



## QMDC's submission on the Economic Bill 2012

### 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 resources.

### 1.0 General comments

It is widely recognised that the health of the economy and social fabric of the Queensland Murray Darling Basin's people depends on the health of the natural resources. This goal is achievable through planning processes that constantly seek to improve on current policy and legislation. In QMDC's opinion, the *Economic Development Bill 2012* (the Bill) fails to demonstrate a comprehensive understanding of the projected impacts of development in Queensland especially in regard to the impact on local and regional natural resources and other assets as identified in the Regional NRM Plans.

In this region and others like the Fitzroy Basin identification of challenges associated with economic growth created by the “boom” industries require more in depth economic analysis in relation to potential impacts on natural resources, social infrastructure and local economies.

The Bill does not appear to emphasis in the proposed new planning processes the need to reach or create “balance” and certainly does not provide any direction on how the Bill will facilitate sustainable development across Queensland. Indeed the Bill does not require sustainable development.

QMDC asserts that the economic theory informing the Bill must highlight the importance of ecosystems, equity and governance 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 planning processes to develop Queensland future direction in a more sustainable manner.

If, for example, infrastructure which industries such as CSG and coal mining develop, is considered the most important currency then the market and its dominant form of capital will continue to dominate policy and planning direction.

Natural capital, the infrastructure for life on Earth provides a wide array of ecosystem services to humans that could not otherwise be engineered, manufactured and packaged. The fiscal contribution made by natural capital to the region's economy and society must be clearly supported by the Bill to ensure it is not undervalued. Although it is often difficult to define and quantify, this evaluation is essential to Queensland's future planning.

Social capital, like natural capital is also hard to define in economic terms, yet is also essential because it represents the core fabric of social communities. Ranging from the drive for education, to the commitment to cultural tradition, to religious faith, to energy for community alliances; it also includes a region's need for safety and security, friendship and community, a sense of identity, access to knowledge and passion for family welfare.

## 2.0 Specific comments

### 2.1 Clause 3 Main purpose of Act

*The main purpose of this Act is to facilitate economic development, and development for community purposes, in the State.*

#### 2.1.1 Recommendation

**That, clause 3, is rewritten to read:**

***The main purpose of this Act is to facilitate economic development, and development for community purposes that take into account the objectives of quadruple bottom-line sustainable development (environmental, social, economic, governance), in the State.***

### 2.2 Clause 4 How main purpose is primarily achieved

*The main purpose of this Act is achieved primarily by—*

*(a) establishing MEDQ to plan, carry out, promote or coordinate activities to facilitate economic development, and development for community purposes, in the State;*  
*and*

*(b) providing for a streamlined planning and development framework for particular parts of the State (declared as priority development areas under this Act) to facilitate economic development, and development for community purposes, in the parts.*

#### 2.2.1 Recommendation

**That, clause 4, is rewritten to read:**

***The main purpose of this Act is achieved primarily by—***

**(a) establishing MEDQ to plan, carry out, promote or coordinate activities to facilitate economic development, and development for community purposes, purposes that take into account the objectives of quadruple bottom-line sustainable development (environmental, social, economic, governance), in the State; and**

**(b) providing for a streamlined planning and development framework for particular parts of the State (declared as priority development areas under this Act) to facilitate economic development, and development for community purposes, that take into account the objectives of quadruple bottom-line sustainable development (environmental, social, economic, governance), in the parts.**

### **2.3 Clause 10 Legal capacity**

*(1) MEDQ has all the powers of an individual and may, for example—*

*(a) enter into contracts, infrastructure agreements and other agreements; and*

*(b) deal in land or other property; and*

*(c) appoint agents and attorneys; and*

*(d) engage consultants; and*

*(e) establish funds and accounts with any financial institution in Australia; and*

*(f) fix charges, and other terms, for the performance of a function, or exercise of a power, under this Act; and*

*(g) do anything necessary or convenient to be done in the performance of its functions, or exercise of its powers, under this or another Act.*

*(2) MEDQ also has the powers conferred on it by this or another Act.*

*(3) In performing its functions, MEDQ may act alone or in conjunction with public sector units, local governments, agencies or instrumentalities of the Commonwealth and other persons.*

QMDC asserts the legal capacity afforded to the State needs to be a fettered power that is controlled by existing local and regional planning processes and which lies within the context of the *Sustainable Planning Act* (the SPA). QMDC is concerned that the powers of the MEDQ especially in relation to clause 10(1)(b) may negatively impact on land and property deals as determined by development negotiated within a local community amongst individuals, and businesses.

