



Queensland Murray-Darling Committee's comments on the Review of the Protected Plants Legislative Framework under the *Nature Conservation Act 1992* Consultation Regulatory Impact Statement

Submission To:

Protected Plants Review Project
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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 supports policy reform and environmental regulation that provides a high level of protection for the QMDB consistent with the aspirations of the Regional NRM Plan. QMDC asserts the review into the protected plants legislative framework (the framework) must take into consideration not only the individual impacts of each development or business operation 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.

2.0 General comments

2.1 The value of NRM bodies

QMDC is one of fourteen endorsed regional NRM bodies in Queensland with specific expertise to offer in regards to the strategic direction of environmental law and regulation in Queensland. In the *Issues statement* at p.2 these NRM bodies are not identified as parties that rely on the effective management of protected plants. It is imperative that are identified as such because as key stakeholders and NRM planners in their regions, NRM bodies offer a significant opportunity for legislators and regulators to address relevant nature conservation issues. Early recognition of NRM bodies as key stakeholders will assist legislators to bring together and align best available science and local knowledge, NRM planning, incentives for improved conservation practice and regulation.





2.2 Determined thresholds and threshold limits

QMDC asserts that ecological sustainable development principles require EHP to consider the framework against determined thresholds and threshold limits for the region's natural resources. It is QMDC's opinion that then and only then can EHP truly identify whether the proposed framework will be able to maintain the viability and integrity of the region's resources and contribute to the region's and Queensland's environmental, cultural and socio-economic well-being.

Unfortunately, here within lies the overarching problem this region faces. The permit approval system and processes do not sit within a legislative framework that has clearly embedded in to it, legal mechanisms, by which EHP can assess development projects against the QMDB region's cumulative upper and lower limits for changes to natural resource asset condition and function, within defined zones and timeframes. QMDC is concerned that development in the region including CSG and coal mining projects may well be exceeding such limits and if, for example, mining and petroleum projects continue to be permitted without considering cumulative upper and lower limits for changes to natural resources there will be serious consequences in the future.

It is QMDC's opinion that if proponents of development are not able to avoid, manage or mitigate all of the adverse impacts both site specific and cumulative on the natural resource assets and local communities they should not be permitted to proceed with their projects. Although proponents of development outline how they will manage and mitigate "the risks of hazards to people and property" likely to be caused by their Project's activities, they often do not address a number of key risks or hazards to protected plants and their natural environments.

Furthermore proponents cannot guarantee the success of their mitigation or management strategies in spite of a proponent's commitment to carry out a range of actions. QMDC is also concerned by proponent's statements that claim they intend to return the Project area as close as reasonably practical to its pre-mining land use. Proponents do not qualify this type of statement by providing information on what they deem is reasonable and practical. Obviously a final void will remain, for example, but what other impacts a proponent refers to in these types of statements, which will make it difficult or impossible to return the land to its pre-existing mining condition, use and function especially for remnant vegetation and protected plants?

QMDC therefore believes many proponents for development do not have the capacity to rehabilitate or decommission their project area sites and those natural resource assets impacted on by the development project to their pre-mining condition or state. This is in QMDC's opinion not good enough for those families, businesses, local communities who will suffer direct impacts nor is it acceptable for the fauna, flora whose habitat is destroyed or altered.

Developing a post mine land use plan to assess the suitability of the post mine land use"two years after the grant of an Environmental Authority (EA) does not provide those businesses directly impacted nor the wider community the assurance that the risks of hazards and impacts caused by the construction and operations of the Project will be as originally



predicted and indeed may in fact may be worse, pushing protected plants, for example, beyond their threshold limits.

2.3 Flaws in the analysis and assessment provided by EISs

Some EISs have adapted the *Consequence Scale Criteria* as part of their assessment of key risks and hazards. When doing this the proponents have removed 2 key aspects of the criteria, the geographical extent of the impact zone and environmental/ecological consequences. QMDC asserts this creates a serious flaw in the analysis and assessment provided by EISs.

QMDC assert, for example, that for all the EISs we have reviewed, they have failed to provide all relevant information on GHG emissions, namely they fail to:

- provide calculations of cumulative Scope 1, 2 and 3 emissions for the life of a project;
- assess the resilience of the environment to receive further emissions;
- describe the significance of the impact of cumulative emissions;
- describe the cumulative impacts caused by a project; and
- assess the proportional contribution of a project's cumulative emissions to the impacts of climate change, including an assessment of the social cost of carbon.

