PLEASE QUOTE

YOUR REFERENCE:

OUR REFERENCE: AN1512141135

ENQUIRIES TO: Aletta Nugent, Manager Strategic Planning

Ph: (07) 4030 2265

21 January 2016

Better Planning for Queensland Team
Department of Infrastructure, Local Government and Planning
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CITY EAST QLD 4002

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Dear Sir/Madam

Submission – Planning Regulation 2016 and associated statutory instruments

Thank you for the opportunity to provide comment on the *Planning Regulation 2016* (**Regulation**), the Draft Statutory Instrument 01/XX: Development Assessment Rules (**DA Rules**), the Draft Statutory Instrument 01/XX: Plan Making Rules (**PM Rules**), the Draft Infrastructure Designation: Statutory Guideline for Local Government (**LGID Guideline**), and the Draft Infrastructure Designation: Statutory Guideline for Ministerial Designations (**MID Guideline**).

Given that the introduction of the new planning legislation is becoming imminent, Council officers have undertaken a detailed review of the Regulation and associated statutory instruments. The attached tables contain comments arising from that detailed review. Some general comments on the Regulation, DA Rules and PM Rules are provided below.

Council hopes that the detailed nature of the comments it has provided will be taken in the spirit that they are intended - as a genuine attempt to contribute towards a high quality and well functioning planning system in Queensland.

Regulation

There are a number of matters outlined in the Regulation that should instead be in the Planning Act. After reviewing the relevant provision in the Planning Bill 2015 (**Planning Bill**), the only outcome achieved by having these items in the Regulation is an increase in overall complexity arising from the need to refer to multiple documents.

It is noted that there was an intention to remove operational and process requirements from the Planning Bill. However, there are other process provisions in the Planning Bill, often directly relevant to the matters outlined in the Regulation, so there is no reason that these requirements cannot also be in the Planning Bill.

It is noted that all of the mandatory content for a planning scheme that is in the current version of the Queensland Planning Provisions (**QPPs**) has now been included in the Regulation. Council has no objection to this mandatory content being in the Regulation,

however Council is concerned that the content is different to that in the current version of the QPPs. In most cases, the changes are not of substance, just minor changes to the way paragraphs are structured and some minor changes to wording.

By making these changes to the mandatory content, all QPP compliant planning schemes will immediately be out of date when the Regulation takes effect. There seems to be little logic in this occurring when none of these changes affect the substance of the mandatory content.

In addition, the wording of the mandatory content in the current version of the QPPs is much more succinct and worded in a way that is appropriate for inclusion in a planning scheme, compared with the wording of the mandatory content in the Regulation. This highlights the difficulty in converting the wording of a planning instrument into content of a legislative instrument.

Therefore, it is submitted that the mandatory content should be kept exactly as it is in the current version of the QPPs. If that is not possible, the mandatory planning scheme content should be kept in an instrument outside the Act or Regulation.

The Regulation sets out the documents that an assessment manager must keep on its website and available for inspection and purchase. It is submitted that a number of these requirements are unreasonable and represent a significant administrative burden on local government. Council understands that the new Planning Bill and Regulation seek to encourage greater transparency in the planning system. However, this needs to be balanced with the administrative burden on Council and the benefit that will be achieved through these new requirements.

DA Rules

The presentation and drafting of the DA Rules is much improved compared with earlier versions that were released for public comment. However, there are further improvements and alterations that can be made to simplify the DA Rules and improve the proposed new development assessment system.

The proposed DA Rules introduce a non-linear process for development assessment. The attempt to introduce flexibility has had the consequence of increasing complexity. There would appear to be no benefit in this increase in complexity, as outcomes are likely to be unchanged from those achieved through the current system.

Significant resources will be required to implement the new system, arising from the changes in terminology and the introduction of many new processes and steps. Steps and activities that used to occur informally and as a matter of course have now been formalised, creating additional administrative burden for local government, the Department of Infrastructure, Local Government and Planning (through SARA) and applicants.

It is noted that many of the timeframes that apply to steps being taken by an assessment manager have been significantly shortened. In many cases, this reduction in timeframe is considered unreasonable and unnecessary.

In relation to the timeframe for making a decision in particular, in light of the inability to extend timeframes without the applicant's approval and the need to give a decision notice within the 20 business day period, this reduction in timeframe needs to be considered in light of local government meeting cycles. Councils only meet monthly or bi-monthly. If Council extends its decision making period for a development application, it is often because the original period ends before the application can be taken to a Council meeting.

Given the ability for an applicant to issue a deemed approval notice for a code assessable development application, there needs to be sensible timeframes for assessing development applications that allows for these applications to be properly assessed and taken to a Council meeting for consideration by Council.

PM Rules

The requirement for the making of a planning scheme to follow a tailored process will add further delays to the process of making a planning scheme. While the intent of tailoring the planning scheme making process to the particular circumstances of a local government is desirable, the outcome of this section is delays and additional processes that need to be complied with. These additional process steps are likely to add an additional estimated three months to the timeframes for a planning scheme project. It is considered likely that the notices given about making or amending a planning scheme will contain requirements that are almost identical between local governments in most circumstances, and therefore the additional three month delay cannot be justified.

It is submitted that a local government should be able to request a tailored process for the making of a planning scheme if it wishes, but if not the default process in the PM Rules should be available.

A number of fact sheets are referred to in the PM Rules. There is a concern that further mandatory requirements will be imposed on local government through these fact sheets, rather than the PM Rules being clear and upfront about what is required.

The requirement for two independent reviews as part of the making of a Local Government Infrastructure Plan (**LGIP**) represents a significant cost burden for local government. Council acknowledges that this is a requirement currently, but maintains that this will increase the resources required to prepare a LGIP and should be removed from the PM Rules.

Summary

We hope that these comments are useful in finalising the Regulation and associated statutory instruments. Council officers are willing to provide further input into the development of these documents if required. Should you wish to discuss the content of this submission further, please contact Council's Manager Strategic Planning Ms Aletta Nugent on Ph: (07) 4030 2265.

Yours faithfully

JOHN PETTIGREW
DIRECTOR PLANNING & ENVIRONMENTAL SERVICES

Table – comments on the provisions of the Planning Regulation 2016 (Regulation)

Reference in the Regulation	Comment	Suggested actions
Section 5(a) - Application of subdivision	The wording of this subsection needs to be revised so the meaning of the section is clear.	Amend subsection 5(a) to include the underlined words as follows: "a local planning instrument made under the old Act before or after the commencement <u>of the Act</u>."
Section 11 - Making superseded planning scheme request—Act, s29(5) Section 12 - Deciding superseded planning scheme request—Act, s29(5)	The matters outlined in these sections should be outlined in the Act. After reviewing the relevant provision in the Planning Bill 2015 (**Planning Bill**), the only outcome achieved by having these items in the Regulation is an increase in overall complexity arising from the need to refer to multiple documents. It is noted that there was an intention to remove operational and process requirements from the Planning Bill. However, there are other process provisions in section 29 (see for example subsections (7) and (8)) so there is no reason that these requirements cannot also be in the Planning Bill.	Move the items referred to in these sections in the Regulation into section 29 of the Planning Bill.
Section 13 - Minister's rules for planning changes made to reduce particular risks—Act, s30(4)(e)(i)	It is noted that these rules have not yet been made available. Given the potential burden on local government in complying with the rules, it is important that Councils be given access to these as soon as possible and be given an opportunity to have meaningful input into the content of the rules.	Provide a copy of the rules for making a planning change to reduce a material risk of serious harm as soon as possible.
Section 17 - Development local categorising instrument is prohibited from stating is assessable development—Act, s43(4)(b)	The use of the word "prohibited" in this section and its heading is confusing, given that the development can also be prohibited in a regulation.	Amend the heading of section 17 to include the underlined words and delete the strikethrough text as follows: "Development local categorising instrument ~~is prohibited from stating is~~ <u>must not identify as</u> assessable development". Amend section 17 to include the underlined words and

Reference in the Regulation	Comment	Suggested actions
		delete the strikethrough text as follows: "A local categorising instrument is prohibited from ~~stating that~~ identifying the development stated in schedule 7 ~~is~~ as assessable development".
Section 18(5) - Accepted, prohibited and assessable development—Act, s43(1)	The wording of this subsection needs to be revised so its meaning is clear.	Reword subsection 18(5) to it is easier to interpret and its meaning is clear.
Section 23 - Matters generally	The contents of this section should be included in the Planning Bill. Moving these provisions from the Planning Bill to the Regulation has resulted in an increase in the complexity of the overall planning regime, due to the need to refer back and forth between different statutory instruments.	Delete section 23 and include these provisions in the Planning Bill.
Section 29 - When no response by referral agency is taken to be a refusal—Act, s58(2)(c)	The contents of this section should be included in the Planning Bill. Moving these provisions from the Planning Bill to the Regulation has resulted in an increase in the complexity of the overall planning regime, due to the need to refer back and forth between different statutory instruments.	Delete section 29 and include these provisions in the Planning Bill.
Section 30(1) - Code assessment—Act, s45(3)	This subsection refers to Schedule 18. The contents of Schedule 18 should be included in the Planning Bill. Moving these provisions from the Planning Bill to the Regulation has resulted in an increase in the complexity of the overall planning regime, due to the need to refer back and forth between different statutory instruments.	Delete subsection 30(1) and include the contents of Schedule 18 in the Planning Bill.
Section 31(1) – Impact assessment—Act, s45(5)	This subsection refers to Schedule 19. The contents of Schedule 19 should be included in the Planning Bill. Moving these provisions from the Planning Bill to the Regulation has resulted in an increase in the complexity of the overall planning regime, due to the need to refer back and forth between different statutory instruments.	Delete subsection 31(1) and include the contents of Schedule 19 in the Planning Bill.
Section 32 – Assessing variation requests—Act, s61(2)(d)	The contents of this section should be included in the Planning Bill. Moving these provisions from the Planning Bill to the Regulation has resulted in an increase in the complexity of the overall planning regime, due to the need to	Delete section 32 and include these provisions in the Planning Bill.