#### **2.3.1 Recommendation**

**That, clause 10, is rewritten to demonstrate that the legal capacity of MEDQ is a fettered power, aligned to the SPA, local and regional planning processes.**

### **2.4 Clause 13 MEDQ's functions**

*(1) MEDQ's main function is to give effect to the main purpose of this Act.*

*(2) MEDQ's other functions, for facilitating economic development and development for community purposes, include—*

*(a) dealing in land or other property; and*

*(b) coordinating the provision of, or providing, infrastructure and other services; and*

*(c) planning for, and developing and managing land, in priority development areas; and*

*(d) deciding PDA development applications under this Act.*

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*(3) In planning for, or developing land in, priority development areas, MEDQ must consult with each relevant local government.*

*Note—*

*See also section 58 in relation to MEDQ consulting with relevant local governments when preparing a development scheme for a priority development area.*

QMDC asserts as per 2.3 above the functions afforded to the State need to be in accordance with a fettered power that is controlled by existing local and regional planning processes and which lies within the context of the *Sustainable Planning Act* (the SPA). QMDC is concerned that the functions of the MEDQ are wide sweeping and show no overall coordination with regional planning instruments such as Regional NRM and development plans.

#### **2.4.1 Recommendation**

**That, clause 13, is rewritten to demonstrate that the functions of MEDQ are in accordance with a fettered power, aligned to the SPA, local and regional planning processes.**

#### **2.5 Clause 15 MEDQ to act commercially**

*MEDQ must, to the extent practicable, carry out its functions mentioned in section 13(2)(a) and (b) on a commercial basis.*

QMDC is concerned that the obligation of the State to act in the public interest will be undermined by the Bill's commercial focus.

#### **2.5.1 Recommendation**

**That, clause 15, is rewritten to demonstrate the obligation of MEDQ to act in the public interest of the State.**

#### **2.6 Clause 16 What power to deal in land or other property includes**

*(1) For this Act, MEDQ's power to deal in land or other property includes a power to deal in—*

- (a) land or other property; or*
- (b) an interest in land or other property.*

*(2) Also, for this Act, MEDQ's power to deal in land includes a power to deal in land and improvements on land.*

#### **2.6.1 Recommendation**

**That, clause 16, is rewritten to demonstrate the obligation of MEDQ to deal in land or other property in the public interest of the State.**

#### **2.7 Clause 17 Dealing in land or other property generally**

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Without limiting section 13(2)(a), MEDQ may—

- (a) acquire land or other property for proposed development; or
- (b) develop land, including by providing or contributing to the provision of infrastructure on the land, to facilitate the use of the land for economic development or development for community purposes; or
- (c) dispose of, lease, license the use or occupation of, or sublease land or other property held by MEDQ to another entity for development by the entity.

See previous comments. QMDC posits that the extent of land deals should be subject to supply and demand analyses, land quality and capacity analyses e.g. Strategic Cropping Land, Good quality Agricultural Land and be assessed against potential environmental and social impacts.

### 2.7.1 Recommendation

**That, clause 17, be rewritten to demonstrate the power of MEDQ is subject to an obligation of MEDQ to apply sustainable development objectives and act in accordance with the SPA, local and regional planning processes.**

### 2.8 Clause 18 Selling surplus property

- (1) This section applies if MEDQ holds land or other property (**surplus property**) that it does not require, or no longer requires, for carrying out its functions under this Act.
- (2) MEDQ may sell the surplus property at its market value—
  - (a) by public tender or auction; or
  - (b) by private treaty; or
  - (c) to a Commonwealth or State entity, or a local government, in priority to all other entities; or
  - (d) in any other way prescribed under a regulation.
- (3) In this section—
 

**Commonwealth or State entity** means—

  - (a) a department of the Government of the Commonwealth or the State; or
  - (b) a statutory body constituted under an Act of the Commonwealth or the State.

