



Queensland Murray-Darling Committee's comments on the Mineral and Energy Resource Exploration – Productivity Commission Draft Inquiry Report May 2013

Submission To:

Mineral Exploration Inquiry
Productivity Commission
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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 Background

QMDC provided a submission on the *Mineral and Energy Exploration Issues Paper December 2012* (the Issues Paper) urging the reform of policy and environmental regulation that clearly provides a high level of protection for the QMDB consistent with the aspirations of the Regional NRM Plan and that the Inquiry took into consideration not only the individual impacts of each development or business exploration licence application but also the cumulative impacts of both a whole industry e.g. CSG mining and the total number of businesses or industries impacting on the ecologically sustainable development of a region.

QMDC's responses to the Issues Paper and the *Mineral and Energy Resource Exploration – Productivity Commission Draft Inquiry Report May 2013* (the Draft Report) are informed by the impact that both State and Federal environmental law processes and recent regulatory reform has had on the region, both positive and negative. 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.

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 for the need to reduce costs and remove environmental safeguards to make it easier for the mining industry to explore and extract mineral resources, are either well-articulated or factually proven.





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 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 associated legislative change is swimming against the tide of community expectations of government.

2.0 General comments

QMDC would like to commend the Productivity Commission (the Commission) on the production of the Draft Report. The Commission has clearly attempted to address and validate a wide range of issues and concerns. In our opinion the Draft Report has at the very least embraced community expectations of government to improve transparency of decision making. There are also some recommendations that endeavour to safeguard environmental values and assets in balance with economic and social development. This reflects community sentiment which has swung from development at almost any cost to genuinely seeking a balance of protecting our natural environment whilst developing a sustainable economic platform.

QMDC, however, reiterates the need to include an assessment of threshold limits for Australia's natural resources within the Inquiry. This would provide a better assessment of the issues relevant to exploration because thresholds limits would help to define those natural resource assets identified as being both nationally and statewide at risk to the impacts caused by exploration activities and infrastructure of the mining and energy industries and businesses.

QMDC would like to resubmit the below comments as there are in our opinion still value statements and judgements within the text of the Draft Report that need to be considered more fully as per our stated concerns.

3.0 Specific comments

3.1 Successful exploration

QMDC asserts that the Inquiry needs to articulate how the Commission is measuring successful exploration. We believe that the following matters should be considered as relevant to the issue of success and as such measured 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 will not be allowed to occur in that area, region, bioregion or catchment.

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3.2 Assessment of effectiveness of exploration approval systems and processes.

QMDC also asserts that the Inquiry needs to articulate how the Commission is measuring effectiveness. We believe that the abovenamed matters (bullet-points at 3.1) should also be considered as relevant to the issue of effectiveness of approval systems and processes.

3.3 Assessment of efficiency of exploration approval systems and processes.

As per the comments above how is efficiency to be measured, and against what?

3.4 Assessment of regulatory burden

Throughout the Draft Report there is a presumption regulation is a burden and unnecessary. QMDC is most concerned that the Commission is being asked to overcome “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 are required on exploration, including the establishment of no-go zones. Current economic analysis with regards to the economic benefits of the mining and energy industries are in our opinion seriously flawed.

QMDC asserts an assessment of costs needs to be provided 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.

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 Paul 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.

3.5 International competitiveness and economic performance of exploration sector

QMDC argues, that the environmental performance and ethical social practices of the exploration sector need to be assessed in terms of the burdens this sector place on regional communities, and the natural resources and ecosystems they rely on to sustain themselves.

International market driven CSG operations have had a huge cost and social impact on the agricultural industry and rural landholders in Queensland.

3.6 Scope of 'exploration'

QMDC argues that the focus of the inquiry solely on exploration 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 as per the above comments.

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 10 (and smaller) emissions are being better recognised.

Key stages in Fig. 1 require well-considered environmental and socio-economic assessment and regulation and not just geological surveys.

3.7 The economics of mineral and energy exploration

QMDC argues that because an assessment of the GDP offers a limited economic picture, the inquiry needs to expand its parameters for assessment to include broader social factors such as the quality of life, mental health of farmers, effect on farm operations and consequent farm values, resilience of communities and related mining companies' social license to operate. GDP, for example, considers negative events such as car crashes, and floods etc as economically positive when clearly they are not!

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.



The claim that the long-term viability of mining and energy resources sector is dependent on the discovery of “large, commercial quality deposits” needs to be qualified. QMDC would have thought it depended 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.

Mineral and energy deposits serve a purpose outside of a human quest for profit and energy. What work has been done 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, cultural preservation are missing from profit calculations.

3.8 Government influence

QMDC argue that a public resource that should be managed for public good. The focus of the Inquiry should therefore focus on this, instead of being primarily concerned with company profit and regulatory obligation.

