



QMDC comments on Mineral and Energy Resources (Common Provisions) Bill 2014

9 July 2014

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 Background

QMDC has produced a number of submissions on various policy and law reforms relevant to the *Mineral and Energy Resources (Common Provisions) Bill 2014* (the Bill). This submission and past submissions consistently urge government to reform policy and environmental regulation so that the proposed reform clearly provides a high level of protection for the QMDB consistent with the aspirations of the Regional NRM Plan.

Amongst QMDC member organisations and the landholders we work with, there is an ever-increasing community expectation for government to implement stringent legislative and regulatory control in order to protect the region's assets and improve industrial best practices for the mining and energy resources sector.

QMDC's major concern is that industry remains the driver for licensing regulatory reform and the argument for amending the current law is still couched in terms such as reducing compliance and administrative costs to industry and government. QMDC does not consider economic or fiscal arguments supporting this Bill are either well-articulated or factually proven but are rather formulated from an industry dominated position and worldview.



QMDC continues to assert the starting point for reform must be ensuring environmental protection and sustainability objectives are furthered by reform and not watered down because industry is having issues with the costs or the requirements of compliance. If there is a better way to ensure compliance with these 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 legislation and regulation 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.

Overall QMDC is concerned that the drive to reduce regulation for the mining and energy industries and all the other associated legislative change is swimming against the tide of community expectations of government and will likely adversely affect agricultural production in Queensland. As agriculture is one of the Four Pillars of economic development any impact on profitable land use should be viewed seriously.

2.0 General comments

Regulation of mining activities is an important community issue because of the impact mining activities have on the environment. Likewise decisions about development and environmental policy are equally important to community because these decisions can impact upon the quality of life by influencing and affecting human health, as well as the integrity of natural and urban environments, and the availability of and access to natural resources.

A key part of attaining social justice is enabling the members of the community who will be adversely affected by these impacts to participate in and have rights of review in relation to the making of environmental laws, decisions about land use and development and enforcement of environmental laws.

Most Australian environmental and planning laws allow for some level of public participation. How effective that participation is in influencing environmental decision making depends on two main considerations:

1. "the extent and nature of opportunities for participation, including to what extent decision-makers must consider community views; and
2. the ability of the individuals and communities to access opportunities for participation." <https://www.deakin.edu.au/buslaw/law/crri/papers/millnerfelicity.pdf>

Amending the law can serve to improve the first consideration. Improving the ability of rural and regional community members to participate will enable rural and regional communities like those situated in the QMDB, who are typically geographically remote from where major environmental decisions are made, to participate more fully in legal processes.

QMDC reiterates the need to assess the policy drivers for this Bill against an assessment of threshold limits for the State's natural resources and community aspirations; and address social justice and legal participatory process. This would provide a better assessment of the issues relevant to exploration and production at a property and regional level. Threshold limits and the exercise of legal participatory rights and liberties would help to identify natural resource assets, and community capital at risk to the impacts caused by the exploration and production activities of the mining and energy industries and businesses.

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The claim that the Bill will enable community, owners, occupiers and public land managers to “have a greater say” is contradictory to legal and social analysis of the Bill’s clauses. The *Explanatory Notes* acknowledge breaches of, and the undermining of, fundamental legal principles and public objection rights. Arguments by government attempting to counteract those breaches are in our opinion poorly articulated and completely undervalue the important role of community groups to represent public interests.

2.1 Public resource managed for public interest

Minerals are taken to be the property of the Crown and held by the Crown as a common resource. This Bill however does not comply with this legal obligation. The Bill effectively subsumes the rights of citizens or the public underneath the interests of industry.

QMDC argue that a public resource should be managed for public good. The policy focus of the Bill should therefore focus on this, instead of being primarily concerned with company profit and regulatory obligation. Mineral resources because they are a public resource should require equal consideration by the state government to consult with key organisations and bodies that represent community economic interests. This is clearly absent in the Bill and continues to result in the mining sector and government denying key opportunities for companies to develop a much needed “social license to operate”.

QMDC argues that the government needs to slow the mining and energy industry down and protect public resources for future Australian generations. It appears that the faster resources are mined, the faster they go to other countries and international markets which reap the profits. Consequentially the greater concern is the potential impact on Australia’s natural resources, due to hurried processes and failure to follow leading practice methods and completing land rehabilitation.

2.2 Assessment of regulatory burden

Throughout the Bill’s *Explanatory Notes* there is a presumption regulation is a burden and unnecessary. QMDC is most concerned that the community is being asked to support the argument that there is a “regulation burden” for mining companies without providing evidence that this is indeed a fact. QMDC, on the contrary would argue regulation is not stringent enough, and that more controls, for example, are required on exploration, including the establishment of no-go zones.

The transitional process proposed as part of the *Modernising Queensland’s Resources Acts Program* (the MQRA Program) and ongoing reforms and repeals would indicate there will be an increase in administration costs created by this Bill and all others to follow. How much these reforms and the MQRA Program will cost the public is not estimated or considered as part of the costs of the proposed reform.