#### 2.8.1 Recommendation

**That, clause 18, is rewritten to demonstrate the obligation of MEDQ to sell surplus land against set priorities which include settlement under the Native Title Act and other key local and regional development priorities..**

### 2.9 Clause 20 Construction of roads

- (1) MEDQ may construct a road for achieving its functions mentioned in section 13(2)(a) and (b).
- (2) The Governor in Council may, by gazette notice, fix a day (the **fixed day**) on and after which the Local Government Act 2009 or the City of Brisbane Act 2010 (the **relevant Act**) applies to the road.
- (3) Until the fixed day—
  - (a) the relevant Act does not apply to the road; and

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(b) MEDQ incurs a duty, obligation, liability or responsibility in relation to an act done or omission made in relation to the road if, and to the extent, a local government would incur the duty, obligation, liability or responsibility if the act had been done or omission had been made by the local government.

(4) On and after the fixed day—

(a) the relevant Act applies to the road as if the road had been constructed by the local government for the area in which the road is located; and

(b) MEDQ does not have any duty, obligation, liability or responsibility in relation to the road.

### 2.9.1 Recommendation

**That, clause 20, is rewritten to demonstrate the obligation of MEDQ to act in the public interest of the State the power of MEDQ and apply sustainable development objectives in accordance with the SPA, local and regional planning processes.**

### 2.10 Clause 22 Holding land or other property obtained as security

(1) This section applies if MEDQ acquires or otherwise becomes entitled to land or other property as security for, or in satisfaction, liquidation or discharge of, a debt owing to MEDQ.

(2) MEDQ may hold the land or property until it can be advantageously disposed of.

#### 2.10.1 Recommendation

**That, clause 22, is rewritten to define advantage in terms of the obligation of MEDQ to act in the public interest of the State and which include an advantageous disposal that demonstrates sustainable development objectives.**

### 2.11 Clause 23 Arrangements for facilitating economic development or development for community purposes

(1) To help a person establish and carry on, or expand, an economic or community undertaking, MEDQ may enter into arrangements to facilitate the grant of an appropriate lease under the Land Act 1994 to the person for the undertaking.

(2) In this section— **economic or community undertaking** means an undertaking that facilitates or supports economic development or development for community purposes.

#### 2.10.1 Recommendation

**That, clause 23(2), is rewritten to read:**

**(2) In this section— economic or community undertaking means an undertaking that facilitates or supports economic development or development for community purposes that take into account the objectives of quadruple bottom-line sustainable development (environmental, social, economic, governance).**

### 2.11 Clause 24 Research

*MEDQ may contribute to, or undertake, research about land or other property or infrastructure to give effect to the main purpose of this Act, including, for example, research directed at identifying—*





- (a) recent market trends that may affect economic development, or development for community purposes, in the State; or  
(b) opportunities for economic development, or development for community purposes, in the State; or  
(c) community needs and expectations.

QMDC submits that research about land or other property needs to be guided by an *environment and natural resources* objective in order to inform economic development and thereby require State planning processes to:

- clearly and confidently identify the usefulness of available environmental and NRM information in terms of scientific and technical rigour
- interpret into development schemes technical data provided by key local and regional agencies and researchers
- enable the conversion of State data to a regional scale; and
- ensure data used is up to date, available at several spatial scales, and is suitable for State and regional level planning.

Producing useful regional maps requires good alignment between regional boundaries and those agencies and organisations holding relevant data. Even if there is ‘enough’ data available for the planning process, challenges for planning may arise in relation to when and how to use expert and local knowledge in the planning process. The presence of scientific information or other evidence must readily demonstrate the cause and effect relationships required to design effective targets and threshold limits for natural resources. It is also important to capture and appropriately using economic data at the regional scale for major industries such as CSG and coal mining.