Reference in the Regulation	Comment	Suggested actions
	refer back and forth between different statutory instruments.	
Section 34(a) – Assessment benchmarks that may not be changed—Act, s43(4)(c)	There is a typing error in this subsection. The relevant subsections in the Building Act that contains the building assessment provisions are subsections 30(1)(a) to (d), (f) or (g).	Amend subsection 34(a) to include (1) after section 30.
Section 35 - Who decision notice must be given to—Act, s63(1)(f)	The contents of this section should be included in the Planning Bill. Moving these provisions from the Planning Bill to the Regulation has resulted in an increase in the complexity of the overall planning regime, due to the need to refer back and forth between different statutory instruments.	Delete section 35 and include these provisions in the Planning Bill.
Section 36 - Requirements for decision notice—Act, s63(3)	The contents of this section should be included in the Planning Bill. Moving these provisions from the Planning Bill to the Regulation has resulted in an increase in the complexity of the overall planning regime, due to the need to refer back and forth between different statutory instruments.	Delete section 36 and include these provisions in the Planning Bill.
Section 38 - Who decision about change representations must be given to—Act, s76(2)(b)(v)	The contents of this section should be included in the Planning Bill. Moving these provisions from the Planning Bill to the Regulation has resulted in an increase in the complexity of the overall planning regime, due to the need to refer back and forth between different statutory instruments.	Delete section 38 and include these provisions in the Planning Bill.
Section 40 - Content of proposed call in notice—Act, s101(3)(a) Section 41 - when proposed call in notice must be given—Act, s101(3)(b) Section 42 - Effect of proposed call in notice on process for assessing and deciding application—Act, s101(3)(c)	Given the effect of a call in, and the seriousness and exceptional nature of circumstances in which these Ministerial powers are used, it is submitted that the matters outlined in sections 40 to 45 should be included in the Planning Bill.	Delete sections 40 to 45 (inclusive) and include these provisions in the Planning Bill.

Reference in the Regulation	Comment	Suggested actions
Section 43 - Effect of proposed call in notice on appeal period—Act, s101(3)(c) Section 44 Representation period—Act, s101(3)(d) Section 45 - Notice of decision not to call in application—Act, s101(3)(e)		
Section 44 Representation period—Act, s101(3)(d)	In accordance with this section, the representation period for a proposed call in is at least 5 business days after the proposed call in notice is given. It is submitted that this period should be at least 15 business days, to provide a reasonable time for representations to be prepared and provided.	Amend section 44 so that the representation period for a proposed call in is the period of at least 15 business days after the proposed call in notice is given.
Section 61 - Development applications that are not affected area development applications	This section provides the content of definitions for Schedule 2 of the Planning Bill. It is submitted that the contents of this section should be included in the Planning Bill. Having these provisions in the Regulation instead of the Planning Bill has resulted in an increase in the complexity of the overall planning regime, due to the need to refer back and forth between different statutory instruments.	Delete section 61 and include these provisions in the Planning Bill.
Schedule 2 - Zones for local planning instruments	The purpose statements for all of these zones is different to the purpose statements for the same zones in the current version of the Queensland Planning Provisions (**QPPs**). Nothing of substance has been changed in the purpose statements, there has just been minor changes to the way the statements are structured and some minor changes to wording. By changing the purpose statements in this way, all QPP compliant planning schemes will immediately be out of date when the Regulation takes effect. There seems to be little logic in this occurring when none of these changes	Replace the purpose statements in Schedule 2 with the purpose statements from the current version of the QPPs. If that is not possible, remove the purpose statements and other mandatory planning scheme content from the Regulation and include these in an instrument outside the Act or Regulation.

Reference in the Regulation	Comment	Suggested actions
	affect the substance of the purpose statements. In addition, the purpose statements as contained in the current version of the QPPs are much more succinct and worded in a way that is appropriate for inclusion in a planning scheme, compared with the purpose statements in Schedule 2 of the Regulation. This highlights the difficulty in converting the wording of a planning instrument into content of a legislative instrument. Therefore, it is submitted that the purpose statements in Schedule 2 be kept exactly as they are in the current version of the QPPs. If that is not possible, the purpose statements should be kept with other mandatory planning scheme content in an instrument outside the Act or Regulation.	
Schedule 2 - Zones for local planning instruments	The purpose statements for the centre zones have been changed in such a way that there is little to distinguish between the different zones. It is submitted that the existing purpose statements in the current version of the QPPs should be retained.	Replace the purpose statements for the centre zones with the purpose statements for these zones in the current version of the QPPs.
Schedule 3 - Use terms for local planning instruments	The definitions for all these use terms are different to definitions for those same terms in the current version of the QPPs. Nothing of substance has been changed in the definitions, there has just been minor changes to the way the definitions are structured and some minor changes to wording. By changing the definitions in this way, all QPP compliant planning schemes will immediately be out of date when the Regulation takes effect. There seems to be little logic in this occurring when none of these changes affect the substance of the definitions. In addition, the definitions as contained in the current version of the QPPs are much more succinct and worded in a way that is appropriate for inclusion in a planning scheme, compared with the definitions in Schedule 3 of the Regulation. This highlights the difficulty in converting the wording of a planning instrument into content of a legislative instrument. Therefore, it is submitted that the definitions in Schedule 3 be kept exactly as	Replace the definitions in Schedule 3 with the definitions from the current version of the QPPs. If that is not possible, remove the definitions and other mandatory planning scheme content from the Regulation and include these in an instrument outside the Act or Regulation.

Reference in the Regulation	Comment	Suggested actions
	they are in the current version of the QPPs. If that is not possible, the definitions should be kept with other mandatory planning scheme content in an instrument outside the Act or Regulation.	
Schedule 3 - Use terms for local planning instruments	A number of definitions in Schedule 3 refer to definitions in Schedule 32. It is submitted that these definitions should be stated in full in Schedule 3, to assist in the ease in using the Schedule for the purposes of preparing a planning scheme.	Include all definitions in full in Schedule 3.
Schedule 4 - Administrative terms for local planning instruments	The definitions for all these administrative terms are different to definitions for those same terms in the current version of the QPPs. Nothing of substance has been changed in the definitions, there has just been minor changes to the way the definitions are structured and some minor changes to wording. By changing the definitions in this way, all QPP compliant planning schemes will immediately be out of date when the Regulation takes effect. There seems to be little logic in this occurring when none of these changes affect the substance of the definitions. In addition, the definitions as contained in the current version of the QPPs are much more succinct and worded in a way that is appropriate for inclusion in a planning scheme, compared with the definitions in Schedule 4 of the Regulation. This highlights the difficulty in converting the wording of a planning instrument into content of a legislative instrument. Therefore, it is submitted that the definitions in Schedule 4 be kept exactly as they are in the current version of the QPPs. If that is not possible, the definitions should be kept with other mandatory planning scheme content in an instrument outside the Act or Regulation.	Replace the definitions in Schedule 4 with the definitions from the current version of the QPPs. If that is not possible, remove the definitions and other mandatory planning scheme content from the Regulation and include these in an instrument outside the Act or Regulation.
Schedule 4 - Administrative terms for local planning instruments - Part 2 Administrative term for LGIPs	There is a typing error in the heading of this Part - it should be "Administrative terms" and not "Administrative term". It is submitted that there should be no part 1 and part 2 in Schedule 4, and that the definitions should be all in the one list, regardless as to whether they	Amend the typing error in the heading of Part 2 so it refers to "Administrative terms" and not "Administrative term". Include all the administrative definitions in Schedule 4 in