The cost of regulatory process to industry is only one component of wider socio-economic issues relevant to mining. Governments must factor in regulatory burdens on landholders, which result in decreased productivity and efficiencies of existing farms or other businesses likely to be impacted. This in QMDC’s opinion, makes a stronger argument for no-go zones, rather than reduced regulation.



QMDC argues that the presumed burden needs to be measured against each stage in the life cycle of coal, uranium, gold, CSG etc. Extraction, transport, processing, and combustion generate a waste stream and carry multiple hazards for human, fauna and stock health and the environment. These costs are often described as “externalities” and are in our opinion wrongly deemed external to the mining and energy industry. Many of these “externalities” are also cumulative.

It has been estimated by Epstein et al (2011)¹ that the life cycle effects of coal and the waste stream generated are costing the U.S. public a third to over one-half of a trillion dollars annually. If the damages are accounted for this conservatively doubles to triples the price of electricity from coal per kWh generated, making wind, solar, and other forms of non-fossil fuel power generation, along with investments in efficiency and electricity conservation methods, economically competitive.

2.2 Competitiveness and economic performance of mineral and energy resources sector

The claim that Queensland’s competitiveness as an investment destination has been affected needs to be examined in context of a whole range of key aspects – flaws of General Domestic Product (GDP) economic analysis, federal tax subsidies, state government assistance, externalities and health costs.

Current economic analysis with regards to the economic benefits of the mining and energy industries are in our opinion seriously flawed.

QMDC argues that because an assessment of the GDP including regional economics offers a limited picture, the Bill’s policy drivers have limited the parameters for assessment. GDP, for example, considers negative events such as car crashes, and floods etc as economically positive when clearly they are not!

Relevant to the policy objectives of this Bill are broader social impacts caused by mining such as the quality of life, mental health of farmers, effect on farm operations and consequent farm values, resilience of communities and the co-related mining companies’ social licenses to operate.

The claim that the long-term viability of mining and energy resources sector is dependent on the discovery of “large, commercial quality deposits” is in our opinion not qualified. QMDC asserts viability is dependent on the condition of and capacity of natural resources to support human populations and their exploitation of the natural environment.

Mineral and energy deposits because they are public resources may in many circumstances be best left in the ground because the public good and interest is best met by promoting renewable energy resources especially if the condition of natural resources means any exploration and potential extraction will push that natural resource beyond its threshold limit.

¹ Paul R. Epstein, Jonathan J. Buonocore, Kevin Eckerle, Michael Hendryx, Benjamin M. Stout III, Richard Heinberg, Richard W. Clapp, Beverly May, Nancy L. Reinhart, Melissa M. Ahern, Samir K. Doshi, and Leslie Glustrom. 2011. Full cost accounting for the life cycle of coal in “Ecological Economics Reviews.” Robert Costanza, Karin Limburg & Ida Kubiszewski, Eds. *Ann. N.Y. Acad. Sci.* 1219: 73–98.



Mineral and energy deposits serve a purpose outside of a human quest for profit and energy. More research and scientific analysis is needed to assess impact of extraction on surrounding ecosystems and global integrity, e.g. change in gravity, weight, chemical composition of soils and substratum, and interconnectivity of underground aquifers. Environmental and social impacts including cultural heritage, sustainability indicators such as community well-being and cultural preservation are missing from profit calculations.

Queensland Resources Council (QRC) Chief Executive Michael Roche, himself has stated, for example, that “(D)espite vigorous cost cutting, 25 percent of the coal currently produced in Queensland is being done so at a loss, including half of all thermal coal production”. Roche indicates that the reason these mines are staying open is not for the economic benefit of Queensland but because they are locked into contractual obligations. “Some of these mines are only staying open because production is a more palatable option than closing operations locked into transport costs levied on a take or pay basis.” Roche stated that “with one out of every 10 tonnes of coal currently produced in Queensland in the red to the tune of more than \$14, some mines are at extreme risk of shutdown.”

QRC provided this data in May 2014 to Treasurer Tim Nicholls in the lead-up to the June state budget, which shows a bleak outlook and indicates that approximately one quarter of Queensland’s coal production is in the red.

https://www.qrc.org.au/03_eneews/newsletter.asp?ID=4643

In their technical brief No. 31 June 2014, *Mining the age of entitlement State government assistance to the minerals and fossil fuel sector* (the report), the Australia Institute highlight how Queensland characteristically regularly provides billions of dollars’ worth of assistance to mining industries every year. The report shows that “over a six-year period, state governments in Australia spent \$17.6 billion supporting the mineral and fossil fuel industries. Queensland’s assistance was by far the largest of all states, totaling \$9.5 billion, followed by Western Australia’s at \$6.2 billion.” Queensland has, for example, provided the coal industry with ‘concessions’ on access to rail services worth over \$1 billion between 2012-13 and 2013-14.

<http://www.tai.org.au/content/mining-age-entitlement>

Royalties paid to state governments seldom, compare these contributions to the amount given by state governments to industry as assistance. State expenditure on industry assistance makes up a significant proportion of what states receive through royalties, particularly in Queensland. According to the report, “In 2013-14 the Queensland government is budgeting to spend \$1,489 billion on industry assistance. This is almost 60 per cent of the \$2,604 billion they are anticipating receiving in royalties.