In QMDC's opinion, because of the above identified reporting deficiencies and because EISs do not demonstrated that 100% of the emissions from a project can be safely and permanently sequestered, threatening processes created by climate variability and changes to protected plants and the communities and businesses that rely upon them are not being seriously considered..

QMDC argues the proposed framework will therefore not be able to address the current and future conservation status of protected plants nor ascertain what is the sustainable take,use and trade because a very basic calculation on state, national and global GHG emission reduction targets and mitigation planning for climate variability are not considered in EISs.

The environmental framework approach promoted by EISs should require not only the accurate identification of environmental values but also a full consideration of a project's impact on those values. An accurate identification will enable proponents to assign levels of sensitivity to those values and then apply an appropriate level of environmental constraint. If, however, proponents fail to accurately identify environmental values, then the environmental framework that is used to inform project development becomes flawed, resulting in inappropriate development and/or the application of inappropriate environmental management controls.

QMDC is concerned that if environmental values have been incorrectly identified and technical reports and assessments have not been independently peer reviewed, impacts on regional ecosystems and protected plants, for example, are being underestimated or ignored.

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2.4 Vegetation clearance and fragmentation of endangered regional ecosystems

The need to assess the effective management of protected plants and those threatening processes which pose a risk to biodiversity must suppress any argument, strategy or policy that supports the notion that the location of a mine or linear infrastructure is dictated by economics and cannot be changed.

Priority landscape scale regional ecosystems should be maintained or improved so that ecological processes and ecosystem linkages are increased in extent and abundance at priority catchment scales.

The decline in populations of 'at risk' flora and fauna species must be prevented. It should not be assumed fauna can be removed to another ecosystem if found where vegetation is to be cleared and that birds will simply fly away to somewhere else if disturbed by noise, dust or lighting. The framework must demonstrate a scientific understanding on the importance of remnant vegetation and the need to prevent further fragmentation or destruction of ecosystem corridors in Queensland.

Destroying habitat before equivalent habitat has been restored increases the risk of species extinction. Additionally, species need time to colonise a restored habitat, and too frequent a turnover of habitat may increase the risk of species extinction.

The long term conservation of biodiversity and the wellbeing of the region's communities depend upon both the protection of natural assets and maintaining the integrity of the ecological processes that sustain them. A focus on process recognizes that ecosystems are temporally and spatially dynamic and that the components of ecosystems interact in complex and diverse ways that contribute to, and sustain biodiversity. Processes may also act as selective forces to which particular species are constantly adapting.

QMDC asserts that the proposed mitigation strategies in EISs or EA applications do not demonstrate an understanding that modification or destruction of ecological processes, are in practice, often irreversible and an ecosystem will not necessarily rehabilitate to its prior function.

The framework therefore if it fails to respond adequately to the complexities in the ways in which threats affect ecological processes and regional ecosystems, will likely perpetuate the continuing decline in biodiversity. The following issues must be considered:

- Impacts may occur far from the location of the initial threat or disturbance.
- Threats that affect one species may have cascading effects on other species.
- Environmental responses to a threat are not necessarily directly proportional to the level of threat (i.e. a linear response). Non-linear responses mean there are critical thresholds where small increments of change can result in dramatic shifts in the state of the system.
- There is often a time delay, from days to decades, between alteration to an ecological process and its full effects on biodiversity.
- Threats may have a combined impact greater than their independent effects.
- Complexities in interrelationships among species and chance environmental variation may mean that often there will be uncertainty about the effects of a particular threat on processes.

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Past research and study have proven that a fundamental tenet of regional ecosystems is recognition of the interaction between pattern and process. The identification and management of locations directly associated with a specific process is a practical way for the framework to protect regional ecological processes. Examples could include:

- Protecting land adjacent to water courses to maintain lateral hydrological connectivity and the ecological benefits of periodic flooding.
- Maintaining continuous vegetation along elevational gradients to enhance opportunities for altitudinal migration or range shifts in a changing climate.
- Protecting key wetlands along the migration paths of waterbirds as critical stops for refuelling.
- Maintaining riparian vegetation to promote interactions between terrestrial and freshwater systems.
- Protecting “keystone” areas such as small ephemeral streams and wetlands to aid the re-establishment of ecological process in restoration.

