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## QMDC comments on the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014

16 May 2014

### Submission to:

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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 General comments

QMDC supports the need to improve regional planning instruments. The purposes/objects of the *Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014* (the Bill) in QMDC's opinion, conflict with key environmental protection principles.

QMDC believe the Queensland Government should be increasingly concerned with sustainable development, 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 infrastructure development.

There is an ever-increasing community expectation amongst QMDC member organisations and the landholders we work with that legislation, policy and planning instruments have an environmental and social bottom line that provide higher levels of protection based on a set of well-considered environmental management standards.



In our opinion the Bill creates potential problems because of the following: - increased power to Chief Executive, the ease at which developers can avoid being charged for infrastructure development and avoid having to offset environmental, social impacts and the removal of appeal rights. The Bill does not seriously consider the long term impacts of infrastructure on regional interests, social, economic and environmental integrity or regional NRM planning priorities.

## 2.0 Specific comments

### 2.1 Increased powers to Coordinator General

The *State Development and Public Works Organisation Act 1971* (Qld) prevails over most major development projects (i.e. port expansions, dredging, infrastructure, large scale development such as resorts or casinos etc.). In concert with the draft approval bilateral agreement released on 14 May 2014, this Act grants power to the Coordinator-General to approve projects, impose conditions and fast-track development applications, all without being required to consider or implement the principles of ESD.

QMDC does not support the Bill's shift of authority to the Department of State Planning and Infrastructure. A separation of powers is needed to assess the impacts of proposed planning developments and to decide EPBC matters. The assessment and approval process should remain with the Department of Environment and Heritage Protection owing to the current expertise of departmental staff with environmental approvals and associated environmental issues.

### 2.2 Implementation of Ecological Sustainable Development Principles

The Queensland Government's approach to the principles of Ecological Sustainable Development (ESD) is of concern to QMDC. ESD is a concept well embedded in State and Commonwealth legislation in Australia since 1992. This Bill, we believe supports the State Government's "greentape" agenda to move environmental policy away from ESD.

The principles of ESD are encapsulated in the five key principles under section 3A of the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act):

- "decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;
- if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
- the principle of inter-generational equity--that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making; and
- improved valuation, pricing and incentive mechanisms should be promoted"<sup>1</sup>.

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<sup>1</sup> (Koroglu, R. & Perovic, P. Ecological Sustainable Development (ESD) in Queensland <http://www.justiceandthelaw.org/wp-content/uploads/2014/04/Themis-First-Edition-2014.pdf>



QMDC asserts that under the long standing Intergovernmental Agreement on the Environment, the Queensland Government was required to use ESD principles to inform its own policy making and program implementation. ESD principles have therefore been incorporated into State legislation since 1992. However, QMDC has witnessed the Queensland Government's legislative reform program omit and remove references to, and undermine the application of, ESD principles in their entirety.

QMDC argue the new bilateral agreement and One Stop Shop approval process must guard against further erosion of both the government's and industries' commitment to ESD and the protection of regional natural resource assets.

### 2.3 Potential wider negative impact of Bill when read alongside other Acts

There are a number of other key pieces of legislation which will undermine Regional NRM Plan targets and have the potential of unsatisfactory environmental, social and economic outcomes when implemented alongside the Bill.

The *Transport Infrastructure Act 1994* (Qld), the primary Act concerned with Priority Port infrastructure (including ports on the Great Barrier Reef), does not have ESD as the object of the legislation. The word 'sustainability' does not occur in the entire Act.

There are no ESD principles articulated in the new *State Planning Policy* (SPP) which forms the basis for all regional and local planning instruments that guide where development can occur. ESD is not mentioned at all in the entire SPP, ignoring a 'requirement' that the SPP advance the purposes of the *Sustainable Planning Act* which include 'ecological sustainability'.

The *Regional Planning Interests Act 2014* (Qld) which seeks to balance competing land uses of mining and CSG development with agricultural and environmental priorities, also does not reference ESD, nor does it give practical effect to the principles of ESD, especially the precautionary principle.

The new planning legislation, *Planning for Prosperity Act* is a step backward from the *Sustainable Planning Act* as it is expected the principles of ESD will be removed

The upcoming review of the *Water Act 2000* (Qld) is also likely to remove ESD principles from the current objects of that Act.

The *Environmental Offsets Bill 2014* (Qld) also does not refer to ESD principles in the objects, even though it provides a mechanism for permitting serious environmental harm on our most endangered species, ecological communities and protected areas.

QMDC continues to assert that by deeming 'economic development' as the principal consideration in environment and planning decision making will continue the trend of decreases in Queensland's unique biodiversity and MNES due to the failure to address the environmental impacts of development. In order to balance social, economic and environmental objectives, decision-making on development is best guided by the long-established principles of ESD and Regional NRM Planning.



**3.0 Recommendations**

**3.1 That the principles of ESD be securely written in to the Bill.**

**3.2 That the State Development and Public Works Organisation Act not be amended and the Coordinator General not be given the authority to approve environmental matters in accordance with the EPBC Act.**