stakeholders**

QMDC is one of fourteen endorsed regional NRM bodies in Queensland with specific expertise to offer in regards to the strategic direction of regulation controlling the impacts of the agriculture and resource industries in Queensland. NRM bodies if consulted as key stakeholders during the early consultations on, for example, proposed changes to land use planning and environmental law would provide the government a significant opportunity to gauge relevant issues affecting the different regions of Queensland and their communities.



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#### 4.0 Economic theory informing licensing regulation must highlight the importance of valuing natural and social capital in its economic analyses

QMDC's major concern is that industry is the driver for licensing regulatory reform and the argument for amending current environment law is couched in terms such as "reducing compliance and administrative costs to industry and government". The need to uphold environmental standards is an important factor for QMDC and the communities it serves. QMDC believes regulatory reforms must not compromise those standards.

Economic theory informing licensing regulation must highlight the importance of ecosystems and have its roots in valuing natural and social capital in its economic analyses. Ecological economics that integrates natural and social capital into traditional economic theory will assist regulatory processes to improve in a manner that develops the region's future direction in a more sustainable manner. If, the maintenance of industries such as CSG and coal mining, is considered the most important currency then the market and its dominant form of capital will in QMDC's opinion continue to undermine the intention of environmental law and its protective mechanisms.

QMDC considers the key aim to reduce costs must be considered in unison with and not contrary to the object of the *Environmental Protection Act* (the EPA) to improve the total quality of life, both now and in the future by maintaining ecological processes on which life depends.

QMDC agrees that legislation should be reviewed periodically to ensure legislation remains on par and supports best practices. However QMDC asserts the starting point for reform to the EPA or other Acts must be ensuring their objectives are furthered by reform and not watered down because of industry having issues with the costs or the requirements of compliance. If there is a better way to ensure compliance with the objectives QMDC believes the protection of the environment must be the baseline from which any reform needs to start. A comprehensive understanding of the projected impacts of industry and business and compliance with the EPA in the QMDB should be explored in relation to the impact on the region's natural resources and other assets as identified in the Regional NRM Plan.

#### 5.0 Benchmarking of regulatory costs

QMDC believes studies need to be conducted to ascertain the true regulatory compliance costs and these be analysed against the current and future costs of non-compliance on Queensland's natural and social assets.

In QMDC's view there are mechanisms that could improve administrative efficiency whilst not opening the door to environmental asset degradation (e.g. threshold limits, standard conditions and codes of best practice).

"*Eligibility criteria*" within the EPA for proposed development should also be a crucial component of regulations. QMDC recommends the inclusion of a threshold limit within *eligibility criteria*. This would provide greater clarity and certainty because thresholds limits would help to define those natural resource assets identified as being both statewide and regionally at risk to the impacts caused by activities and infrastructure of industries and businesses and therefore need to be closely regulated.

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For further information, contact QMDC on (07) 4637 6200 or visit [www.qmdc.org.au](http://www.qmdc.org.au)

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Setting threshold limits for natural assets (water (surface and groundwater); vegetation & biodiversity; land and soils; air; nitrogen, phosphorous, carbon elements) will help the government to identify whether a new development or existing industries or businesses can operate without causing impacts, for example, generating or disposing of levels of waste that will cause unacceptable impacts on those assets within the defined threshold limits.

The *eligibility criteria* and associated regulation will then be able to define and provide:

- “no go” zones for the agriculture and resource industries;
- clear and predetermined standard environmental practices acceptable under legislation e.g. safe effluent disposal, no net loss environmental offset programmes, defined buffer zones for activities and infrastructure against stream order classifications, set road heights on floodplains, stream water quality discharge limits etc;
- more efficient administrative processes within the relevant Acts.

QMDC asserts standard conditions require greater time for community input to their constitution. Listed below are some areas that QMDC recommends being addressed as part of a regulatory review of legislation controlling the agriculture and resource industries:

### **1. Vegetation & Biodiversity**

- Clearing
- Offsets
- Voluntary Conservation Agreements

### **2. Riverine, Floodplains and Wetlands**

- Water quality
- Water diversion
- Water contamination
- Floodplain infrastructure
- Buffer zones
- Rehabilitation

### **3. Surface water, Groundwater and Associated Flow Systems**

- Water quality
- Water extraction
- Water contamination
- Floodplain infrastructure
- Buffer zones
- Rehabilitation
- Aquifer interconnectivity
- Fracking
- Drilling
- Aquifer reinjection
- “Beneficial use”
- Associated water storage & disposal

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#### **4. Land & Soils**

- Soil disturbance
- Soil contamination
- Soil rehabilitation
- Floodplain management
- SCL

#### **5. Weed & Pest Animals**

- Weed & pest identification
- Weed & pest introduction
- Weed & pest spread
- Weed & pest eradication
- Weed & pest management plans
- Weed & pest management training

#### **6. Air Quality (dust, noise, vibration, lighting, Greenhouse gas emissions)**

- Monitoring – baseline
- Monitoring – ongoing
- Monitoring – independent
- Air Quality Management Plans
- Flaring/venting
- Operation hours
- Infrastructure
- GHG emissions & renewable energy sources

#### **7. Aboriginal Interests and Cultural Assets**

- Compliance with cultural heritage legislation
- Resourcing Traditional Owners & Aboriginal Communities
- Engagement with Regional advisory Aboriginal Group –Maranoa-Balonne and Border Rivers
- Inclusion of Aboriginal values
- Cultural understanding

#### **8. Institutional Assets**

- Public disclosure & notification
- Access to EAs
- Monitoring & transparency
- Community engagement
- Chemical storage notification
- Contingency planning
- Public notice of breaches
- Access to complaints register
- Threshold limits
- Contributing to local government costs
- Planning and studies
- Royalties

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## 6.0 Regulatory impact assessments

QMDC supports these types of assessments as an appropriate method to deliver effective and efficient regulation.