The Australia Institute asserts that the comparison with royalty contributions illustrates that mineral and fossil fuel industry assistance is substantial compared to the most direct benefits that those industries pay back to the Queensland government. It is, however, recognised by the Australia Institute that this data is provided for “context only”, as the two calculations are not directly equivalent as industry costs and benefits, and they cannot be subtracted one from the other to produce a net benefit calculation.

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The report's comparison between royalties and state assistance is to emphasize that "the Queensland government spends a large amount on the minerals and fossil fuel industries even when compared to royalties – the most easily assessed measure of the benefits it derives from these industries."

<http://www.tai.org.au/content/mining-age-entitlement>

QMDC has argued in its responses to a number of Environmental Impact Statements (EISs) e.g. the proposed New Hope Acland Coal Mine Stage 3 Project EIS that the estimated benefits to the region were estimations only, which did not take into account key matters such as externalities, tax subsidies afforded to the company at the expense of public monies, and the vagaries of the Australian and international energy market. New Hope failed to produce crucial technical reports that demonstrate an evaluation of alternative forms of development, and what significant weight should be given to strategies which would avoid or minimise the impacts on the region's natural resources and neighbouring communities. Full cost benefit analysis was not applied to this expansion, therefore making accurate assessment of this project difficult.

<http://www.qmdc.org.au/publications/browse/78/policy-submissions>

The State of Green Business 2013 Report by Joel Makower and the Editors of GreenBiz.com info@greenbiz.com identifies, for example, that among companies around the world "their top four environmental impacts represent about 80% of their overall footprint" and in the global view of business, that 80% comes from greenhouse gas emissions of all types (41%); water extraction — the process of taking water from any source, for irrigation, energy production, manufacturing, drinking water, or other uses (27%); acid rain and smog precursors, which include sulphur dioxide (SO_x), nitrous oxides (NO_x) and ammonia for acid rain, and NO_x and carbon monoxide for smog (7%); and dust and particles suspended in air, microscopic solids or liquid droplets that are so small that they can get deep into the lungs and cause serious health problems (5%).

Makower et al. state that "the European Commission estimates that dust and particles from sources including fuel cause the premature deaths of almost 370,000 people every year and reduce life expectancy by 8 months. Air pollutants could result in €189-609bn in health costs by 2020. Measures to reduce pollutants could cost the market economy around €7.1bn annually, saving at least €42bn in health costs" (*The State of Green Business 2013 Report*).

<http://www.greenbiz.com/research/report/2013/02/state-green-business-report-2013>

Research in Australia also suggests that "air pollution is responsible for 2.3% of all deaths in Australia. It is estimated that air pollution causes 640 to 1400 premature deaths and almost 2000 hospitalisations per year in the Greater Sydney Metropolitan Region. Air pollution costs New South Wales around \$ 4.7 billion dollars per year in health costs."

http://www.health.nsw.gov.au/publichealth/environment/air/air_pollution.asp

Ambient air quality data from the Upper Hunter Air Quality Monitoring Network (UHAQMN) shows that particle pollution in the Hunter Valley exceeded national standards during 2012.

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<http://www.epa.nsw.gov.au/aqms/20130037HunterAir2012.htm>

In QMDC's opinion exceedences are all too frequent in coal mining operations.

The fact that these types of external costs are not apparent in EISs produced by mining companies means that the inherent assumptions about the economic "growth" created by the mining industry do not take into account, for example, how burning diesel for road transport generates particulates which have an adverse effect on human health and the environment.

Although increasing road traffic in the region is identified in all coal and CSG Environmental Impact Statement and Environmental Authority applications as a major social and environmental impact, EISs do not account for the total social costs associated with this product - these will be borne by health services.

The Bill is guaranteed to increase uncertainty, interpersonal conflict and the cost of doing business for all parties. In particular, it leaves resource companies exposed to the risk of widespread community backlash when they operate beyond the terms of community tolerance. It will in our opinion not secure companies a 'social license' to operate within the region.

QMDC asserts there are other measuring tools that should be used to weigh the costs and benefits of mineral and energy resources applications e.g. Regional NRM Plans; threshold limits, cumulative impact assessments. QMDC also believe an assessment of the whole life cycle of a mineral resource when determining the cost of regulation and the benefits of its exploitation is needed.

External costs are incurred whenever a natural resource is used or emissions are made in the region to air, land or water. The external cost of industries using an environmental resource, such as water, or emitting a pollutant, such as carbon dioxide, should not be the cost that is borne by the region or public through the degradation of the environment. This cost is rarely paid by the company that uses the resource or emits the pollutant. International market driven CSG operations have had a huge cost and social impact on the agricultural and manufacturing and other industries in Queensland.

Agriculture, forestry and fishing were, for example, the most significant industries in the Darling Downs region in 2010-11, making up 10.6 per cent of nominal Gross Value Added (GVA). This was followed by Construction at 9.0 per cent of nominal GVA, then Ownership of dwellings at 8.2 per cent.