Difficulties arise when planning documents do not clearly articulate what constitutes ‘the community’ and “public benefit”. A “significant community benefit” should be something that is deemed to be a local or regional benefit and not just one for the State

### 2.11.1 Recommendation

That, clause 24, is rewritten to include:

#### (d) environment and natural resource targets and threshold limits

### 2.12 Clause 33 Development and its types

- (1) *This section defines particular terms for this chapter.*  
(2) **Development** is any of the following—  
(a) carrying out building work;

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- (b) carrying out plumbing work or drainage work;
  - (c) carrying out operational work;
  - (d) reconfiguring a lot;
  - (e) making a material change of use of premises.
- (3) **PDA assessable development** is development that a relevant development instrument provides is PDA assessable development.
- (4) **PDA self-assessable development** is development that a relevant development instrument provides is PDA self-assessable development.
- (5) Development other than PDA assessable development or PDA self-assessable development is **PDA exempt development**.

QMDC assert that reconfiguring a lot must be considered under the SPA because this sort of development requires the level of consultation as prescribed by the SPA.

### 2.12.1 Recommendation

**That, clause 33, is rewritten to demonstrate the obligation of MEDQ when considering the reconfiguration of lots to require consultation in accordance with the SPA.**

### 2.13 Clause 34 Declaration

- (1) A regulation (a **declaration regulation**) may declare a part of the State to be a provisional priority development area.
- (2) In making a declaration under subsection (1), regard must be had to—
- (a) the main purpose of this Act; and
  - (b) without limiting paragraph (a)—
    - (i) any proposed development for land in the area; and
    - (ii) the economic and community benefit to the State that may be gained by the proposed development; and
    - (iii) the impact the Sustainable Planning Act may have on the delivery of the proposed development if that Act were to apply to development in the area.
- (3) Also, a declaration may be made under subsection (1) only if—
- (a) the area is a discrete site proposed to be used for a discrete purpose; and
  - (b) the type, scale, intensity and location of proposed development on the site is consistent with the relevant local government's planning scheme for the area; and
  - (c) there is an overriding economic or community need to start the proposed development quickly.

#### 2.13.1 Recommendation

**That, clause 34, is rewritten to require MEDQ when making a declaration to have regard to all risks of environmental harm and the costs associated with their avoidance an management.**

**Additionally the time allowed for public consultation to demonstrate there is an overriding economic or community need to start a proposed development quickly must be within a realistic timeframe that allows proper community engagement.**



## 2.14 Clause 35 Provisional land use plan required for provisional priority development area

(1) A declaration regulation must make a provisional land use plan regulating development in a provisional priority development area declared under it.

(2) The provisional land use plan—

(a) may provide for any matter mentioned in section 57(2)(a) or (3); and

(b) must be consistent with the relevant local government's planning scheme for the area; and

(c) must require public notice of each PDA development application that is for carrying out PDA assessable development of the following kind on land in the area—

(i) reconfiguring a lot;

(ii) making a material change of use of premises.

Note—

See section 84 for the requirements about the public notification.

(3) Subsection (2)(c) does not prevent the provisional land use plan from requiring public notice of PDA development applications for carrying out other PDA assessable development in the area.

### 2.14.1 Recommendation

**That, clause 35, is rewritten to require MEDQ when making a declaration to have regard to all risks of environmental harm and the costs associated with their avoidance an management.**

**Additionally the time allowed for public consultation to demonstrate there is an overriding economic or community need to start a proposed development quickly must be within a realistic timeframe that allows proper community engagement.**

## 2.15 Clause 37 Declaration

(1) A regulation (a **declaration regulation**) may declare a part of the State to be a priority development area.

(2) In making a declaration under subsection (1), regard must be had to—

(a) the main purpose of this Act; and

(b) without limiting paragraph (a)—

(i) any proposed development for land in the area; and

(ii) the economic and community benefit to the State that may be gained by the proposed development; and

(iii) the impact the Sustainable Planning Act may have on the delivery of the proposed development if that Act were to apply to development in the area.

### 2.15.1 Recommendation

**That, clause 37(b)(ii), is rewritten to read:**

**(ii) the environmental, economic and community benefit to the State that may be gained by the proposed development;**

## 2.16 Clause 44 Existing SPA development applications

*(1) This section applies if, immediately before the declaration of an area as a priority development area—*

- (a) an SPA development application had been made for land in the area; and*
- (b) the application was a properly made application and had not lapsed under that Act; and*
- (c) the application had not been decided.*

*(2) Despite the declaration, the application must be decided under the Sustainable Planning Act, and that Act continues to apply, as if the land were not land in a priority development area.*

QMDC supports this clause.