Reference in the Regulation	Comment	Suggested actions
	apply to the LGIP or the balance of the planning scheme. These definitions are not kept separate in a planning scheme and a LGIP is part of a planning scheme. Therefore, all the administrative definitions should be together in Schedule 4.	the one list, rather than separate them into Part 1 and Part 2.
Schedule 5 - Infrastructure	Items 13 and 16 should be amended so that it is clear that these things need to accommodate government functions to be infrastructure for which an infrastructure designation can be made. Otherwise, this allows a broad range of private development not necessary providing any community benefit to be subject to an infrastructure designation.	Amend items 13 and 16 in Schedule 5 to include the underline text as follows: "storage and works depots and similar facilities <u>that are intended primarily to accommodate government functions</u>,"
Schedule 6 - Assessment manager for development applications - Table 2, Item 1	It is submitted that local government should not be the assessment manager for tidal work. Many local governments do not have the internal expertise to assess these applications and rely on the referral agency response from the State when making a decision whether to approve a development and if so, which conditions to apply. By leaving local government as the assessment manager for these types of applications and taking into account the shortened timeframes in the Draft Statutory Instrument 01/XX: Development Assessment Rules (**DA Rules**), there is a risk that if the referral agency does not provide a response in time, the decision and conditions on the proposed tidal works will be inappropriate.	Change the assessment manager for the development identified as Item 1 in Table 2 of Schedule 6 to the chief executive.
Schedule 6 - Assessment manager for development applications - Table 4, Item 2	It is submitted that local government should not be the assessment manager for the construction of a levee. Many local governments do not have the internal expertise to assess these applications and rely on the referral agency response from the State when making a decision whether to approval a development and if so which conditions to apply. By leaving local government as the assessment manager for these types of application and taking into account the shortened timeframes in the DA Rules, there is a risk that if the referral agency does not provide a response in time, the decision and conditions on the proposed levee will be inappropriate.	Change the assessment manager for the development identified as Item 2 in Table 4 of Schedule 6 to the chief executive.

Reference in the Regulation	Comment	Suggested actions
Schedule 7 - Development local categorising instrument is prohibited from stating is assessable development	See comments above in relation to section 17 regarding the use of the word "prohibited" in the title of this schedule. In relation to section 14 in this Schedule, it is submitted that operational work associated with management practices for the conduct of an agricultural use should only be acceptable development where, if for filling land, it is below a certain threshold and/or not subject to an overlay in a planning scheme. Also, the phrase "natural areas' in section 14(d) is not defined. This makes the interpretation of this item unclear.	Amend the title of Schedule 7 to remove the word "prohibited". Amend section 14 to limit management practices for the conduct of an agricultural use being accepted development if it involves the filling of land over a certain threshold and/or the land is not subject to an overlay in a planning scheme. Include a definition for "natural areas".
Schedule 8 - Accepted development	It is not clear whether the level of assessment for the development listed in this schedule can be changed by a planning scheme. For example, Section 3 makes a potentially wide range of uses acceptable development, just because they are located on contaminated land. Depending on the nature of the material change of use, a planning scheme may seek to apply code or impact assessment to that development due to the zoning of the land and its location within the local government area.	Clarify that a local government can alter the level of assessment for development listed in Schedule 8.
Schedule 9 – Prohibited development	Section 1, paragraph (1)(d) states that a brothel is prohibited development in a town with a population less than 25,000 if the local government has required all material changes of use for a brothel to be prohibited. It is not clear however how a local government would do this or whether a local government has the power to make development of this type prohibited in its planning scheme.	Amend the Regulation to clearly give local government the power to designate a brothel as prohibited development in a planning scheme.
Schedule 10 - Building work that is assessable development - Part 3 - referral agency's assessment	Item 2 of Table 7 in Part 3 of Schedule 10 states that a local government is a referral agency for a building application that has to comply with the fire safety standard under the Building Act. It is submitted that a local government is not the appropriate entity to be a referral agency in these circumstances, as many local governments do not have the internal expertise to provide input into these matters. The Queensland Fire and Rescue Service are a much more appropriate referral agency for these types of application.	Replace the local government as a referral agency in table 7 in Part 3 of Schedule 10 and replace with the Queensland Fire and Rescue Service.

Reference in the Regulation	Comment	Suggested actions
Schedule 11 - Material change of use of premises that is assessable development - Part 2, Division 2	Table 1 in Division 2 of Part 2 of this Schedule states that a local government, as assessment manager, must apply the performance criteria state in the *Prostitution Regulation 2014* as the assessment benchmarks for a brothel development. It is submitted that a local government should not have to apply State legislation to a development. A local government should only have to assess an application for a brothel against its planning scheme. The State should have a referral agency role if it wishes to apply the provisions of the *Prostitution Regulation 2014*.	Replace "If the local government is the assessment manager—the performance criteria stated in the *Prostitution Regulation 2014*, schedule 3" as the assessment benchmarks for a development application for a brothel with "the applicable assessment benchmarks in the relevant planning scheme".
Schedule 12 - Operational work that is assessable development - Part 2	Table 1 in Part 2 of this Schedule provides no assessment benchmarks for a code assessable development application for operational work for reconfiguring a lot. It is submitted that there needs to be assessment benchmarks for a development application for operational work for reconfiguring a lot.	Include as the assessment benchmarks for a code assessable development application for operational work for reconfiguring a lot "the applicable assessment benchmarks for a development application for operational works in the relevant planning scheme".
Schedule 12 - Operational work that is assessable development - Part 5, Division 2	Table 1 in Division 2 of Part 5 of this Schedule states that a local government, as assessment manager, must apply the Coastal Regulation, schedule 4A as the assessment benchmarks for a development application for tidal works or works in a coastal management district. It is submitted that a local government should not have to apply State legislation to a development. Council maintains its objection to local government being the assessment manager for these types of applications. Should local government remain the assessment manager for tidal works applications, a local government should only have to assess an application against its planning scheme. The State should be responsible for administering and assessing any applications against the Coastal Regulation.	Replace "If the local government is the assessment manager—the Coastal Regulation, schedule 4A" as the assessment benchmarks for a development application for tidal works or works in a coastal management district with "the applicable assessment benchmarks in the relevant planning scheme".
Schedule 14 - Other development that is assessable development -	Table 1 in Divisions 2 and 3 of Part 3 of this Schedule refer to the *Queensland Heritage Regulation 2003* as containing assessment benchmarks and being a matter a referral agency's assessment must be	Amend Table 1 in Divisions 2 and 3 so that the relevant planning scheme will apply instead of the *Queensland Heritage Act 2003* if the planning scheme integrates the

Reference in the Regulation	Comment	Suggested actions
Part 3, Divisions 2 and 3	against in relation to a development application for a local heritage place. It is submitted that if a local government has a planning scheme in place which appropriate integrates the cultural heritage aspect of the State Planning Policy, then the planning scheme should apply rather than the *Queensland Heritage Regulation 2003*.	cultural heritage aspect of the State Planning Policy.
Schedule 16 - Referral agency assessment for assessable development under a local categorising instrument, Part 2	Table 4 in Part 2 refers to "prescribed clearing" in column 2. It is noted that this is a defined term. However, given the meaning of the term "prescribed clearing", it is submitted that this term should be "exempt clearing". The use of the word "prescribed" is confusing and potentially misleading.	Replace "prescribed clearing" with "exempt clearing" in Table 4 in Part 2, Schedule 32 and elsewhere in the Regulation as used.
Schedule 18 - Code assessment generally	See comments above in relation to section 30. It is submitted that the contents of this schedule should be included in the Planning Bill.	Move the contents of Schedule 18 to the Planning Bill.
Schedule 19 - Impact assessment generally	See comments above in relation to section 31. It is submitted that the contents of this schedule should be included in the Planning Bill. It is noted that this Schedule only makes a planning scheme an assessment benchmark where the development is not in a local government area. It is strongly submitted that the relevant planning scheme in its entirety should be an assessment benchmark for an impact assessable development application. It is nonsensical to only have a planning scheme apply if the development is not located in that local government area.	Move the contents of Schedule 19 to the Planning Bill. Ensure that the relevant planning scheme in its entirety is an assessment benchmark for an impact assessable development application.
Schedule 20 - Particular reconfiguring a lot requiring code assessment	It is noted that the contents of this section is a translation of the mandatory text from the QPPs for compliance assessment of a 1 lot into 2 lot subdivision. It is submitted that the content of this schedule is no longer relevant, now that compliance assessment has been removed as a category of assessment from the Planning Bill. It is unclear what this Schedule is seeking to achieve or what benefit having these provisions is to a developer or assessment manager.	Delete Schedule 20 and amend the Regulations so that a code assessable 1 lot into 2 lot subdivision is assessable against the relevant planning scheme.