QMDC asserts that the framework should not allow projects, activities or development to proceed if:

- the operations of the proposed project, activity or development impact on high-conservation areas or regional ecosystem types that will be very difficult to rehabilitate given the disturbance of soils, surface waters and the groundwater system
- additional land is not able to be allocated within a project site for habitat connectivity to allow species to move as climate zones change

2.5 Proposed options

The current 3 proposed options are not supported by QMDC.

Current jurisdictions have not produced a great improvement in the state of the environment, which is ever more threatened in the QMDB region by the mining industry and the licences companies have to clear vegetation. This, in our opinion is likely to increase the loss of biodiversity. This lack of effectiveness derives from the current economic development drive which often undermines international plant protection directives that are, in many cases, not fully or, properly implemented into the State’s permit approval system and processes. Additionally methods for monitoring compliance are not well implemented; and, despite some progress, non-compliance mechanisms still appear too weak, especially where industries have the liberty to police their own practices.

In QMDC’s experience the State and local governments are currently under-resourced to monitor current Environmental Authorities (EAs) and Operation Plans (OPs). To the best of QMDC’S knowledge there are currently over 183 EAs with thousands of associated conditions.



With the CSG and coal industry and their associated support industries on the ever increase there is a real need to articulate clearly what skills and knowledge are needed. This will ensure development or work or documents comply with not only the conditions imposed in accordance with the proposed framework and other associated legislation but also current best practices.

QMDC submits that current best practices must not only be based on national and international industrial practices but also be informed by localised and regionalised knowledge and research. This will ensure the framework will serve to further the effectiveness and efficiency of environmental legislation.

Public and community confidence in the assessment process is dependent on the availability of public servants and other persons who have the relevant authority, skills, knowledge and experience to monitor compliance. QMDC also believes regulators including independent assessors/auditors need to have the ability to adapt and apply new products, technologies and information to the local and regional needs of Queensland's landscape.

In QMDC's opinion all three of the proposed options perpetuate current flaws and create new ones in the way the State proposes to protect plants.

Aligning Federal and State agreed measurable targets to regional priorities, will in QMDC's opinion, enable the framework to be practically applied at a regional level. Once these targets have been set it will be clearer to see where there may be gaps between jurisdictional aspirations and targets.

QMDC asserts that in order for the State to further its *policy objective* as described at p.3 of the review, Regional NRM Plan targets should be considered in order to increase the extent of native vegetation to build ecosystem resilience and improve the current conservation status of all protected plants.

The QMDB's Regional NRM Plan targets that support the stated policy objective at a regional level and which may be adapted to address State targets include but are not limited to:

- By 2020, there is a 30% minimum native remnant vegetation coverage to maintain ecological processes and ecosystem linkages at bio-regional and priority sub-catchment scales.
- By 2020, there is a 10% increase in area of sustainably managed native vegetation for landscape and biodiversity outcomes through traditional and innovative economic uses, based on representative areas and an established regional baseline (collated from earlier dated data).
- By 2020, the extent of 'endangered' regional ecosystems across catchments with less than 30% remnant vegetation will be increased by 10% of the mapped data available at last review of targets.
- By 2020, the extent of 'of concern' regional ecosystems across catchments with less than 30% remnant vegetation will be increased by 10% of the mapped data available at last review of targets.



- By 2020, areas identified by the Biodiversity Planning Assessments as being of high nature conservation significance are maintained or improved as measured against baseline conditions that were set in accordance with a regional baseline (collated from earlier dated data).
- By 2020, decline in populations of 'at risk' flora and fauna species in the Maranoa-Balonne and Border Rivers catchments is halted as determined against baseline data set in accordance with a regional baseline (collated from earlier dated data).

QMDC argues that what is urgently needed is a clear and consistent framework for best practice and policy decision-making, risk management and responses to the specific and cumulative impacts of an industry or business on the QMDB's protected plant species.

2.6 Recommendations

QMDC therefore recommends:

- **Consultation with regional NRM bodies and other key regional stakeholders to define a robust legislative and regulatory framework that is compatible with the protective mechanisms afforded by Federal and State environmental law, regional NRM plans and a threshold limit approach.**



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