## 2.17 Clause 47 Community infrastructure designations

*(1) A community infrastructure designation can not be made for land in a priority development area.*

*(2) However, a community infrastructure designation in force immediately before the declaration of the priority development area continues in force for the land.*

*(3) Subsection (1) applies despite the Sustainable Planning Act, chapter 5.*

This clause does not make sense and appears to discriminate against community infrastructure aspirations.

### 2.17.1 Recommendation

**That, this clause be more fully discussed.**

## 2.18 Clause 48 Conversion of PDA development approval to SPA development approval

*(1) This section applies if—*

- (a) land ceases to be in a priority development area; and*
- (b) immediately before the cessation, a PDA development approval was in force for the land.*

*(2) On the cessation, the PDA development approval is taken to be an SPA development approval for the land that took effect at the same time as the PDA development approval.*

*(3) However, if an appeal under section 90 has been started, or is started within 20 business days after the cessation, the appeal may be decided under that section as if the cessation had not happened.*

QMDC asserts that conversion of approvals require a robust public consultation process.

### 2.18.1 Recommendation

**That, a public consultation process be included in clause 48.**

## 2.19 Clause 54 By-laws

*(1) MEDQ may make by-laws under this Act for priority development areas about any matter for which a local law may be made, including the creation of offences.*

- (2) However, a by-law can not fix a penalty of more than—
- (a) if the by-law replaces a local law—the maximum penalty units applying to a contravention of the local law it replaces; or
- (b) otherwise—20 penalty units for an offence against the by-law.
- (3) A by-law **replaces** a local law if—
- (a) the local law no longer applies to a matter within a priority development area because a by-law provides that the local law does not apply, or applies with stated changes, within the priority development area; and
- (b) the by-law applies to the matter within the priority development area.
- (4) A by-law may provide that all or part of a stated local law does not apply, or applies with stated changes, within a priority development area.
- (5) If a by-law provides that a stated local law does not apply, or applies with stated changes, within a priority development area, the local law does not apply, or applies with the stated changes, within the area.
- (6) A by-law must be approved by the Governor in Council.

QMDC is concerned that this clause may lead to by laws being developed that will be in conflict with local laws and by default community opinion. In QMDC's opinion community values and directions could be compromised.

### 2.19.1 Recommendation

**That, clause 54(4) and (5) be deleted.**

### 2.20 Clause 57 Content of development scheme

- (1) The development scheme may provide for any matter that MEDQ considers will promote the proper and orderly planning, development and management of the area.
- (2) The development scheme must include—
- (a) a land use plan regulating development in the area; and
- (b) a plan for infrastructure in the area; and
- (c) an implementation strategy to achieve the main purpose of this Act for the area, to the extent it is not achieved by the land use plan or the plan for infrastructure.
- (3) Without limiting subsection (2)(a), the land use plan may—
- (a) provide for any matter about which a planning instrument may provide for an area; or
- (b) identify any PDA assessable development or PDA self-assessable development in the area; or
- (c) prohibit the carrying out of particular PDA assessable development; or
- (d) state that particular development is consistent or inconsistent with the plan; or
- (e) require public notice of PDA development applications for stated PDA assessable development in the area.
- (4) Despite subsections (1) and (2), the development scheme is subject to part 4, division 2.
- (5) In making the development scheme, MEDQ must consider, but is not bound by, a requirement under any of the following relevant to the area—
- (a) a planning instrument;
- (b) a plan, policy or code made under the Sustainable Planning Act or another Act.

### 2.20.1 Recommendation

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That, clause 54, is rewritten to so that a development scheme must demonstrate sustainable development objectives and be established in accordance with regional planning processes and should be limited by SPA.

## 2.21 Clause 58 Preparation of proposed development scheme

(1) MEDQ must, as soon as practicable, prepare a proposed development scheme for the area.

