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RPI Bill

Additional Comments



QMDC supplementary comments on the Regional Planning Interests Bill 2013

25 February 2014

Submission to:

The Research Director
State Development, Infrastructure and Industry Committee
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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 Additional comments on evidence submitted to the Committee

QMDC would like to thank the Committee for the additional opportunity to respond to the evidence that has been presented to the Committee during the course of its inquiry.

QMDC supports or agrees with the following issues raised in the evidence:

- An option of an additional area of regional interest for significant Aboriginal or Torres Strait Islander areas or regionally significant cultural heritage values along with the other values listed.
- Processes and the provisions contained in the Bill should include Traditional Owner bodies and Aboriginal groups and organisations and that they be included as parties who are able to appeal decisions on assessment applications.
- In order for these processes to work and for Indigenous people to be able to have the involvement that they should have, they are provided with sufficient capacity and support to enable them to properly participate in the processes.
- That the designation of cultural heritage sites be listed in regional plans.
- Mining is incompatible on land that has been set aside for nature conservation purposes e.g. Nature Refuges, land or vegetation set aside for offsetting other developments, areas with high biodiversity values, camping and fishing reserves, current and future tourism destinations and should not be permitted by the Bill.

- Efforts being made to protect priority agricultural land to be enshrined in legislation as opposed to sitting in regulation
- Determining thresholds for material impact still needs to be resolved.
- The management of cumulative impact is difficult to get finite agreement on.
- The definitions associated with SCA or cropping areas and SCL and priority agricultural areas should be combined so we are talking about the one defined area of important cropping land for Queensland's food production.
- The identification of regional interests should include those specific infrastructure associated with critical agricultural production, e.g. water channels, the Condamine Alluvium and rail infrastructure for agricultural freight. They are just as important as the land based assets and they should be recognised as regional interests in the Bill.
- Changing the term "restoration".
- The definition of 'affected landowner' to be removed.
- Expanding the court's powers where there is a noncompliance—where there is an offence—to give the court power to stop that particular activity continuing or development from operating.
- Specifying time frames for each of the steps in the assessment process to occur, so that parties and stakeholders have an understanding about when a decision is likely to happen, e.g. 20 day time frame for the chief executive to refer to other departments of government or to make a decision.
- Bill is weighted too far towards private interests as opposed to regional interests of whole community, which are integral to the objectives of the Bill.
- Skeleton or framework legislation such as this Bill should not be passed by parliament until there has been community consultation on the associated regulations.
- It is ultimately for the public interest that there are areas of regional importance that need to be managed differently.
- The Bill should provide for public interest appeal rights for members of the community who are seeking to protect values in a regional interest area.
- The wording of the provisions regarding the regional interest authority overriding the environmental authority is open to wide interpretation. RIA must be consistent with an EA.
- In regard to strategic environmental areas, the criteria to determine what constitutes a SEA and the process to determine the existence of a SEA and the level of protection it should be afforded are not provided, so they lack certainty.
- The planning process does not address the broader aspects of issues outside the region. Downstream and upstream impacts need to be also considered within a landscape and catchment framework.
- Utilising DAFF's agricultural land audit as one source of scientific baseline work for regional planning.
- That the intended outcomes in the regional plan should be very clear and about protecting priority agricultural areas, priority living areas and strategic environmental areas. Any assessment will have to meet those objectives that are in the regional plan. That means that the priority agricultural land uses within those priority agricultural areas cannot be displaced or constrained or restricted or unduly impacted upon.
- That the Bill should provide clear prohibition on mining and gas extraction for agricultural land, for residential areas, for environmental areas or for water resources.

Produced by: Geoff Penton, Kathie Fletcher and Bob Walker, 25 February, 2014
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- That there a number of quite broad loopholes that mean companies trying to engage in coal or gas mining on important agricultural land or in water resource areas will not even need to obtain the new permit that is established by the Bill.
- There will be a lot of difficulty in having planning systems and statutory systems that are designed around the discretion of the bureaucracy without clear guidelines and standards that have to be met in the assessment process, without clear lists of matters that need to be considered and guidance for the bureaucrats that are implementing the Bill.
- Bill does nothing to ease land use conflicts.
- Legislation needs to define the no-go zones and people need to be reassured that these cannot be overridden by ministerial or departmental discretion. As it stands, the Bill fails to provide certainty for economic development; it fails to protect agricultural, tourism, environmental areas that provide ecological and recreational value; and it fails to protect the health and wellbeing of Queenslanders.
- There are some areas that are just too important and the externalities of a resource development too great for co-existence to occur.
- The term 'co-existence' has not been helpful.
- Mapping priority agricultural areas so you cannot approve certain kinds of activities in these areas and then there will be no need to go into lengthy assessment processes and tie up everybody's time and also emotional energy in uncertainty and conflict.
- Physical and emotional/mental health impacts equally important to economic impacts.
- The cumulative impacts of proposed resource activities must be considered before any approval is given for mining to proceed.

QMDC does not support or agree with the following evidential statements or comments:

- The implementation of a template conduct and compensation agreement.
- Implementing an offsets framework for agricultural production.
- The use of concepts like proximity and impact as a preliminary step in getting to the appeal rights issues e.g. an environmental group or another community group which does not live in the area where an activity is being carried out or a development is proposed not having the right to make an appeal.
- Conditions being enacted from a submitter under an environmental authority being overridden by the regional interest authority.
- The notion that the proposed use of the Planning and Environment Court to adjudicate on these matters could provide another avenue for vexatious objectors to delay and halt approval processes.
- The claim that there is lots of protection; and not much growth.
- A coexistence definition that means solely a new mining project within a priority agricultural area must provide a net benefit for that priority agricultural land use.
- A co-existence definition that means solely that a landholder and a company both voluntarily agree over what mining activities can occur on a property.
- The claim that outcomes in the regional plan are very clear.
- That most exploration activities will be allowed to fall within the 12-month exemption.

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2.0 Recommendations:

QMDC supports regional strategic planning and providing regional plans with legislative power. Our main concern, however, is that neither the proposed Darling Downs Regional Plan nor the Regional Planning Interests Bill are as holistic as they should be.

The Bill needs to be redrafted to ensure that:

- dedicated areas with high agricultural, environmental and tourism value will be protected.
- cumulative impact should be considered where development in non-agricultural areas have the potential to impact on agricultural areas e.g. groundwater contamination.
- the democratic rights of appeal by affected landholders and wider interest groups is preserved.
- the principle of co-existence is not imposed in all areas.
- 3rd party scrutiny of applications is required. Transparent and accountable assessment and decision making processes are crucial as the Bill is dealing with regional interests and public resources. Individual landholder deals between agreeable landholders may be forced by financial pressures related to drought and other natural disasters, loan repayments and untenable financial debt which risks leading to short term private outcomes. Checks and balances must be in place to protect long term regional interests.
- Environmental assessments and conditioning must remain in place and under the jurisdiction of EHP.