

"Working together – healthy landscapes, viable communities"



## Queensland Murray-Darling Committee Inc. comments on the Mining and Other Legislation Amendment Bill 2012

30 January 2013

### Comments to:

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Agriculture, Resources and Environment Committee  
Parliament House  
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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 resources.

## 1.0 Comments

### 1.1 Co-location of infrastructure on pipeline licences

The principle of co-location of infrastructure if it reduces the overall footprint is supported by QMDC. The route of co-location should still avoid strategic cropping land and other areas of significant environmental or socio-economic value. However the proposed new legislation fails to articulate how allowing co-location of infrastructure on pipeline licences will reduce the impact from petroleum and gas projects in terms of potential risks e.g. increased fire hazard or pipeline rupture. Without a full risk analysis and assessment, the proposed amendment to the *Petroleum and Gas (Production and Safety) Act 2004* may in reality create the opportunity for greater impact because it permits more and more development with less scrutiny or regard for environmental risk and protection.



## QMDC Comments

The statement that co-location will reduce impact needs to be based on a solid analysis of the potential impacts and their associated risks to the environment, to human health and wellbeing, to stock, to neighbouring businesses etc. QMDC argues that the Bill is making an assumption that any inherent risks associated with co-location are acceptable.

Not addressed or even acknowledged is the level of risk community and landholders are prepared to live with or accept from the industry. QMDC believes the assumptions made by the State government within this Bill do not align to current public concern and the value communities place on preventing harm minor and serious to the environment, to themselves, their families and communities, to the future generations.

Risk assessment assumes humans and the environment can absorb a certain amount of pollution or danger and render it harmless. This is known as "assimilative capacity". QMDC's major concern is that eliminating risk altogether is not the goal of this Bill. QMDC believes the industry is at the stage where the cumulative impacts of all its activities, operations both exploration and production need to be more than mitigated or managed, they need to be prevented from creating any more hazards, risks or harm.

### 1.2 Small scale mining for opal and gemstones

What constitutes "a relatively low risk to the state"? As per the above comments how was that risk assessed? Is this assessment publically available?

Even though the mining is small scale what happens if there is a number of small scale mining operations going on side by side or throughout a specific region? Should the cumulative impact of this type of scenario require a different assessment process?

Risk assessment allows dangerous activities to continue under the guise of "acceptable risk." It allows the continuation of activities that lead to greater pollution and degradation of health under the premise that it is either safe or acceptable to those who are exposed. It prevents action.

Risk assessment is fundamentally undemocratic. The risk assessment process is most often confined to agency and industry scientists, and consultants. It traditionally does not include public or community perceptions, priorities, or needs, and does not use widespread public participation. This tradition prevails in this case see page 10 of the Explanatory Notes and the list of those organisations consulted.

Risk assessment puts responsibility in the wrong place. It assumes that society as a whole must deal with environmental harm, because that is the price of "economic growth". It diverts attention from those responsible for harm and those who created it. It focuses government resources on studying the problems rather than identifying safer alternatives to potentially dangerous activities.

Risk assessment often poses a choice between economic development and environmental protection. Governments and industry often tie 'scientific' process of risk assessment to cost-benefit analysis but fail to question who assumes the cost and who reaps the benefits. The economic benefits of cleaner production have been clearly demonstrated but often not acknowledged. Also, the cost of under-regulating will typically be greater than overregulating, when considering the subsequent clean-up and health costs.

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## QMDC Comments

The State recognises that removing the environmental authority will benefit small scale miners (see page 3 of the Explanatory Notes) but no analysis is given outlining how this will benefit the environment. It is acknowledged some environmental protection measures will remain but QMDC and the wider public are not privy to the new Small Scale Mining Code and its intended provisions nor are we confident that the work programs submitted every 5 years will be successfully implemented or complied with. Lots of things can go wrong or change in 5 years, water quality, best practices, market forces, technology, policy priorities, weather patterns, soil condition etc

### 1.3 Indigenous Land Use Agreements

The removal of the requirement to obtain Indigenous Land Use Agreements is of concern to QMDC. The constitutional rights and standing of Traditional Owners and Aboriginal people must be respected and honoured.