Manufacturing GVA was 8.0 per cent and mining GVA measured at 5.1 per cent. From 2006-07 to 2010-11, output in the agriculture, forestry and fishing industries grew on average by 8.6 per cent and was the major contributor (0.7 percentage point) to the region's growth.

<http://statistics.oesr.qld.gov.au/qld-regional-profiles>

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Interestingly, the largest change in the 2010-11 composition was seen in the manufacturing and agriculture, forestry and fishing industries, falling by 2.9 and 4.7 percentage points from 2010-11. Retail and wholesale trades also declined. These declines happened at the same time the mining boom took a hold in the region. In contrast, the mining industry increased by 4.2 percentage points over the 10 years to 2010-11.

<http://www.oesr.qld.gov.au/products/publications/experimental-estimates-grp/experimental-estimates-grp-2010-11.pdf>

In 2011-12, mining industry output (as measured by gross value added) represented 10.6 per cent of Queensland economic activity, 0.1 percentage point down from 10.7 per cent in 2010-11 (Australian Bureau of Statistics, Australian National Accounts: State Accounts, 2011-12, Cat no. 5220.0). Further, Queensland's mining industry accounted for only 2.8 per cent of total employment in 2011-12 (Australian Bureau of Statistics, Labour Force, Australia, Detailed, Quarterly, Dec 2012, Cat no. 6291.0.55.0030.).

Demand for Queensland's mining output in 2008-09 was heavily affected by the onset of the global financial crisis, and while there was a bounce back in 2009-10, flooding of mines and related disruptions to transport corridors has impacted production levels for 2010-11.

The Productivity Commission submission to House of Representative Standing Committee on Economics, Inquiry into Raising the Level of Productivity Growth in the Australian Economy, 2009, notes that the continued investment in mining and demand for labour may be due to business expectations of sustained high export demand, and consequently sustained high prices.

These expectations are precarious as we have seen with the Global Financial Crisis of 2008-09, widespread floods of 2010-11 and the ongoing serious drought situation since 2013.

The policy drivers behind this Bill do not support the fact that agriculture contributes more to Gross Regional Product and employment in the Darling Downs region than the mining industry. The lifespan of New Hope's proposed Stage 3 Project, for example, is approximately 15 years in comparison to the much longer lifespan of the agricultural industry.

Queensland's mining industry has experienced periods of high growth in the past but is currently demonstrating negative economic growth. Uncertainty clouds the long term viability of the mining industry. New Hope's Stage 3 Project and other mining developments will certainly undermine in our opinion the policy intent and agricultural strategy of doubling agricultural production by 2040.

2.6 Scientific intelligence around the whole life cycle of mineral resources

QMDC argues that the policy arguments purporting that the Bill will bring confidence needed for economic investment undermines scientific intelligence around the whole life cycle of mineral resources. A holistic overview and inquiry would provide a more honest picture of true costs and benefits of industry.

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Greenhouse Gas Emissions, for example, especially from burning the fuel in the country of export is rarely factored in. Current research states that climate change is reaching critical levels that need immediate addressing. Small particle pollution is also gaining a lot more traction as a reason to slow up on fossil fuel energy as health impacts and costs of PM 2.5 & 10 emissions are being better recognised.

2.8 Productivity

Immediate productivity should be measured against a range of environmental accounts and costs to communities. The less damage that is left behind should be an indicator by which to measure productivity.

Declines in the productivity mining industry could also be attributable to:

- Lack of job satisfaction e.g. impacts of FIFO on families;
- Environmental restrictions and industry not meeting regulatory requirements;
- International shift towards renewable energy preferences;
- Greenhouse gas emissions and carbon footprint of industries.

The fact that Australia is regulating industry and enforces environmental protection is important. "Development must go ahead" attitude will potentially result in environmental disasters and travesties. Where is the proof/ or evidence that regulations are "unnecessary" and "a burden" to productivity?

2.10 MQRA Program and Compliance costs

It is apparent to QMDC, through our involvement and membership on the CSG industry's stakeholder and community committees, that even in the most progressive companies there continues to be a tension between the stated commitment to improving environmental and social performance and the traditional focus on production, profit and cost minimisation.

Trying to reconcile these apparently divergent imperatives by arguing that there is a strong business case for companies to improve their social and environmental performance, is one of the reasons QMDC seeks more stringent legislative controls.

In QMDC's opinion, the "command and control" type regulation system has achieved some considerable successes, especially in terms of reducing the release of contaminants to receiving environments such as land, air and water. QMDC is therefore concerned by any suggestion by industry or government that this type of regulation is unfavourable because of its high costs, inflexibility, and diminishing returns.

QMDC is wary that the mining and energy sector is overstating their problems with current regulation and are not building on substantial regulatory improvements. In QMDC's opinion, a focus on its limitations will only provide a partial policy solution. It is obvious the government's regulatory reform is taking place in a political climate of shrinking regulatory resources. This makes it difficult to design strategies capable of achieving results because of the absence of a credible enforcement. Extracting the 'biggest bang' from a much diminished 'regulatory buck' is not helping to build community confidence in the government's intention to safeguard public interests, currently and into the future.