Reference in the Regulation	Comment	Suggested actions
	It addition, it is submitted that it will be difficult to apply the contents of this Schedule to a code assessable development application for reconfiguring a lot, as the wording of the Schedule is not consistent with a planning instrument for that purpose. This highlights the difficulty in converting the wording of a planning instrument into content of a legislative instrument. Overall, it is submitted that this schedule be deleted and a code assessable 1 lot into 2 lots subdivision be assessed against the relevant planning scheme.	
Schedule 20 - Particular reconfiguring a lot requiring code assessment	If the suggested actions made in relation to this schedule in the row above are not adopted, it is submitted that all references to "premises" in this Schedule should be replaced with "land". Following a review of the definitions for "premises" and "land" in Schedule 2 of the Planning Bill, it is submitted that the word "land" is more appropriate in the context of this Schedule.	If the suggested action in the row above is not adopted, replace "premises" where used in this Schedule with "land".
Schedule 21 – Requirements for cropping involving forestry for wood production	The contents of this Schedule have been drawn from the QPPs forestry for wood production code which only needs to be included in a planning scheme if the level of assessment for forestry for wood production is elevated above self-assessment. It is submitted that including this material in a Schedule of the Regulation is not desirable. This information should be in a planning scheme, otherwise it will be necessary to refer between a number of different statutory instruments (including a planning scheme) to determine the requirements for a development involving forestry for wood production. Also, a local government should have the ability to include its own criteria for this type of development, as long as it does not elevate the level of assessment for the development beyond what is considered acceptable in terms of protecting the State's interests in relation to this type of development.	The forestry for wood production code from the QPPs, as written in the current version of the QPPs, should be included in the Regulation as required contents of local planning instruments. If that is not possible, remove the contents of Schedule 21 and other mandatory planning scheme content from the Regulation and include these in an instrument outside the Act or Regulation.

Reference in the Regulation	Comment	Suggested actions
	Further, the way the forestry for wood production code has been converted into a list of requirements in Schedule 21 has resulted in ambiguous wording of the criteria that applies to this development. Overall, it is submitted that the requirements in Schedule 21 should be included in the Regulation as required contents of a local planning instrument.	
Schedule 21 – Requirements for cropping involving forestry for wood production	The separation distances in part 2 refer to the stream order classification system, which will be mapped in a planning scheme. Therefore, the operation of this schedule is dependent upon the mapping in a planning scheme. This reinforces Council's view that this Schedule should be deleted and the forestry for wood production code from the QPPs should be included in the required contents of local planning instruments.	The forestry for wood production code from the QPPs should be included in the required contents of local planning instruments. If it is not possible to use the forestry for wood production code as written in the current version of the QPPs in the Regulation, remove the contents of this Schedule and other mandatory planning scheme content from the Regulation and include these in an instrument outside the Act or Regulation.
Schedule 22 – Requirements for high impact earthworks in a wetland protection area	It is submitted that Schedule 22 is not the appropriate place for this type of material and the criteria should instead be located in the State development assessment provisions. In addition, there are a number of highly subjective and ambiguous provisions in this Schedule that will make it very difficult to apply to development. If this Schedule remains in the Regulation, its contents should be reviewed so it is capable of being used to assess development against.	Delete Schedule 22 and include its contents in the State development and assessment provisions. If this is not possible, revise the contents of Schedule 22 extensively so it is clearer and less ambiguous and subjective, and worded in such a way that it can be used to assess development against.
Schedule 26 - Approving plans of subdivision	Section 1(4)(b) states that a request for approval of a plan of subdivision must be made within 2 years, unless otherwise stated in the development permit. It is submitted that if the development permit is silent on when the plan of subdivision must be submitted, then the plan of subdivision should be submitted within the currency period for the development permit. Allowing	Replace the current wording of section 1(4)(b) in Schedule 26 with the following: "otherwise—prior to the lapsing of the currency period for the development permit".

Reference in the Regulation	Comment	Suggested actions
	two years for the request to be made has the effect of extending the currency period of the development permit for up to two years.	
Schedule 26 - Approving plans of subdivision	The wording of subsection 2(1) is not correct, given the wording of the subsections that follow. Subsection 2(1) should refer to when the request must be approved, rather than what it should be assessed against.	Amend subsection 2(1) in Schedule 26 to include the underline text and delete the strikethrough text as follows: "If a request under section 1 relates to a plan of subdivision for reconfiguring a lot authorised under a development permit, or a plan of subdivision required under a condition of a development permit, the request must be ~~assessed against~~ approved if—"
Schedule 26 - Approving plans of subdivision	The wording of subsection 2(2) is not correct, given the wording of the subsections that follow. Subsection 2(2) should refer to when the request must be approved, rather than what it should be assessed against.	Amend subsection 2(2) in Schedule 26 to include the underline text and delete the strikethrough text as follows: "If a request under section 1 relates to a plan of subdivision for reconfiguring a lot that is not assessable development, the request must be ~~assessed against the following~~ approved if—"
Schedule 30 - Publicly assessable documents	Subsections 1(1)(a) and (b) requires a local government to keep available for inspection and purchase each current State planning instrument that applies in the local government area and each public notice repealing a State planning instrument that applied to the local government area. It is submitted that a local government should not have to keep these documents for inspection and purchase. They are documents issued and administered by the State government, and therefore the State should be responsible for providing the public with these documents.	Delete subsections 1(1)(a) and (b) (6) in Schedule 30.
Schedule 30 - Publicly assessable documents	Subsections 1(1)(e) and (6) requires a local government to keep available for inspection and purchase each proposed local planning instrument for the local government area, including any proposed amendments. It is submitted that only local planning instruments and amendments that	Amend subsection 1(1)(e) in Schedule 30 to include the underline text and delete the strikethrough text as follows: "the version of any ~~each~~ proposed local planning instrument for the local government area, including any

Reference in the Regulation	Comment	Suggested actions
	have been released for public notification, and the versions as released for public notification, should be subject to this requirement. During the preparation of a planning scheme and planning scheme amendments, there are many draft versions of the documents prepared. Many are not endorsed by the Council and are merely working documents. It is not appropriate that these working documents be available for public inspection or purchase.	proposed amendments of a local planning instrument, that has been released for public notification;". Amend subsection 1(6) in Schedule 30 to include the underline text and delete the strikethrough text as follows: "A proposed local planning instrument, or amendment of a local planning instrument (the ***instrument***) mentioned in subsection (1)(e) must be kept available for inspection and purchase for the period— (a) starting the day the instrument is publicly notified; and — ~~(i) if the instrument is publicly notified—the day the instrument is publicly notified; or~~ ~~(ii) otherwise—the day the instrument is proposed to be made; and~~ (b) ending the day the instrument is made, or the local government decides not to make the instrument".
Schedule 30 - Publicly assessable documents	Subsections 1(1)(p), 1(1)(u), 1(1)(x), 2(1)(a) and 2(1)(b) all require the local government to keep registers relating to certain matters. It is submitted that these increasing administrative requirements imposed on local government through the proposed Planning Bill and Regulation are unreasonable and should be reconsidered. Local government planners will be spending all their time establishing and maintaining registers and preparing and publishing notices, with no time left for planning. It is also unclear what purpose keeping the register referred to in subsection 2(1)(a) serves.	Delete subsections 1(1)(p), 1(1)(u), 1(1)(x), 1(2), 1(3), 1(4), 2(1), 2(2) and 2(3) in Schedule 30.
Schedule 30 - Publicly assessable documents	Sections 3 and 7 require a large number of documents to be published on Council's website. It is submitted that this is unreasonable and that many	Delete sections 3 and 7 in Schedule 30, or at least reconsider the extent of documents which Councils are

Reference in the Regulation	Comment	Suggested actions
	local governments will not have the information technology resources to do this in a meaningful way. In addition, local government planners will be spending all their time ensuring compliance with these requirements, with no time left for planning. Council understands that the new Planning Bill and Regulation seek to encourage greater transparency in the planning system. However, this needs to be balanced with the administrative burden on Council and the outcomes that will be achieved (or lack thereof) through these new requirements on local government. It should be noted that there is a typing error in subsection 3(4)(b) as there is no register in section 2(1)(b).	required to publish on their websites.
Schedule 32 – Dictionary	There are a number of defined terms in the dictionary which are for material changes of use terms used in Schedule 3. These definitions in Schedule 32 should merely refer to the definitions in Schedule 3.	Delete definitions for material changes of use that are included in the mandatory definition for a planning scheme in Schedule 3 – Use terms for local planning instrument, and instead refer to the definition in Schedule 3.