(2) However, before preparing the proposed scheme, MEDQ—

(a) must consult, in the way it considers appropriate, with the relevant local government; and  
(b) must make reasonable endeavours to consult, in the way it considers appropriate, with any of the following MEDQ considers will be likely to be affected by a development scheme for the area—

(i) a government entity or GOC;

(ii) another person or entity.

QMDC is concerned the consultation during the preparation of the proposed development scheme is not safeguarded within the clause.

### 2.21.1 Recommendation

That, clause 58, is rewritten so that a proposal for development scheme must demonstrate how it has provided a robust public consultation process.

## 2.22 Clause 66 Power to amend

(1) MEDQ may amend a development scheme if—

(a) the amendment does not change the land use plan for the relevant priority development area in the scheme; or

(b) the amendment is a minor administrative amendment.

(2) Also, MEDQ may amend a development scheme to change the land use plan for the relevant priority development area if MEDQ considers the amendment is necessary—

(i) to ensure the implementation of the scheme complies with this Act; or

(ii) to prevent or minimise a significant risk of serious environmental harm or serious adverse cultural, economic or social conditions occurring in the relevant priority development area.

(3) To remove any doubt, it is declared that an amendment mentioned in subsection (2) may be made even if it is materially detrimental to someone's interests.

### 2.22.1 Recommendation

**That, clause 66, is rewritten so that ....**

## 2.23 Clause 71 Development scheme prevails over particular instruments

If there is a conflict between a development scheme and any of the following instruments, the development scheme prevails to the extent of the inconsistency—

(a) a planning instrument;

(b) a plan, policy or code made under the Sustainable Planning Act or another Act.

**This is not supported a plan, policy or code should have a more enduring effect than a 3 year scheme.**

### 2.23.1 Recommendation

**That, clause 71, is rewritten to read:**

**If there is a conflict between a development scheme and any of the following instruments, a planning instrument, a plan, policy or code made under the Sustainable Planning Act or another Act prevails to the extent of the inconsistency.**

### 2.24 Clause 87 Matters to be considered in making decision

- (1) *In deciding the application, MEDQ must consider—*
- (a) *the main purpose of this Act; and*
  - (b) *any relevant State interest; and*
  - (c) *any submissions made to it about the application, during the submission period; and*
  - (d) *the following, as in force or as prepared when the application is decided—*
    - (i) *for a provisional priority development area—the provisional land use plan for the area;*
    - (ii) *for another priority development area—*
      - (A) *if there is a development scheme for the area—the development scheme; or*
      - (B) *if there is no development scheme for the area but there is a proposed development scheme for the area—the interim land use plan for the area and the proposed development scheme; or*
      - (C) *if there is no development scheme for the area and no proposed development scheme for the area—the interim land use plan for the area; and*
    - (e) *any PDA preliminary approval in force for the relevant land; and*
    - (f) *any SPA preliminary approval in force for the relevant land.*
- (2) *Also, in deciding an application for a priority development area other than a provisional priority development area, if—*
- (a) *there is—*
    - (i) *a development scheme or interim land use plan for the area; and*
    - (ii) *a proposed development scheme for the area; and*
  - (b) *the proposed development scheme was prepared after the development scheme or interim land use plan took effect; MEDQ may, subject to section 86, give the weight it considers appropriate to the proposed scheme.*
- (3) *Subsection (1)(c) does not prevent MEDQ from considering a submission about the application made to it after the submission period has ended.*
- (4) *In this section— **proposed development scheme**, for a priority development area, means a proposed development scheme, or a proposed amendment of a development scheme, for the area published under section 59, or section 59 as applied under section 67, that has not taken effect.*
- State interest** includes—
- (a) *an interest relating to the main purpose of this Act; and*
  - (b) *an interest that, in MEDQ's opinion, affects an economic, community or environmental interest of the State or a region.*

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QMDC agree the definition of a State interest should include an environmental interest

## **2.25 Clause 87 Matters to be considered in making decision**

*(1) In deciding the application, MEDQ must consider—*

*(a) the main purpose of this Act; and*

*(b) any relevant State interest; and*

*(c) any submissions made to it about the application, during the submission period; and*

*(d) the following, as in force or as prepared when the application is decided—*

*(i) for a provisional priority development area—the provisional land use plan for the area;*

*(ii) for another priority development area—*

*(A) if there is a development scheme for the area—the development scheme;*

### **2.25.1 Recommendation**

**That, clause 87, include a requirement for environmental condition and threshold limits for natural resources to be considered.**

## **2.26 Clause 90 Right of appeal against particular conditions**

It is not stated what the appeal process will be against any decision to develop land prior to apportioning conditions. This needs to be stated within the Bill.