## 7.0 Regulatory reduction targets

QMDC believes setting targets for the sake of reducing regulation will have perverse outcomes.

## 8.0 Reviews of legislation

QMDC believes reviews of legislation must be done against clear environmental objectives to ascertain whether there are issues associated with, for example, legal non-compliance and unacceptable environmental risk and harm and whether remedy requires more stringent regulatory control and what the appropriate costs should be.

Reviewing legislation will enable the incorporation of new scientific data and knowledge on environmental risks, and facilitate improved regulation that encourages best industry practices, the setting of regional asset threshold limits, that meets community aspirations and addresses the cumulative impacts on natural resources in the region of the application.

Reviews may capture flaws in legislation where there are substantial changes in the environment owing to natural disasters, and the need to address the risks associated with climate change, or the cumulative impacts of other development and industry. This may identify new risks not originally contemplated in the current regulations.

QMDC asserts that anomalies in water legislation, for example, create certain injustices and regulatory burdens especially when the resources industry has inherent rights under the *Petroleum and Gas Act* to water and the farming sector are subject to water resource planning and permits. A review of such anomalies will address current community concerns and regional planning.

In QMDC's experience DERM and local governments over the past few years have been under-resourced to monitor current Environmental Authorities (EAs) and Operation Plans. To the best of QMDC's knowledge there are currently over 183 EAs with thousands of associated conditions.

With the CSG and coal industry and their associated support industries on the ever increase in the QMDB there is a real need to articulate clearly what skills and knowledge are needed to ensure development or work or documents comply with not only the conditions imposed in accordance with the EPA and other associated regulation but also current best practices. QMDC submits that current best practices must not only be based on national and international industrial practices but also be informed by localised and regionalised knowledge and research.



## 9.0 Better regulatory information

QMDC supports the need to have improved information and advice on regulatory requirements. QMDC would add that included in this information should be data and information documenting the key natural resource assets and values of each region and targets for their management. QMDC supports this information being made available on key government websites. QMDC believes this should also allow opportunities for businesses to provide feedback on regulatory issues.

QMDC asserts that regulations must ensure very clear messages are sent to applicants that contravening environmental conditions will not be tolerated.

QMDC suggests the key is to develop a community wide participatory model for educating industry or businesses on environmental compliance, so that they do not see it as a burden and can efficiently work towards benefit from the savings and opportunities of sustainable practices 'beyond compliance'. This would likely require the Department of Environment and Heritage Protection (EHP) and other key stakeholders such as environmental legal services, business associations, NRM or industry peak bodies to actively identify ways to assist individuals, businesses and industry interpret and implement their environmental requirements on a local or regional level.

What may also assist is the coordination of information dissemination by EHP regarding current and relevant Land and Environment Court case law as well as federal, state and local government environmental initiatives, strategies and policies, and significant international protocols, treaties, best practices and standards. The education process should include as its basis the importance of compliance in terms of environmental protection, risk reduction and the advantages of sustainable business practices.

## 10.0 Electronic services

QMDC supports providing more opportunities for business to lodge paperwork and apply for permits and licenses online. QMDC supports the need to better align licensing legislation and administrative processes through IT services.

QMDC however is concerned by the quality of information provided by development proponents during the EIS and EA application processes and it being inadequate to address environmental risk and harm and a range of other key social, economic and environmental issues. As a submitter to a number of EA applications by CSG companies, QMDC has found that decisions are often delayed because proponents are not forthcoming with essential data. This leads to distrust in the company's integrity. A wider concern is that the regulator is being put in a position to make decisions when there is a clear lack of scientific, social or economic evidence or certainty. This may lead to impacts on natural resources, the environment or community interests that should be avoided in the first place.

## 11.0 One-stop shops

QMDC supports having a single point of access for businesses for all regulatory information. These one-stop shops could also include:

- Public notification of and access to approved Environmental Authorities or Licenses and consultation with regards to any proposed changes to Environmental Authorities.
- Timely and public disclosure of monitoring requirements, and subsequent results for the condition and trend of natural resource assets including site, total and cumulative impacts as they relate to the mining and energy industry.
- Public notification of breach of conditions and public access to complaints registers is maintained.
- The appointment of suitably qualified persons including auditors to perform regulatory functions. These appointments are 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.

## 12.0 Tiering

Deeming *environmental risks* are significantly different according to the size of operations may lead to under-regulating for the scale and extent of site specific and localised potential impacts. QMDC therefore does not support using the “size” of a business as a best practice nor as best science to determine whether to require lighter regulation to control environmental impact. QMDC does support the use of “triggers” and code compliance as a methodology to inform the detail and level of impact assessment required. However the “triggers” QMDC supports are based on the precautionary principle and the threshold limit approach.

## 13.0 In summary

QMDC argues that on a local and regional level there is a need for proponents of industry and business requiring licenses or EAs to be provided with a clear and consistent framework for best practice and policy decision-making, risk management and responses to the specific and cumulative impacts of their industry or business on the QMDB’s natural resources.

QMDC seeks a robust legislative and regulatory framework that is compatible with the protective mechanisms afforded by environmental law and regional plans, policies and strategies. The methods suggested in the Paper need to consider and apply: proven land use planning assessment and approval processes; a cumulative impact assessment of both industries; an ongoing monitoring regime regarding anomalies in, for example, water legislation; a review of current EA compliance and enforcement costs; and an economic analysis that includes a threshold limit approach to account for natural and social capital and the future sustainability of Queensland’s natural resource assets.

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