Table – comments on the Draft Statutory Instrument 01/XX - Development Assessment Rules (DA Rules)

Reference in the DA Rules	Comment	Suggested actions
Table 1 - Part 1 Pre-application	Section 271 of the *Sustainable Planning Act 2009* (**SPA**) allows for a referral agency to provide a response before a development application is made. This section sets out quite simply and easily the ability for this to occur. This part of the DA Rules proposes to replace this with a formalised process, with new a term ("early referral response") and obligations on both the Department of Infrastructure, Local Government and Planning (**DILGP**) and the applicant. The introduction of this step is not necessary, and should be replaced with a simple legislative basis in the Planning Bill for it to occur that is unstructured and provides all parties with flexibility as to the process.	Remove the pre-application stage as a formal step and instead include a provision in the Planning Bill or DA Rules similar to section 271 which allows a referral agency to provide a response before a development application is made, but does not implement a formal and structured process for this to occur.
Table 2 - Part 2 Assessment Stage Clause 3. Period to determine whether a development application is properly made Clause 4. When a development application is properly made	In accordance with this clause, the assessment manager has 5 business days to determine if the application is properly made and issue a confirmation notice. It is submitted that this period should be extended to 10 business days. 5 business days is too short a timeframe for this to occur, particularly when most local governments have a centralised mail and record keeping section which must receive and process the application before it is provided to the local government planners for review. The applicant has 10 business days in accordance with clause 16 to provide the referral agency material to any referral agency after the end of the confirmation period. This is an adequate and appropriate amount of time for this to occur. There is no reason why an assessment manager cannot be given the same amount of time for the initial processing of a development application and issuing of a confirmation/acknowledgement notice.	Extend the number of business days the assessment manager has to determine if the application is properly made to 10 business days in Clause 3.
Table 2 - Part 2 Assessment Stage	This section introduces the term "confirmation notice" which replaces the existing and well understood term "acknowledgement notice". The changing of this term is will increases the implementation costs and complexity	Replace "confirmation notice" where used with "acknowledgement notice".

Reference in the DA Rules	Comment	Suggested actions
Clause 4. When a development application is properly made	associated with the new planning regime. It is submitted that changing the name of this notice is unnecessary, and that is possible to improve the processes around the existing term without changing the term itself.	
Table 2 - Part 2 Assessment Stage Clause 4. When a development application is properly made	It is recommended that 4.1(3) be reworded so it s clearer.	Amend 4.1(3) to include the underline text and delete the strikethrough text as follows: "Despite Subclause 4.1, the *development ~~application is taken to~~* will not be *properly made* if the development application does not comply with Sections 51(2) and (5) of the Planning Bill."
Table 2 - Part 2 Assessment Stage Clause 5. Accepting a development application without the fee required to accompany the development application	The Planning Bill gives a local government the discretion to accept a development application as properly made without the application fee. It is not necessary to formalise this as a step in the DA Rules.	Delete Clause 5.
Table 2 - Part 2 Assessment Stage Clause 7. When a development application is not properly made	This section appears to give an applicant the ability to refer an application before it has received confirmation that it has been properly made. It is submitted that any benefits in relation to time saving and flexibility arising from this is outweighed by the backtracking and additional actions required if the application is not properly made.	Amend the DA Rules so the referral of an application can only occur after it has been confirmed to be properly made. Delete subclauses 7.2(3) and 7.3(2). Amend subclause 7.3(3) accordingly.
Table 2 - Part 2 Assessment Stage Clause 7. When a development application is	The written notice referred to in this clause has been given a name "action notice". It is submitted that giving this written notice a name is unnecessary, and instead it can just be a written notice under 7.1(1).	Reword clause 7 and other parts of the DA Rules as necessary to remove reference to an "action notice".

Reference in the DA Rules	Comment	Suggested actions
not properly made		
Table 2 - Part 2 Assessment Stage Clause 7. When a development application is not properly made	It is submitted that subclause 7.3(1) should be amended so that it is clearer and easier to interpret.	Amend 7.3(1) to include the underline text and delete the strikethrough text as follows: "If the applicant does not take the action in the *action notice* within 20 business days starting the day after receiving the *action notice*, or further agreed period between the applicant and the assessment manager, ~~it is taken as if~~ the *development application* lapses ~~was not made~~."
Table 2 - Part 2 Assessment Stage Clause 8. When the assessment stage ends	Why has information on when the assessment stage ends been included in clause 8, when there are other steps in the assessment stage before and after this clause?	Relocate clause 8 to a more logical place within the DA Rules.
Table 2 - Part 2 Assessment Stage Clause 9. Applicant opts-out of the further information step Clause 10. When the applicant cannot opt-out of the further information step	It is submitted that the inclusion of the option for an applicant to opt-out of the further information step does not create flexibility for applicants, but instead adds to the complexity of the new planning regime. An applicant can decline to provide the information requested through an information request. The applicant opting out of the information request stage does not mean that the information is no longer required. Just because a pre-lodgement meeting has been held does not mean that the applicant has provided all the required information with the application. What happens if the applicant opts out of the information request stage but the application does not contain sufficient information to allow the assessment manager to issue an approval? Will this be grounds for refusal? Also, it is not clear referring between the Planning Bill, Regulation and DA Rules that the failure to provide information in response to an information request is grounds for refusal. This should be clarified.	Delete Clauses 9 and 10. **Or** Clarify that the decision to opt-out of the information request stage is grounds for the refusal of an application, in circumstances where there is insufficient information provided with the application for the assessment manager to approve the application.

Reference in the DA Rules	Comment	Suggested actions
Table 2 - Part 2 Assessment Stage Clause 11. Assessment manager request for further information	The meaning of subclause 11.1(2) is unclear. What advice would an assessment manager be giving within the limits of its jurisdiction about its own information request?	Delete subclause 11.1(2) or reword the subclause so its meaning is clear.
Table 2 - Part 2 Assessment Stage Clause 12. Applicant response to a request for further information	The use of the word "expiry" in subclause 12.1(1)b)ii. is not correct. The word "end" should be used instead.	Replace "expiry" in subclause 12.1(1)b)ii. with "end".
Table 2 - Part 2 Assessment Stage Clause 15. When the referral step starts	See comments in relation to subclauses 7.2(3), 7.3(2) and 7.3(3) above regarding the referral of a development application before it is properly made. As stated, it is submitted that any benefits in relation to time saving and flexibility arising from this is outweighed by the backtracking and additional actions required if the application is not properly made.	Delete the following sentence in subclause 15.1(1): "This includes any additional material given to the assessment manager in the course of making a *development application properly made* from the applicant." Delete subclause 15.1(2).
Table 2 - Part 2 Assessment Stage Clause 15. When the referral step starts	It is submitted that a development application should only not require referral if it is the same as the proposed development application subject to an early referral response.	Amend subclause 15.2(1)b)i. to delete "or is not substantially different".
Table 2 - Part 2 Assessment Stage Clause 16. Applicant gives the referral agency material	See comments in relation to subclauses 7.2(3), 7.3(2), 7.3(3) and 15.1 above regarding the referral of a development application before it is properly made. As stated, it is submitted that any benefits in relation to time saving and flexibility arising from this is outweighed by the backtracking and additional	Delete 16.1(1)a). Reword the remainder of subclause 16.1(1) so that the referral agency material must be given up to 10 business days starting the day after the end of the confirmation period.

Reference in the DA Rules	Comment	Suggested actions
to each referral agency	actions required if the application is not properly made.	
Table 2 - Part 2 Assessment Stage Clause 18. Period to determine whether a development application is properly referred Clause 19. When a development application is properly referred Clause 20. When a development application has not been properly referred	These clauses contain lots of new unnecessary terms and are written in such a way so as to seem process heavy and complicated. It is submitted that these clauses be redrafted so they are simpler and easier to follow.	Amend Clauses 18, 19 and 20 to include the underline text and delete the strikethrough text as follows: "**18. Period to determine whether ~~a development application is properly referred~~ the referral agency material is complete** 18.1 (1) The referral agency has up to 5 business days starting the day after receiving the *referral agency material*, or further agreed period between the applicant and the referral agency (***referral confirmation period***), to determine if the ~~*development application is properly referred*~~ (~~***referral confirmation period***~~) referral agency material is complete." **19. When a development application is ~~properly~~ referred** 19.1 (1) If the referral agency accepts the referral agency material as complete~~ *development application* as *properly referred*~~ before the end of the *referral confirmation period*, the referral agency may end the *referral confirmation period* by giving written notice to the applicant ~~stating that the *development application is properly referred* and~~ of the date the *Referral confirmation period* ended. (2) If written notice under Subclause 19.1(1) or Subclause 20.1~~ a *Referral action notice*~~ is not given by the referral agency before the end of the *Referral confirmation period*, or further agreed period, the

Reference in the DA Rules	Comment	Suggested actions
		referral agency material is deemed to be complete ~~*development application* is *deemed properly referred*~~. (3) Despite Subclauses 19.1(1) and 19.1(2), the ~~*development application* is taken to not be *properly referred* if the~~ required fee ~~is not~~ must be reconciled before the referral agency's *referral agency response* is given or the referral agency material cannot be considered complete. **20. When a development application has not been ~~properly~~ referred** 20.1 (1) If the referral agency material ~~*development application* is not complete *properly referred*~~, the referral agency must give the applicant, ~~and~~ with a copy to the assessment manager, written notice (***Referral action notice***) before the end of the *Referral confirmation period*, or any extension of that period, stating: a) The relevant *referral requirements*, and b) The ~~*development application*~~ referral agency material is not complete ~~*properly referred,*~~ and c) The reasons the referral agency material ~~*development application* is not complete *properly referred*~~, and d) The actions required to make the referral agency material complete ~~*development application properly referred*~~, and e) The period to undertake the actions to make the referral agency material complete ~~in the *referral action notice* to make the *development application properly referred*~~. 20.2