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- Self – regulation is not appropriate for many mining activities

Maintaining that market-based regulatory compliance alternatives are capable of achieving the same, if not greater, environmental management as compared to strict regulatory controls is not fully supported by QMDC. The concept of controlling point and nonpoint sources of pollution through self-regulation, voluntary, incentive-based mechanisms, rather than implementing additional mandatory controls, is not appropriate for many mining activities.

To make the recommended changes to mining regulation work it is critical that the necessary control, inspection and prosecution processes are in place. QMDC therefore submits for many mining activities mandatory standards should remain and be further developed.

At the very least self-regulation must include:

- Incentives for companies to report;
- Mandatory guidelines relating to performance; or
- Transfer of the regulatory power to self-regulating authorities such as a diverse stakeholder panel whose statutes can either be voluntary or mandatory.

QMDC believe the Queensland Government should be increasingly concerned with sustainable development, inclusive economic growth, increasing transparency, and building social licence and trust within regional communities. Although an increasing number of companies and organisations want to make their operations sustainable, the Queensland government, in QMDC's opinion is yet to respond effectively to the external impacts of mining operations.

- Mandatory regulations

QMDC supports mandatory regulations, especially those with an obligation to report. The Report, *Carrots and Sticks For Starters Current trends and approaches in Voluntary and Mandatory Standards for Sustainability Reporting* describes the following benefits of mandatory reporting:

1. **Credibility:** The use of recognised practices and tools, or the publication of a sustainability report or equivalent that has been prepared using recognised guidelines should enhance the credibility of information provided in response to stakeholder concerns and interests.
2. **Changing the corporate culture:** Mandatory requirements foster openness and transparency with respect to sustainability issues previously lacking in corporate culture. Mandatory requirements would place Corporate Social Reporting issues, and social and environmental issues in particular, squarely on the agenda of corporations.
3. **Incompleteness of voluntary reports:** Voluntary reports often fail to address certain issues, notably on fundamental human rights issues and key aspects of a company's environmental performance.
4. **Comparability:** There is no standardisation of the information found in reports because of the varying choices and approaches of different companies. It is often argued that the voluntary nature, progressive character and number of standards

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envisioned in initiatives such as the Global Reporting Index and other national and international initiatives, are unlikely to result in the standardisation of sustainability reporting practices.

5. Non-disclosure of negative performance: Positive information and messages tend to be emphasised in most sustainability reports. The reports are also time and event specific. Firms may disclose information when it suits their interests, but not when it may negatively influence perceptions, or relate to future earnings and potential cash flows negatively (Walden and Schwartz, 1997).
6. Standardisation: The economic literature names another advantage of required disclosure that only arises if the legislator promulgates mandatory rules: the advantage of standardization. (Adams, 2002). This relates to dependability, often cited as one of the advantages of command and control regulation, namely the ability to specify expected behaviour. An investor must compare a number of investment alternatives before deciding on an investment. It is to the investor's advantage if the information relevant for the investment decision is presented in a standardised format that can be readily compared. Standardised formatting saves investors, communities, consumers and employees' time and money, and explains why listing prospectuses or annual reports should follow identical guidelines (Baums, 2004)."

http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/reporting-disclosure/swedish-presidency/files/surveys_and_reports/carrots_and_sticks_-_kpmg_and_unep_en.pdf

Mining operations requires the regulator to have comprehensive and accurate knowledge of the workings and capacity of the mining and energy sector and individual companies within the sector. One size does not fit all. Tailoring regulation to a mandatory approach must therefore be careful not to undermine tailored responses to address, for example, site specific differences. The challenge for the regulator is to keep pace with rapidly changing circumstances and changing technologies. Mandatory types of regulation do not need to undermine innovation nor take away the incentive to go beyond compliance. It can, in QMDC's opinion, move from forcing a re-active, tick-box approach that would result only in more bureaucracy and filing of documentation.

3.0 Specific comments

3.1 Mining applications

QMDC does not support 'affected persons', being limited to "directly impacted landholders". Affected persons should include neighbours, local community and public interest groups and individually and/or collectively allow all these persons the right to object to the decision to grant a mining lease tenure.

Consequentially notification of mining leases to all the above named persons should be mandatory and not be removed from the EPA, including standard applications and variation applications of an environmental authority for a mining activity.



If only 'high risk' mines will be publicly notified for objection on environmental grounds which is predicted by the Environmental defenders Office Queensland to be only 10% of mines in Queensland, this means that for 90% of mines existing public objection rights will be lost.

QMDC does not support the removal of landholder consent provisions currently in place for 'restricted land' (basically, land nearby to homes and businesses).

Jurisdictional duplication needs to be proven before a revision is undertaken on matters the Land Court can consider during a mining lease objection.

3.2 Amendments to Petroleum and Mineral Legislation

QMDC does not support the amendments to:

- omit the requirement to lodge a notice about a petroleum discovery and its commercial viability;
- extend the time allowable before Ministerial approval is required for continuing production or storage testing on a petroleum well;
- allow the holder of a petroleum tenure to use CSG produced water for any purpose on or off tenure

3.3 Land Access – Private Land

All the proposed clauses related to conduct issues, conduct and compensation or opt-out agreements registered on land title and opt out options where established relationship exists need thorough consultation and reassessing.