QMDC argues that the Australian government needs to slow the mining and energy industry down and protect public resources for future Australian generations. The faster it is mined, the faster it goes to other countries.

3.9 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 to measure productivity.

Other areas to assess why there are declines in industry could include:

- Job satisfaction e.g. impacts of FIFO on families;
- Environmental restrictions and industry not meeting regulatory requirements;
- Worldwide 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 proof/evidence that regulations are “unnecessary” and “a burden” to productivity?

How many exploration permit applications are refused statewide or nationally?

The State and Australian governments should establish no-go zones. QMDC would argue local government role and involvement should be the establishment of by-laws that ensure impacts from exploration such as waste, noise, lighting, etc. are adequately managed.

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3.10 Compliance costs

If exploration is not profitable, more federal support should be given to the renewable energy industry. Bravo to the jurisdiction that doesn't allow exploration because evidence based science and the precautionary principle are applied!

4.0 Comments on draft recommendations

4.1 Exploration licensing and approvals

DRAFT RECOMMENDATION 3.1

Governments should ensure that their authorities responsible for exploration licensing:

- *prepare and publish information on the government's exploration licensing objectives and the criteria by which applications for exploration licences will be assessed*
- *publish the outcome of exploration licence allocation assessments, including the name of the successful bidder and the reasons why their bid was successful.*

QMDC supports this recommendation.

DRAFT RECOMMENDATION 3.2

Where possible, governments should not allocate exploration licences for tenements that would be too small or too irregular a shape for an efficient mine or production wells to be established. The release of exploration tenements should be deferred until tenements of appropriate size and shape can be issued.

QMDC supports in part this recommendation. QMDC recommends that it should read: Governments should not allocate exploration licences for tenements that would be too small or too irregular a shape for an efficient mine or production wells to be successful. QMDC does not support the second half of this recommendation as it may create perverse outcomes where the need is to build up tenements in size regardless of surrounding natural assets or land use.

QMDC further recommends that when exploration leases expire a committee should decide, 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.



DRAFT RECOMMENDATION 3.3

If an Act requires the Minister to notify a person of a decision regarding an exploration licence, the Act should require that the notice include the reasons for the decision.

QMDC supports this recommendation.

DRAFT RECOMMENDATION 3.4

Where not already implemented, governments should ensure that at a minimum their lead agencies responsible for exploration, coordinate exploration licensing and related approvals (such as environment and heritage approvals). This should include the provision of guidance on the range of approvals that may be required, and on how to navigate the approvals processes.

QMDC supports this recommendation.

DRAFT RECOMMENDATION 3.5

Governments should ensure that their regulators publish target timeframes for approval processes, including exploration licensing and related approvals (for example environmental and heritage approvals). The lead agency for exploration should publish whole-of-government performance reports against these timeframes on their website.

QMDC supports this recommendation on the proviso that all approval processes are robust and not simplified to the detriment of both environmental and social management standards and values. The current issue of *Ground Cover* (GRDC publication), for example, noted that in farming communities “suicide represented 21% of fatalities ... in 55+ age group ... and 65+ group is double the national average” at p39. Whole of government performance reports against timeframes is all well and good as long as there is a review of whole of government performance reports against impacts of approvals on for example the mental health of farming communities and suicide rates.

4.2 Land access

DRAFT RECOMMENDATION 4.1

Drawing on the guiding principles of the Multiple Land Use Framework endorsed by the Standing Council on Energy and Resources, Governments should, when deciding to declare a new national park or conservation reserve in recognition of its environmental and heritage value, use evidence-based analyses of the economic and social costs and benefits of alternative or shared land use, including exploration.



Governments should, where they allow for consideration of exploration activity, assess applications by explorers to access a national park or conservation reserve according to the risk and the potential impact of the specific proposed activity on the environmental and heritage values and on other users of that park or reserve.

QMDC does not support this recommendation. 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.

DRAFT RECOMMENDATION 4.2

State and territory governments should ensure that land holders are informed that reasonable legal costs incurred by them in negotiating a land access agreement are compensable by explorers.

QMDC supports this recommendation.

DRAFT RECOMMENDATION 4.3

Governments should ensure that the development of coal seam gas exploration regulation is evidence-based and is appropriate to the level of risk. The regulation should draw on the guiding principles of the Multiple Land Use Framework endorsed by the Standing Council on Energy and Resources to weigh the economic, social and environmental costs and benefits for those directly affected as well as for the whole community, and should evolve in step with the evidence.

QMDC supports in part this recommendation. QMDC asserts there are other measuring tools that should be used to weigh the costs and benefits 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. 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. 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.

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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.