Aboriginal Traditional Owners and communities have been active with QMDC over many years. QMDC along with the Traditional Owners and Aboriginal communities have achieved many milestones in the area of natural and cultural resource management.

These include:

- The formation and functioning of the Regional Aboriginal Advisory Group
- Production of the QMDC Caring for Country Plan
- Cultural site identification and an on-ground works program to protect these sites
- Delivery of the Aboriginal Naturally Resourceful workshops
- Production of the QMDC Aboriginal Employment Strategy
- Implementing the QMDC Aboriginal Ranger program

The development of such programs has enabled Traditional Owners and Aboriginal communities to become meaningfully involved in natural resource management within the Border Rivers and Maranoa-Balonne catchments.

QMDC along with the Traditional Owners and Aboriginal communities have developed the Regional Caring for Country Plan which delivers vision and direction for the planning and management of Aboriginal cultural and natural resources throughout the region. The regional caring for country plan recognizes the need to protect important cultural, ecological, social and economic values in the region. It also represents the strategy and a framework to care for country.

### 1.4 Definition of occupier

QMDC support this clarification.

### 1.5 Transferring powers to the Minister or chief executive

The State is gaining more and more executive power with every Act they pass. It is important the checks and balances of the State government are visible in each law enacted by parliament. The gathering concentration of power in the hands of the State's executive is

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a growing trend not supported by community as it has the capacity to expand executive authority largely immune to legislative control or judicial review.

## 1.6 Competitive tendering process

Public consultation is required to safeguard public interests. Not just about economic gain but environmental protection and sustainable development are equally important. Potential tenders should be assessed according to their track record of previous compliance and final site management and rehabilitation of previous mining operations and projects. These factors are crucial to any tendering process and assessment of returns for the communities impacted upon. The assumption made is development will go ahead regardless of track record or impact on natural resources and their threshold limits. Additionally the socio-economic impacts on communities and landholders get no mention or assessment.

## 1.8 Alternative ways of achieving policy objectives

QMDC argues further investigation and analysis is required e.g. what improved model conditions would promote better practices and put a safeguard in place which means the approval could be more streamlined.

## 1.9 Estimated costs for government implementation

Departmental resources are already limited. The expectation that the short term additional processing burden will be carried by the department is unreasonable and likely to lead to serious flaws in the implementation of the legislation. What about compliance monitoring?

## 1.10 Consistency with fundamental legislative principles

Taking away any fundamental legislative right or principle is not acceptable.

1.10.1 Limiting objections and appeals to 'directly impacted entities' completely undermines the role and responsibilities of community groups and NGOs to represent public interest and community on policy, planning and legislative issues. See clause 71.

The Bill permits more opportunity for mining on larger areas of land (20 hectares) and consequentially there is more opportunity for environmental harm and risk. This potentially means more impacts on public interests and concerns, socially, economically and environmentally. Mining and ecological sustainable development is a public interest in Queensland particularly where there are multiple adjoining 20 hectares.

1.10.2 Applying a code for managing impacts of small scale mining. QMDC supports mandatory conditions being stated as a regulation if they reflect the potential extent and severity of risk. These conditions must be stringent and regularly monitored for breaches.

## 1.11 Consultation

Those bodies who have been consulted and who have voiced their support for the amendments have done so without there being any wider public or community consultation or discussion. QMDC argues the selection is not representative of key community interest or expertise.

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## 1.12 Criteria for small scale mining

QMDC recommends clearer criteria around potential water discharges to a watercourse. See Part 3 clause 20.

## 1.13 Prescribed criteria for grant of exploration permit (Division 4 clause 51)

QMDC recommends clearer criteria to disallow potential impacts on Strategic Cropping Land and if open cut exploration is not permitted in a prescribed watercourse and within prescribed distances for environmentally sensitive areas and urban areas.