QMDC is concerned that if something is written into a title it may tie successive landholders to an untenable agreement that needs to be altered in order to align to improved practice, or natural resource crises, or business changes.

3.4 Land Access – Restricted Land

The Bill proposes to significantly alter the definition of restricted land and with it alter landholder and public interest rights. Who determines whether an activity within 600m of a residence is a no or low impact? Impact should be determined on a case by case basis dependent on the health, safety, security and well-being of landholders, families and business owners affected and should require compensation for loss of privacy and enjoyment of one's home or business surrounds.

QMDC strongly recommend that CSG exploration activities should not be permitted and limited in areas, regions, bioregions, catchments etc where the environment and natural resources and those communities dependent on them are adversely affected. This is particularly the case when environmentally sustainable farming practices based on precision agriculture and conservation agriculture are involved.

Upper Condamine aquifers, the Great Artesian Basin (GAB) and the Murray-Darling Basin are already recognised as the most susceptible aquifers in the country so added impacts on their already existing stresses are likely to be major.

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The GAB underpins the economy of inland Queensland. Without it most outback towns would cease to exist and the pastoral industry would face much more risk and volatility. This would reduce the resilience of the agricultural industry of Queensland. It would also further undermine the Queensland government's policy of doubling agricultural production by 2040. The strategic importance of the GAB, means surely the precautionary principle applies in this case. There are far too many people questioning the impact of CSG on the GAB to ignore this concern.

Queensland is fortunate to have this energy source within the State but this should not mean the mining and energy industry have to pump it out as fast as possible to benefit overseas customers. Government, industry and regional communities should be looking at all avenues to value add it within Queensland's borders to benefit Australians and Queenslanders rather than overseas markets and competitors. USA provides gas to its domestic users at a substantial discount to the international price to give its domestic manufacturers a competitive advantage. Australia's support of a "free market philosophy" puts long term sustainable domestic manufacturers and Australian jobs at a significant disadvantage.

3.5. Land Access - Public Land

QMDC does not support the proposed changes to only notify owners of public land. QMDC believes the onus is on the public land owner to keep accurate records of occupiers and enable mining proponents to notify those occupiers through these records. Reasonable efforts must be made to contact and consult with occupier whose interests although facilitated by the owner allowing them occupancy are likely to be impacted on very differently than the occupier. If compensation for occupiers is mandatory for any impacts suffered and negotiations must be entered into with the occupier, then why is it so difficult to facilitate consultation at the start? A social license to operate requires best practice, namely communication and consultation earlier than later.

Public reserves are held in the public interest and carry with them public objection rights.

QMDC argues that national parks and conservation reserves should be no go zones for mining and resource exploration, particularly given national parks are a small percentage of Queensland and are usually a relatively small refuge for a particular vegetation community.

Providing greater certainty to industry over and above public interest and investment is not supported. The consent of a reserve owner should remain. By requiring the public land authority to maintain consistency with resource authority conditions placing a burden on the public authority that is not justified in terms of the public interests the public authority should be protecting and will require the public authority to invest more time and resources into knowing what those conditions are. It is the responsibility of the mining proponent and regulator to ensure resource authority conditions are consistent with public authority access permits and occupancy rights.

QMDC does not support the right to lodge a notice of entry with the public land authority before a resource authority is granted.



3.6 Mining Applications Boundary Identification, Lease Applications during moratorium, notification and obligations

QMDC supports government actions not to allocate exploration licenses for tenements that would be too small or too irregular a shape for efficient mines or production wells to be successful. QMDC however does not support the right to build up tenements in size without a full consideration of the impact on surrounding natural assets or land use by government.

QMDC further recommends that when exploration leases expire a decision should be made based on current and cumulative impacts, whether those leases be renewed at all. Weight should be given to economic impacts of exploration as well as environmental impacts- the uncertainty created by exploration has dire and immeasurable impacts such as loss of confidence in future farm innovation and investment, succession planning, mental health stresses etc. (e.g. Felton, Cecil Plains). Mining companies economic analyses are notoriously poor and rarely consider base case scenarios such as loss of farm production.

QMDC believe a clear definition is required to determine that a low likelihood of risks exists or is likely to exist. We are concerned, for example, that this will include turning the management of cultural heritage into a risk assessment rather than describing or defining it as a proactive response to a protected asset. QMDC asserts that if it is the government's intention to "streamline" the "duty of care" and "due diligence" this needs to be fully discussed and examined against cultural values.

3.7 Mining Lease – Restricted Land

QMDC asserts that technical non-compliance must be able to be defined and ascertained as part of due legal administrative process. Genuine mistakes or errors must be able to be rectified fairly. Amendments or changes must however be notified and trigger a different process if they alter the essence of the application and are not confined to genuine errors such as typos.

Granting tenure over the entire area including restricted land is not supported by QMDC especially if written consent to enter restricted land is the only measure of control or compliance.

The argument that the Bill will prevent "resource sterilisation" and linking this notion with granting tenure over restricted land is fraught with limited appreciation of the important social, environmental and economic issues that must be examined equally and intelligently before granting each and every mining lease, especially rehabilitation strategies and management actions and co-existence criteria.