Reference in the DA Rules	Comment	Suggested actions
		(1) Once the applicant undertakes all the actions in the notice issued under Subclause 20.1 ~~*referral action notice*~~, the referral agency material is complete ~~*development application* is *properly referred*~~. (2) Despite Subclause 20.2(1), the referral agency may accept the referral agency material ~~*development application* as *properly referred*~~ by written notice even if all the actions in the *referral action notice* are not undertaken. (3) The referral agency must as soon as practicable, give the assessment manager written notice that the applicant has undertaken the action in the notice issued under Subclause 20.1~~ *referral action notice* and the *development application* is *properly referred*~~. 20.3 (1) If the applicant does not take the action in notice issued under Subclause 20.1~~ the *referral action notice*~~ within 20 business days, or further agreed period between the applicant and the referral agency, starting the day after receiving the notice~~ *referral action notice*~~, the *development application* lapses~~ is taken to not have been referred~~. (2) The referral agency must as soon as practicable give the assessment manager written notice that the applicant has not undertaken the action in the notice issued under Subclause 20.1~~ *referral action notice*~~ within the stated period and that the application has lapsed~~ it is taken as if the *development application* was not referred~~.
Table 2 - Part 2 Assessment Stage	DILGP appears to sometimes struggle to meet the existing development assessment timeframes in administering the State Assessment and Referral Agency (**SARA**), largely due to the need to liaise and refer applications to	Amend the DA Rules so the 10 business days for making an information request does not get deducted from the decision making period.

Reference in the DA Rules	Comment	Suggested actions
Clause 21. Referral agency's assessment period	other State government departments. Reducing the decision making period for referral agencies and including the information request period in the decision making period may mean that State interests are not addressed, if time periods cannot be met.	
Table 2 - Part 2 Assessment Stage Clause 22. Referral agency request for further information	The meaning of subclause 22.1(3) is unclear. What advice would a referral agency be giving within the limits of its jurisdiction about its own information request?	Delete subclause 22.1(3) or reword the subclause so its meaning is clear.
Table 2 - Part 2 Assessment Stage Clause 22. Referral agency request for further information	In accordance with Council's comments in relation to Clauses 18, 19 and 20 above, it is submitted that "development application is properly referred" should be deleted from subclause 22.1(4).	Amend subclause 22.1(4) to replace "development application is properly referred" with "referral agency material is complete".
Table 2 - Part 2 Assessment Stage Clause 23. Referral agency response	Subclause 23.1(3) should be amended in accordance with Council's comments in the row above. It is unclear why the applicant's agreement is required for a referral agency to provide a response in relation to a missed referral agency. Requiring an applicant's agreement could mean that the State interest represented by the missed referral requirement is not addressed. It should not be optional for an applicant to comply with the requirements of the Regulation in relation to referral of an application.	Amend Subclause 23.1(3) to include the underline text and delete the strikethrough text as follows: "Each referral agency may give its *referral agency response* for a missed *referral requirement* where the referral agency material ~~*development application*~~ has been accepted as complete ~~*properly referred*~~, but before the *development application* is decided~~ if the applicant has given written agreement to the content of the notice~~."
Table 2 - Part 2 Assessment Stage Clause 26. When the public notification step can start	In accordance with this clause, public notification does not have to occur after the information request stage is completed. It is submitted that this is undesirable because, in accordance with the DA Rules, if the development application is amended in response to an information request it needs to be renotified.	Amend the DA Rules so that public notification occurs on completion of the information request step. Delete Subclauses 26.1(2), 26.1(3), 27.2 and 28.1(2).

Reference in the DA Rules	Comment	Suggested actions
	This is considered to add to the complexity of the development assessment process. Council understands that this change was introduced to allow for flexibility in the development application process. It is submitted that any benefit in terms of increased flexibility is outweighed by the increased complexity associated with the change. Allowing for public notification to occur concurrently with the information request stage may appear to allow flexibility and save time. However, given that any amendments made as a result of the information request will need to be renotified, this time saving may be outweighed by the additional complexity and administrative burden caused by the need to re-notify. Also, re-notification is likely to create confusion amongst submitters and the general public, reducing the quality of the public consultation undertaken for the application.	
Table 2 - Part 2 Assessment Stage Clause 27. Public notice requirements	In accordance with this clause, a notice does not have to be published about the development in a local paper. It is submitted that this is undesirable because the general public have a right to know that the development is proposed.	Amend the DA Rules so that public notification must include the notification of adjoining land owners, placing a notice about the development at the land and publishing of a notice about the development in a local newspaper.
Table 2 - Part 2 Assessment Stage Clause 30. Accepting submissions	See comments in relation to clause 26 above. Subclause 30.1(2)a) needs to be amended accordingly.	Amend subclause 30.1(2)a) to delete "or any *public notification period (repeated)*".
Table 3 - Part 3 Decision Stage Clause 33. When the decision stage starts	Subclause 33.1 should be amended so that the decision stage starts the day after the assessment stage ends. This way, the decision stage does not commence until after any response to an information request is provided and public notification is carried out. This is considered reasonable and appropriate.	Amend subclause 33.1 so that the decision stage starts after the assessment stage ends.
Table 3 - Part 3 Decision	The timeframe for making a decision, in light of the inability to extend	Either extend the decision making period specified in

Reference in the DA Rules	Comment	Suggested actions
Stage Clause 34. Decision period for development applications requiring code assessment	timeframes without the applicant's approval and the need to give a decision notice within the 20 business day period, need to be considered in light of local government meeting cycles. Councils only meet monthly or bi-monthly. If Council extends its decision making period for a development application, it is often because the original period ends before the application can be taken to a Council meeting. Given the ability for a deemed approval to be required for a code assessable application, there needs to be sensible timeframes for assessing development applications that allows for these applications to be properly assessed and taken to a Council meeting for consideration by Council.	subclause 34.1 or allow for the extension of the decision making period by 20 business days without the consent of the applicant.
Table 3 - Part 3 Decision Stage Clause 35. Decision period for development applications requiring impact assessment	The timeframe for making a decision, in light of the inability to extend timeframes without the applicant's approval and the need to give a decision notice within the 30 business day period, needs to be considered in light of local government meeting cycles. Councils only meet monthly or bi-monthly. If Council extends its decision making period for a development application, it is often because the original period ends before the application can be taken to a Council meeting. There needs to be sensible timeframes for assessing development applications that allows for these applications to be properly assessed and taken to a Council meeting for consideration by Council.	Either extend the decision making period specified in subclause 35.1 or allow for the extension of the decision making period by 20 business days without the consent of the applicant.
Table 3 - Part 3 Decision Stage Clause 37. Effect on the decision stage if action taken under the Native Title Act (Cwlth)	It is unclear why this clause has been included in the DA Rules. The processes and requirements under the *Native Title Act 1993* (Cwlth) (**Native Title Act**) are separate from and independent of the requirements in Queensland's planning legislation. The DA Rules should not attempt to link the development assessment and approval process to the requirements of the Native Title Act. Also, subclauses 37(2) and (3) refer to the assessment manager taking action under the Native Title Act. As the applicant is likely to be the person taking an action which triggers obligations under the Native Title Act, it is likely to be the applicant taking these actions, not the assessment manager.	Delete clause 37.

Reference in the DA Rules	Comment	Suggested actions
Table 4 - Part 4 Changing development applications or referral agency responses Clause 39. Assessment manager to advise referral agencies about changed development applications	In accordance with this clause, the assessment manager must give a copy of the notice from the applicant that the applicant intends to change an application to relevant referral agencies. It is submitted that the applicant should be required to do this, not the assessment manager. It is not reasonable to pass this administrative burden onto local government when it has no control over the applicant's decision to change an application.	Amend clause 39 so that the applicant is required to give a copy of the notice to the relevant referral agencies.
Table 4 - Part 4 Changing development applications or referral agency responses Clause 41. Effect on the development assessment process for a change that is about a matter relating to a submission or information request	See comments in relation to clause 26 above. Subclauses 41.1(2)and (3) needs to be deleted accordingly.	Delete subclauses 41.1(2) and (3).
Table 4 - Part 4 Changing development applications or referral agency responses Clause 42. Effect on the development assessment process for other changes that are not minor	See comments in relation to clauses 9 and 10 above. Subclause 42.1(2) needs to be deleted accordingly.	Delete subclause 42.1(2).
Table 4 - Part 4 Changing development applications or referral agency responses Clause 42. Effect on the development assessment	In relation to subclause 42.1(3), where the change is not minor it is submitted that public notification would need to re-occur as part of the re-started process. A change that is not minor is considered to be the same as a new development proposal, and therefore should be subject to public notification.	Delete subclause 42.1(3).

