QELA

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QELA, a not for profit organisation, consults with and educates interested professionals and government representatives about planning, development and environmental laws which apply, or are proposed to apply in Queensland. QELA provides a collegiate forum for multi-disciplinary interaction and collaboration.

27 January 2017

Research Director
Infrastructure, Planning and Natural Resources Committee
Parliament House
George Street
Brisbane Qld 4000

Email: ipnrc@parliament.qld.gov.au

Submission about the Local Government Electoral (Transparency and Accountability in Local Government) and Other Legislation Amendment Bill 2016

Dear Director,

Thank you for the opportunity for the Queensland Environmental Law Association (**QELA**) to make a submission about the Local Government Electoral (Transparency and Accountability in Local Government) and Other Legislation Amendment Bill 2016 (**Bill**).

QELA is a non-profit, multi-disciplinary association. Its members include lawyers, town planners, and a broad range of consultants who represent and advise a miscellany of participants in the development industry.

QELA has provided a number of submissions about planning reform, including about the recent planning reform agenda and the *Planning Act 2016* (**Planning Act**).

QELA's submission at **Annexure A** addresses proposed amendments to:

- Planning Act; and
- *Sustainable Planning Act 2009.*

We thank you for the opportunity to make a submission about the Bill. We would welcome the opportunity to assist the Committee further, if required.

Yours sincerely

Leisa Sinclair

President

Queensland Environmental Law Association

Annexure A

Clause	Section reference	QELA's Comments
Part 5 – Amendment of *Planning Act 2016*		
34	49	The amendment to s49(6) states (underlining added): Section 49(6), definition *decision notice*, paragraph (c)— *omit, insert*— (c) a negotiated decision notice, other than a negotiated decision notice for a change application. The Explanatory Notes (**ENs**) for the amendment to s49(6) state (underlining added): *Clause 34* amends section 49(6) to clarify the scope of the definition of *decision notice* in relation to a development approval. The amendment clarifies that a decision notice includes a negotiated decision notice, other than a decision notice given for a change application (other than for a minor change). It is unclear why a decision notice or a negotiated decision notice for a change, whether a minor change or otherwise, should not be included in the definition of a decision notice. Such a decision notice or a negotiated decision notice is still relevant for sub-sections 49(2) and (3). Accordingly, this amendment is not supported. If the amendment is to remain, further clarity ought to be obtained from the Department in relation to the following: • why it is necessary to exclude change applications for a minor change; and • whether the reference to a "decision notice given" ought to be a reference to a "negotiated decision notice given".
37	73A	QELA suggests amendment of 73A(3) as follows: *"A development permit given by the private certifier for the building work does not authorise the carrying out of the part requiring impact assessment, unless a relevant preliminary approval or a development permit is in effect for the part".* QELA suggests amendment of section 73A(5) as follows: "*A development permit given by the private certifier for the building work does not authorise the carrying out of the part requiring assessment*

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		against, or having regard to, the matter, unless a relevant preliminary approval or a development permit is in effect for the part". These changes are necessary to allow the grant of a development permit by a private certifier where a development permit has been granted for the part requiring assessment against a matter that is not a building assessment provision.
38	74	This section amends the Planning Act to facilitate negotiated decision notices for non-minor change applications. This change is supported.
43	82	This amends the Planning Act to provide that, if a change application is made within 1 year after a development approval is given, any properly made submission for the approval is taken to be a properly made submission for the change application. The proposed amendment is not supported because it is not appropriate. The content of the submission to the development application may not be relevant to the change application, or it may be out-of-date and/or superseded. In any event, this is already, and more adequately, dealt with by section 82(4) of the Planning Act, which allows the appropriate consideration of the current relevance of a properly made submission. Section 82(4) provides that *"any matters the assessment must have regard to under section 45(3) or (5)"* apply *"only to the extent the matters are relevant to assessing and deciding the change application in the context of the development approval"*. Section 45(5) requires that impact assessment be carried out having regard to any matter prescribed by regulation. Clause 26 of and Schedule 12 of the Draft Planning Regulation prescribes the common material as a matter for section 45(5) and the common material includes any properly made submissions.
50	230	The change relating to the giving of a copy of a notice of appeal to the chief executive by email is strongly supported.
Part 8 – Amendment of *Sustainable Planning Act 2009*		
69	120	The change is that a temporary local planning instrument has effect on and from the day the relevant local government resolution was made. QELA has previously expressed its concerns over such retrospective commencement. Members of the public should not be

Clause	Section reference	QELA's Comments
		expected to read all minutes of every local government meeting prior to undertaking development. These reforms will "bring forward" aspects of the new planning legislation. As a general comment, QELA does not see the utility in fast-tracking reforms that are, practically, likely to commence at a similar time to the Planning Act itself.
73	456	The change relating to the giving of a notice of a proceeding to the chief executive by email is strongly supported.
74	457, 457A and 457B	QELA strongly supports the position, in the Planning Act, that each party bears its own costs. Since these provisions "bring forward" aspects of the new planning legislation, as a general comment, QELA does not see the utility in fast-tracking reforms that are, practically, likely to commence at a similar time to the Planning Act itself.
75	482	The change relating to the giving of a notice to the chief executive by email is strongly supported.
Various	Various	The Bill proposes to increase the maximum penalties for development offences in the SPA from 1665 penalty units to 4500 penalty units. QELA makes no comment on these changes, except that the increase is substantial.
89	Ch 10	The new Part 15 is supported.