Community, landholders, scientists, government and mining companies do not currently agree on what constitutes appropriate rehabilitation in the QMDB. State government's policy position and definition of co-existence criteria (where mining and agricultural and other activities/businesses can operate using the same land, water etc resources) are yet to be publically debated and supported. This criteria will certainly have to be evaluated in terms of what defines rehabilitation for e.g. of good quality agricultural or strategic cropping land.



QMDC assert a clear definition is needed outlining what actions/management strategies and outcomes will determine that rehabilitation is scientifically sound and socially acceptable across the region and its landscapes (for soil, water, vegetation, air quality, biodiversity, social infrastructure, sustainable development etc.)

Areas to be rehabilitated, as identified by mining companies, are generally only the obvious sites such as active mining areas, out of pit dumps, final voids, mining infrastructure or well heads. Difficult areas to rehabilitate such as aquifers, regional airsheds, vertosol soils or contaminated sites are sometimes overlooked or not addressed successfully in rehabilitation plans.

In QMDC's opinion rehabilitation plans/strategies need to address those areas and natural resource assets that are absent from current EIS and Environment Management Plans (EMP). Future research projects could help to inform knowledge gaps and address cumulative as well as site specific impacts. Quantifying impacts and measuring success at a site specific level requires scaling up to a regional landscape level.

Although rehabilitation management strategies and actions including environmental values and assets are defined in EIS and associated planning instruments, there is an urgent need to evaluate and improve the integrity of those strategies and actions.

QMDC believes the following actions could help improve the integrity of rehabilitation:

- 1] ground-truthing research findings with farmers/landholders;
- 2] independent peer reviews conducted on EIS/EA research and technical reports
- 3] community being given real time public access to monitoring data, evaluation and progress reports and research findings
- 4] mining companies give serious consideration to those unlikely but potentially serious events if rehabilitation is not successful; and
- 5] all rehabilitation activities are subjected to a climate change audit

3.8 Incidental CSG

QMDC appreciates the benefits gained from not flaring gas, however, we are concerned that permitting the use of incidental gas must be conditioned as best practice and compliance assessed regularly.

3.9 Uncontrolled Gas Emissions from Legacy Boreholes

Legacy boreholes need to be appropriately identified and mitigation or remedial works that need to be done are facilitated in collaboration with the landholder.

3.10 Registers

Public access to the proposed one register is necessary in terms of creating confidence in the transparency of government decisions.



3.11 Right of way for coal

Coal mining is not sustainable development. All efforts should be made by government to phase out coal mining in order to support a viable renewable energy industry; one based on sound social, environmental and economic grounds both locally and internationally espoused. This right of way is not supported because it is not the most profitable, sustainable use of a common resource.

3.12 Fundamental legal principles

QMDC is concerned that many of the clauses contained in the Bill do not have sufficient regard to the rights and liberties of individuals and the public. The abrogation of rights and liberties from current law must be justified, whether the rights and liberties are under the common law or statute law. The Bill has abrogated many of the rights of landholders which exist in both common law and statute, for example, the basic right to unhindered and peaceful use and enjoyment of private land, the right to object to a proposed mining lease, and the right to withhold consent for restricted land within a mining lease. The poor justification, provided within the *Explanatory Notes* does not adequately defend the abrogation of the rights of landholders by the Bill.

Additionally, many of the clauses of the Bill are inconsistent with the principles of natural justice. For example, a person or local community who is impacted by the activities of a mining lease but does not fall within the definition of an “*affected person*” cannot object to the granting of that mining lease.

4.0 Recommendations

4.1 Successful exploration & production

QMDC recommends that the policy arguments supporting the Bill need to articulate how the government measures successful exploration and production against:

- The long term protection and improvement of environment, ecosystem health and natural resources;
- The long term socio-economic sustainability of rural and urban communities including the health of nearby residents and workers; and
- The need to provide certainty for the communities that where natural resources will be impacted beyond their threshold limits, exploration and production will not be allowed to occur in that area, region, bioregion or catchment.

4.2 Assessment of effectiveness and efficiency of exploration & production approval systems and processes.

QMDC recommends that the Bill's policy arguments need to illustrate how the Bill will be effective in terms of the measures outlined in 4.1 bullet points.



4.3 Assessment of abrogation of rights and liberties

QMDC recommends that the Committee address and actively consider and apply the interests of the citizens and public for whom the common mineral resource is held. We urge the Committee to take note of the abrogation of rights and liberties within the Bill and act accordingly.

4.4 Assessment of burden of regulation

QMDC recommends an assessment of costs needs to be provided by industry and government as evidence that regulation is an actual "burden". Techniques to determine this burden must be described in precise terms so that the source data, calculations, formulas, assumptions or methodology relied upon in making this statement are able to be reviewed and analysed in terms of the accuracy of the models used and whether all relevant environmental and socio-economic factors have been considered. Consequently because this evidence is not offered no reliance can be placed on the statement that regulation is in fact a burden.