Reference in the DA Rules	Comment	Suggested actions
process for other changes that are not minor		
Table 4 - Part 4 Changing development applications or referral agency responses Clause 42. Effect on the development assessment process for other changes that are not minor	It is submitted that subclause 42.1(4) is unnecessary. Regardless as to whether the applicant stopped-the-clock, the timeframes in subclause 42.1(1) should apply.	Delete subclause 42.1(4).
Table 4 - Part 4 Changing development applications or referral agency responses Clause 43. Applicant makes change representations	It is submitted that the creation of a new term "change representations" is not required for this division within the DA Rules to operate. All the inclusion of this term does is increase the complexity of the DA Rules. It is also submitted that "each referral agency" as used in this clause should be replaced with "a referral agency", given the content in which this phrase is used.	Delete the term "change representations" from this clause and elsewhere as used in the DA Rules. Replace "each referral agency" with "a referral agency".
Table 4 - Part 4 Changing development applications or referral agency responses Clause 44. How a referral agency may change its response	It is submitted that "each referral agency" as used in subclause 44.1(1) should be replaced with "a referral agency", given the content in which this phrase is used. Also, there appears to be a typing error in subclause 44.1(1)b). If there is no error, then this subclause should be reworded as its meaning is unclear.	Replace "each referral agency" with "a referral agency". Delete "in response to a change" in subclause 44.1(1)b).
Table 4 - Part 4 Changing development applications or referral agency responses Clause 44. How a referral agency may change its response	It is submitted that the timeframes in subclause 44.2 are unreasonably short for a decision to be made and notice of the decision to be given. These timeframes should be reconsidered.	Consider extending the timeframes for making a decision and giving a notice of the decision in subclause 44.2.

Reference in the DA Rules	Comment	Suggested actions
Table 5 - Miscellaneous Clause 48. Requests to extend a period of time	The meaning of subclause 48.1(1) is unclear. If the purpose of clause 48 is merely to state how the parties can agree to an extension of time in relation to actions in the DA Rules, it is submitted that this clause is unnecessary as it is not necessary to formalise how this occurs.	Amend subclause 50.1(2) so that an application can be revived at the discretion of the assessment manager, but only within 20 business days of it lapsing. Delete subclauses 50.1(3) and (4).
Table 5 - Miscellaneous Clause 50. When a development application lapses	It is submitted that it should not be possible for an applicant to revive a development application. The development assessment process is meant to be applicant driven. Therefore, the applicant should be able to monitor the relevant timeframes for actions and seek to extend these before they expire if required. Providing any sort of revival period is akin to providing an extended timeframe for actions. Council acknowledges that honest mistakes can be made, leading to the lapsing of an application. Therefore, Council would support the amendment of subclause 50.1(2) to allow an application to be revived at a Council's discretion, but only within 20 business days of it lapsing. The assessment manager should not be required to provide notice of an application lapsing. As stated, the development assessment process is meant to be applicant driven. Therefore, Councils should not be required to monitor the applicant's timeframes for taking action and give notice if these are not met. The returning of hard copy development applications and any part of the application fee is a matter that can be arranged between the parties to the development application. It does not need to be formalised as a process in the DA Rules.	Amend subclause 50.1(2) so that an application can be revived at the discretion of the assessment manager, but only within 20 business days of it lapsing. Delete subclauses 50.1(3) and (4).
Table 5 - Miscellaneous Clause 51. Effect on the development assessment process when the applicant	Subclause 51.3(1)a) states that the balance of the time for any action to be taken recommences the day after the assessment manager receives notice from the applicant that the clock is restarting. It is submitted that this is problematic if the development application is in the decision stage.	Amend Clause 51 so that if the clock is restarted within the decision stage, the assessment manager has a further 20 business days to decide the application.

Reference in the DA Rules	Comment	Suggested actions
stops-the-clock	The timeframe for making a decision, in light of the inability to extend timeframes without the applicant's approval, needs to be considered in light of local government meeting cycles. Councils only meet monthly or bi-monthly. If an applicant restarts the clock with only a few days left in the decision making period, and the next Council meeting is not for two weeks, the application will go into deemed refusal. If the application is code assessable, the applicant can give the assessment manager a deemed approval notice and the assessment manager will have no choice but to approve the application, even if it clearly should be refused in accordance with the applicable planning scheme. Therefore, it is submitted that if the clock is restarted within the decision stage, the assessment manager should have a further 20 business days to decide the application. This will allow a decision to be made by a Council at a Council meeting. The failure to make this change to the DA Rules leaves the stop-the-clock provision open for misuse by an applicant wishing to secure the approval of an application which is without merit and should be refused.	
Table 5 - Miscellaneous Clause 52. Clock restart after change representations about a referral agency response are made	Council has no objection to an applicant being able to stop-the-clock to make representations about a referral agency response. However, if the development application was required by an enforcement notice or made in response to a show cause notice, then it is submitted that the length of time the clock can be stopped for should be limited.	Amend clause 52 to limit the length of time the clock can be stopped for if the development application was required by an enforcement notice or made in response to a show cause notice.
Table 6 - Part 6 Changing development approvals Clause 55. Negotiated decision period for deciding change representations	In accordance with subclause 55.1(2), the applicant can stop the negotiated decision period for up to 6 months. It is submitted that this 6 month period should not be in addition to any time for which the applicant has already stopped the clock.	Amend clause 55 so it is clear that an applicant can stop the clock for a total cumulative period of 6 months, and not 6 months under clause 55 in addition to the 6 months allowed under clause 51.
Schedule 1 - Substantially different development	It is submitted that an early referral response should only be valid if the development application submitted to the assessment manager is the same	Delete reference to "not substantially different" in the first paragraph under the heading "Relationship and

Reference in the DA Rules	Comment	Suggested actions
	as the proposed development application submitted for an early referral response. Therefore, the reference to "not substantially different" in the first paragraph under the heading "Relationship and application" should be deleted. It appears there is a typing error in the last dot point on page 30. Instead of "Impact on infrastructure provisions", should this be "Impact on the provision of infrastructure". This would appear to be the correct wording in light of the context of the dot point.	application". In the last dot point on page 30, replace "Impact on infrastructure provisions" with "Impact on the provision of infrastructure".
Schedule 3 - Re-notifying a development application	In light of Council's comments above in relation to the re-notification of development applications, it is submitted that Schedule 3 is unnecessary and should be deleted.	Delete Schedule 3.
Schedule 4 - Standard conditions for a deemed approval	Condition 2 for both a material change of use, reconfiguring a lot and operational works does not take into account the situation where the submitted plans and documents have been altered in response to an information request.	Amend the first sentence of condition 2 in the Standard Conditions for Deemed Approvals - Material Change of Use, Standard Conditions for Deemed Approvals - Reconfiguration of a Lot and Standard Conditions for Deemed Approvals - Operational Works to include the underlined text as follows: "Carry out the development in accordance with the plans and documents as lodged with the development application <u>and as modified in response to an information request</u>, unless otherwise varied by the following conditions."
Schedule 4 - Standard conditions for a deemed approval	Conditions 19 for a material change of use and condition 18 for reconfiguring allows infrastructure to be connected in accordance with the plans and documents lodged with the development application or in accordance with the local categorising instrument. It is submitted that the only way to ensure that infrastructure is connected to an appropriate standard is by requiring this to occur in accordance with the local categorising instrument.	Amend the condition 19 in the Standard Conditions for Deemed Approvals - Material Change of Use and condition 18 in the Standard Conditions for Deemed Approvals - Reconfiguration of a Lot so that infrastructure must be connected in accordance with the local categorising instrument and not the plans and documents lodged with the development application.