4.3 Heritage protection

DRAFT RECOMMENDATION 5.1

Until concerns with state and territory legislation have been fully addressed, the Commonwealth should retain the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (ATSIHP Act) and amend it to allow state and territory regimes to be accredited if Commonwealth standards are met. Once all jurisdictional regimes are operating satisfactorily to Commonwealth standards, the Commonwealth should repeal the ATSIHP Act.

QMDC supports this recommendation in part. Even if the Act is repealed QMDC believe the Federal Government should retain a monitoring and review role.

DRAFT RECOMMENDATION 5.2

Governments should ensure that their heritage authorities:

- require that resource explorers or other parties lodge all heritage surveys with that authority*
- maintain registers which map and list all known Indigenous heritage*
- adopt measures to ensure that sensitive information collected by a survey is only provided to approved parties (and only as necessary for the purposes of their activities), on the basis of agreed protocols.*

QMDC supports this recommendation.

DRAFT RECOMMENDATION 5.3

State and territory governments should manage Indigenous heritage on a risk assessment basis.

- Where there is a low likelihood of heritage significance in a tenement and the exploration activity is low risk, a streamlined 'duty of care' or 'due diligence' process should be adopted.*

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- *Where there is a high likelihood of heritage significance and the exploration activity is higher risk, models of agreement making should be adopted rather than a government authorisation system.*
- *When negotiated agreements cannot be reached, governments should make decisions about heritage protection based on clear criteria, transparency and consultation with all parties that have a direct interest.*

QMDC supports this recommendation in principle. However we believe a clear definition is required to show how it will be determined that a low likelihood of heritage significance exists. We are also concerned by the repercussions of 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 also asserts the streamlined “duty of care” and “due diligence” need to be fully defined.

4.4 Environmental management

DRAFT RECOMMENDATION 6.1

The Commonwealth should accredit the National Offshore Petroleum Safety and Environmental Management Authority to undertake environmental assessments and approvals under the Environment Protection and Biodiversity Conservation Act for petroleum activities in Commonwealth waters.

QMDC supports this recommendation.

DRAFT RECOMMENDATION 6.2

The Commonwealth should improve the efficiency of environmental assessment and approval processes under the Environment Protection and Biodiversity Conservation Act by strengthening bilateral arrangements with the states and territories for assessments and establishing bilateral agreements for the accreditation of approval processes where the state and territory processes meet appropriate standards. The necessary steps to implement this reform should be properly scoped, identified and reviewed by jurisdictions and a timetable for implementation should be agreed.



QMDC supports this recommendation.

DRAFT RECOMMENDATION 6.3

State and territory governments should reconsider the option of conferring their existing petroleum-related regulatory powers in state and territory waters seaward of the low tide mark, including islands within those waters, to the National Offshore Petroleum Safety and Environmental Management Authority.

QMDC supports this recommendation.

DRAFT RECOMMENDATION 6.4

Governments should ensure that their environment-related regulatory requirements relating to exploration:

- *are the minimum necessary to meet their policy objectives*
- *proportionate to the impacts and risks associated with the nature, scale and location of the proposed exploration activity.*

QMDC supports this recommendation. QMDC strongly recommend that 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.

DRAFT RECOMMENDATION 6.5

Governments should ensure that their environment-related regulation of exploration activities should be focused towards performance-based environmental outcome measures and away from prescriptive conditions, in order to better manage risk and achieve environmentally sound outcomes.

QMDC recommend a balance of both performance based environmental outcome measures and prescriptive conditions in order to create certainty for both community and industry.

DRAFT RECOMMENDATION 6.6

Governments should ensure that when there is scientific uncertainty surrounding the environmental impacts of exploration activities, regulatory settings should evolve with the best-available science (adaptive management) and decisions on environmental approvals should be evidence-based.



QMDC does not support this recommendation. If there is uncertainty around the science or evidence regarding impacts the precautionary principle should apply. QMDC recommends that governments should broaden their assessment to include social impacts caused by the mining and energy industries on regional communities e.g. the mental health of farmers when faced with the uncertainty of impacts of CSG industry on their businesses; preservation of aboriginal cultural heritage sites; FIFO and family dysfunction etc.

DRAFT RECOMMENDATION 6.7

Governments should clearly set out in a single location on the internet environment-related guidance on the range of approvals that may be required.

QMDC supports this recommendation.

DRAFT RECOMMENDATION 6.8

Governments should ensure that their authorities responsible for assessing environmental plans and environmental impact statements (and equivalent documents) should make archived industry data publicly available on the internet.

QMDC supports this recommendation. Additionally the timeliness of disclosing such information is important for public engagement.

4.5 Geoscience

DRAFT RECOMMENDATION 7.1

Governments should monitor the outcomes of the cost recovery funding approach to the provision of pre-competitive geoscience information being adopted by the New South Wales Government, with a view to its possible broader application in those jurisdictions.

QMDC supports this recommendation.