4.5 Valuing environmental impacts

QMDC recommends that by valuing environmental impacts, certainty could be advanced for the future sustainability of the region as a key part of the Queensland economy. The reforms proposed by this Bill need to account for the damage that is done to society and human capital by pollutants and natural resource use, in order to progress better decisions on development which includes quantifying associated human health costs.

4.6 Whole life cycle of mineral resources

QMDC recommends the Committee seeking scientific intelligence on the economic and social costs relevant to the whole life cycle of mineral resources. A holistic overview and inquiry would provide a more honest picture of true costs and benefits of the industry.

4.7 Stakeholder engagement forums and committees

QMDC recommends the Bill establishing key forums and committees to enable the public and government's access to more detailed and current industry information. This is essential to stop government regulators playing "catch up." Establishing and resourcing stakeholder engagement forums where industry, government, natural resource management bodies and community can come together and discuss issues, mining operations etc and collaborate on solutions is urgently needed. Being closer to the action, will help both industry and government, to be better situated to identify potential problems and fix them. Governmental regulators must deal with politically unpopular or highly complex issues. The greater the collaboration and involvement of industry, government, natural resource management bodies and community in dealing with these issues and setting the rules, the more reasonable the rules are likely to appear to individual companies.



4.8 Affected person definition

QMDC recommends that “affected persons” should include neighbours, local community and public interest groups and individually and/or collectively allow all these persons the right to object to the decision to grant a mining lease tenure.

Consequentially notification of mining leases to all the above named persons should be mandatory and not be removed from the EPA, including standard applications and variation applications of an environmental authority for a mining activity.

4.9 Other amendments

QMDC recommends not allowing the proposed amendments:

- omitting the requirement to lodge a notice about a petroleum discovery and its commercial viability;
- extending the time allowable before Ministerial approval is required for continuing production or storage testing on a petroleum well;
- allowing the holder of a petroleum tenure to use CSG produced water for any purpose on or off tenure

4.10 Land access – private land

QMDC recommends that all the proposed clauses related to conduct issues, conduct and compensation or opt-out agreements registered on land title and opt out options where established relationship exist need thorough consultation and reassessing.

4.11 Low risk and impacts

QMDC believe a clear definition is required to show how it will be determined that a low likelihood of risks.

QMDC recommends that impact should be determined on a case by case basis dependent on the health, safety, security and well-being of landholders, families and business owners affected and should require compensation for loss of privacy and enjoyment of one’s home or business surrounds.

QMDC recommends that CSG exploration activities should not be permitted and limited in areas, regions, bioregions, catchments etc where the environment and natural resources and those communities dependent on them are adversely affected. This is particularly the case when environmentally sustainable farming practices based on precision agriculture and conservation agriculture are involved



4.12 Land access – public land

QMDC recommends not allowing the proposed changes to only notify owners of public land. QMDC believes the onus is on the public land owner to keep accurate records of occupiers and enable mining proponents to notify those occupiers through these records. Reasonable efforts must be made to contact and consult with occupier whose interests although facilitated by the owner allowing them occupancy are likely to be impacted on very differently than the occupier. If compensation for occupiers is mandatory for any impacts suffered and negotiations must be entered into with the occupier, then consultation should be facilitated at first instance.

QMDC recommends that national parks and conservation reserves should be no go zones for mining and resource exploration.

QMDC recommends that it is the responsibility of the mining proponent and regulator to ensure resource authority conditions are consistent with public authority access permits and occupancy rights, not the other way round.

QMDC recommends not allowing the right to lodge a notice of entry with the public land authority before a resource authority is granted.

QMDC recommends limiting the right to build up tenements in size by requiring a full consideration of the impact on surrounding natural assets or land use by government before tenement changes are allowed.

QMDC recommends that when exploration leases expire a decision should be made based on current and cumulative impacts, whether those leases be renewed at all. Weight should be given to economic impacts of exploration as well as environmental impacts.

4.13 Technical non-compliance

QMDC recommends that technical non-compliance must be able to be defined and ascertained as part of due legal administrative process. Genuine mistakes or errors must be able to be rectified fairly. Amendments or changes must however be notified and trigger a different process if they alter the essence of the application and are not confined to genuine errors such as typos.

QMDC recommends not allowing the granting of tenure over the entire area including restricted land, especially if written consent to enter restricted land is the only measure of control or compliance.

4.14 Rehabilitation

QMDC recommend a clear definition is needed outlining what actions/management strategies and outcomes will determine that rehabilitation is scientifically sound and socially acceptable across the region and its landscapes (for soil, water, vegetation, air quality, biodiversity, social infrastructure, sustainable development etc.)



4.15 Incidental gas

QMDC recommends that permitting the use of incidental gas must be conditioned as best practice and compliance assessed regularly.

4.16 Uncontrolled Gas Emissions from Legacy Boreholes

QMDC recommends that legacy boreholes are appropriately identified and mitigation or remedial works that need to be done are facilitated in collaboration with the landholder.

4.17 Registers

QMDC recommends allowing public access to the proposed one register because it is necessary in terms of creating confidence in the transparency of government decisions.

4.18 Right of way

QMDC recommends a full reassessment of the coal mining right of way because mining it is not the most profitable, sustainable use of a common resource.