### **2.26.1 Recommendation**

**That, right of appeal processes be clearly articulated for the different decision making processes created by the Bill.**

## **2.27 Clause 104 Plans of subdivision**

It is not clear when plan is assessed under this Act or under SPA and when it is assessed under this Act who carries out the assessment. What criteria will be used to conduct that assessment as per current practice under planning schemes where there is specific criteria and intent statements to remove elements of subjectivity to process.

### **2.27.1 Recommendation**

**That, clause 104, state what criteria will be used for assessment of subdivision plans.**

## **2.28 Clause 108 Effect of enforcement order**

### **2.28.1 Recommendation**

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That, clause 108(2) include in any environmental harm and that the meaning of 108(5) is clarified.

### **2.29 Clause 111 Orders Magistrates Court may make in PDA offence proceeding**

QMDC would like an explanation why the Magistrate Court and not the Environment and Planning Court is empowered to make orders.

### **2.30 Clause 119 Exercise of discretion unaffected by infrastructure agreements**

QMDC does not agree with the discretionary powers afforded the MEDQ.

### **2.31 Clause 132 Membership of the board**

QMDC supports selected membership.

### **2.32 Clause 158 Establishment of a local representative committee**

QMDC supports this type of Committee but is concerned about the selection process and how key stakeholders will be chosen to represent community.

### **2.33 Clause 159 Functions**

QMDC supports the stated functions.

### **2.34 Clause 169 Delegations**

Delegation is not supported by QMDC AS it can lead to bias decision making and singular decision making. QMDC is concerned that the delegate must be suitably qualified to possess delegated powers.

### **2.35 '357B Who may apply for temporary emissions licence**

*'(1) A person may apply for a licence (a **temporary emissions licence**) that permits the temporary relaxation or modification of particular conditions of an environmental authority, or of particular development conditions of a development approval, that relate to the release of a contaminant into the environment in response to an emergent event.*

*'(2) A person may apply for a temporary emissions licence only if the person is the holder of an environmental authority or a registered operator.*

*'(3) The application may be made—*

*(a) in anticipation of an emergent event; or*

*(b) in response to an emergent event.*

*Example of application in anticipation of an emergent event— application to release a contaminant into water when flood waters are due to reach the site of an activity within hours or days*

*Example of application in response to an emergent event— application to allow a waste transfer station to change its operating hours, or the types of material it receives, as part of a flood response after flood waters have receded*

*(4) The application must—*

*(a) be made—*

*(i) in person to an authorised person; or*

*(ii) by email or facsimile to the administering authority; and*

*(b) be supported by enough information to enable the administering authority to decide the application.*

*(5) The applicant must pay the administering authority the fee for the application prescribed under a regulation.*

*(6) If the applicant does not pay the fee within the period of at least 20 days stated for payment in a notice given to the applicant by the administering authority, the administering authority may recover it as a debt.*

QMDC is alarmed at the relaxing of processes concerning TEPs and does not support this clause especially the right to be able to apply for a license in anticipation of an emergent event. QMDC does not support the explanation offered at pages 7, 19 and 22 with regards to emergency releases and believes this Bill will have adverse outcomes with regards to releases of unacceptable levels of contaminants.

### **2.36 Clause 292 Amendment of s 29 (Notice of requirement for EIS and of draft terms of reference)**

QMDC asserts that the Coordinator General must publically notify an EIUS is required.

### **2.37 Clause 310 153AC**

Need to include environmental compliance clauses in (2)

### **2.38 Clause SCHEDULE1B**

Needs to be more stringent control and aligned with other assessment processes e.g EIS.



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