Table – comments on the Draft Statutory Instrument 01/XX - Plan Making Rules (PM Rules)

Reference in the PM Rules	Comment	Suggested actions
General	The term "regulated requirement" is used repeatedly in the PM Rules. It is noted that this term is defined in the Planning Bill and that the regulated requirements are outlined in the Regulation. However, to assist with the ease of use of the PM Rules, it is submitted that a definition or description of what the regulated requirements are should be included in Schedule 2 - Definitions and Abbreviations in the PM Rules.	Include a definition or description of "regulated requirement" in Schedule 2 - Definitions and Abbreviations.
General	It is a concern that there are no timeframes specified for the State government to undertake its required actions. This gives no accountability to the State government officers processing a local planning instrument at various steps to seek to complete their step in a reasonable time.	Include timeframes for completion of State government actions in the PM Rules.
1. Preliminary, 1.5 Exemptions	It is submitted that the items listed in section 1.5 as amendments that the instrument does not apply to should be identified as administrative amendments. This section should be amended accordingly and a definition should be included in Part 1 of Schedule 1 for administrative amendments of a local planning instrument.	Amend the first sentence under the heading 1.5 Exemptions to include the underlined words and delete the strikethrough text as follows: "The rules prescribed in this instrument do not apply to an administrative amendment. ~~the following amendments:~~" Delete the remainder of the text under the heading 1.5 Exemptions and move this text to a new definition for "administrative amendment" in Part 1 of Schedule 1.
1. Preliminary, 1.5 Exemptions	An amendment required to reflect an amendment to a State Planning Policy or its supporting mapping should be exempt from the rules. Therefore, paragraph b) under the heading 1.5 Exemptions should be amended to include a subparagraph (iii) for an amendment to reflect the State Planning Policy or its supporting mapping. In accordance with Council's comments in the row above, all of the text under the heading 1.5 Exemptions should be moved to Part 1 of Schedule 1 to provide a definition of administrative amendment.	Ensure an amendment made to reflect an amendment to the State Planning Policy or its mapping is exempt from the rules by including it as a new subparagraph (iii) under paragraph b). Move all of the text under the heading 1.5 Exemptions to Part 1 of Schedule 1 to provide a definition of administrative amendment.

Reference in the PM Rules	Comment	Suggested actions
Part 1, 1.1 Plan making principles - Table 1 Planning making principles - Clause 1.1 Local government has the principal role in making and amending LPIs	There is a typing error in paragraph e) of this clause.	Insert "is" after "Local government".
Part 1, 1.1 Plan making principles - Table 1 Planning making principles - Clause 1.4 Early engagement with state government	There is a typing error in paragraph a) of this clause. With reference to paragraph b), it is submitted that the State should be responsible for clearly and consistently articulating its State interests.	Insert "advice on" after "ensuring" in paragraph a). Include "and consistently" after "clearly" in paragraph b).
Part 1, 1.2 Minister's guidelines - Table 2 Minister's guidelines for preparing notice - Clause 2.3 Is the state interest affected? If it is, what is the extent of the impact?	The phrase "state policy check" is used repeatedly in this clause. However, elsewhere in the PM Rules, the phrase "state interest review" is used. It is submitted that the language throughout the PM Rules should be consistent.	Replace "state policy check" with "state interest review" where used in clause 2.3.
Part 1, 1.2 Minister's guidelines - Table 2 Minister's guidelines for preparing notice - Clause 2.4 Is state interest in conflict or competition with another state interest?	There is a typing error in the title of this clause.	Insert "a" after "Is".
Part 1, 1.3 Minister's plan making rules	It is submitted that a local government should be able to elect to use the process in Part 1.3 of the PM Rules for making a planning scheme, rather than use the tailored process. The requirement for the making of a planning scheme to follow a tailored process will add further delays to the process of making a planning scheme.	Amend Part 1.3 of the PM Rules so that this default process can be utilised for the making of a planning scheme.

Reference in the PM Rules	Comment	Suggested actions
	While the intent of tailoring the planning scheme making process to the particular circumstances of a local government is desirable, the outcome of this section is delays and additional processes that need to be complied with. These additional process steps are likely to add an additional estimated three months to the timeframes for a planning scheme project. It is likely that the notices given about making or amending a planning scheme will contain requirements that are almost identical between local governments, and therefore the additional three month delay cannot be justified. It is submitted that a local government should be able to request a tailored process for the making of a planning scheme if it wishes, but if not the process in Part 1.3 of the PM Rules should be available.	
Part 1, 1.3 Minister's plan making rules - Table 3 - Process for making a major and minor amendment to a planning scheme	There is a typing error in the heading of this table. The process in the table applies to making a major or minor amendment to a planning scheme, not both at the same time.	Replace "and" with "or" in the heading of Table 3.
Part 1, 1.3 Minister's plan making rules - Table 3 - Process for making a major and minor amendment to a planning scheme	A number of fact sheets are referred to in this table. There is a concern that further mandatory requirements will be imposed on local government through these fact sheets, rather than the PM Rules being clear and upfront about what is required. For example, footnote 4 states that the required supporting information that must be submitted by a local government as part of the request for a State interest review will be outlined in a fact sheet. These details should be provided up front in the PM Rules. Council is concerned about the amount of supporting information that is required to be submitted with a request for State interest review. The preparation of a planning scheme is resource intensive enough, without the added burden of having to prepare voluminous supporting material as well just to be able to secure a state interest review of the planning scheme. Council would like the ability to comment on these requirements, but this	Include mandatory requirements for making and amending a local planning instrument in the PM Rules, rather than hiding these requirements in fact sheets. Consider the resource burden placed on local government associated with the requirement to prepare large amounts of material supporting a request for a state interest review and determine whether the benefit in receiving that supporting material is worth the burden on local government in preparing it.

Reference in the PM Rules	Comment	Suggested actions
	cannot occur if the detail is hidden in a yet to be prepared fact sheet.	
Part 1, 1.3 Minister's plan making rules - Table 3 - Process for making a major and minor amendment to a planning scheme - Step 3.8	Would the Minister be providing initial advice to the local government or the chief executive through the Department of Infrastructure, Local Government and Planning (**DILGP**)?	Consider whether step 3.8 should be amended so that the chief executive, through the DILGP, provides the initial advice to the local government on how the draft planning scheme needs to be amended to address state interests.
Part 1, 1.3 Minister's plan making rules - Table 3 - Process for making a major and minor amendment to a planning scheme - Step 3.11	Clause 3.11 refers to an endorsed consultation strategy required under step 3.5(c). Step 3.5(c) does not require an endorsed consultation strategy, it appears that the fact sheet referred to in the footnote for step 3.5(c) does. This reinforces Council's comments above in relation to hiding requirements in factsheets.	Include mandatory requirements for making and amending a local planning instrument in the PM Rules, rather than hiding these requirements in fact sheets.
Part 1, 1.3 Minister's plan making rules - Table 3 - Process for making a major and minor amendment to a planning scheme - Step 3.17	Step 3.17 refers to the local government obtaining a notice of decision from the Minister. The new planning regime contains a large number of different notices of decision and decision notices, and it can be hard to distinguish between them. Therefore, it is submitted that this step should just require the local government to obtain the Minister's endorsement to proceed with the draft planning scheme amendment.	Amend step 3.17 so that the local government must obtain the Minister's endorsement to proceed with the draft planning scheme amendment, rather than a notice of decision. Amend steps 3.22 and 3.23 accordingly.
Part 1, 1.3 Minister's plan making rules - Table 3 - Process for making a major and minor amendment to a planning scheme - Step 3.20	Would the Minister be providing initial advice to the local government or the chief executive through the DILGP?	Consider whether step 3.20 should be amended so that the chief executive, through the DILGP, provides the initial advice to the local government on how the draft planning scheme amendment needs to be amended to address state interests.
Part 1, 1.3 Minister's plan making rules - Table 3 - Process for making a major and minor amendment to a planning scheme - Step 3.24	Paragraph a) in this step states that the local government must publish a public notice about amending its planning scheme, but does not state where or how the public notice must be published.	Amend paragraph a) in step 3.24 to state where and how the public notice must be published.
Part 1, 1.3 Minister's plan	There is a typing error in step 4.6.	Replace "has" with "have" as the second last word in step

Reference in the PM Rules	Comment	Suggested actions
making rules - Table 4 - Process for making or amending a planning scheme policy - Step 4.6		4.6.
Part 1, 1.3 Minister's plan making rules - Table 4 - Process for making or amending a planning scheme policy - Step 4.7	Paragraph c) in this step states that the local government must publish a public notice about a planning scheme policy, but does not state where or how the public notice must be published. Also, there is a typing error in this step. Paragraphs c) and d) should be paragraphs a) and b).	Amend paragraph c) in step 4.7 to state where and how the public notice must be published. Renumber paragraphs c) and d) so they are paragraphs a) and b).
Part 1, 1.3 Minister's plan making rules - Table 5 - Process for making or amending a temporary local planning instrument - Step 5.2	Step 5.2 refers to the local government obtaining a notice of decision from the Minister. The new planning regime contains a large number of different notices of decision and decision notices, and it can be hard to distinguish between them. Therefore, it is submitted that this step should just require the local government to obtain the Minister's endorsement to proceed with the draft TLPI or major amendment.	Amend step 5.2 so that the local government must obtain the Minister's endorsement to proceed with the TLPI or major amendment, rather than a notice of decision. Amend steps 5.5 and 5.6 accordingly.
Part 1, 1.3 Minister's plan making rules - Table 5 - Process for making or amending a temporary local planning instrument - Step 5.7	Paragraph a) in this step states that the local government must publish a public notice about making or amending its TLPI, but does not state where or how the public notice must be published.	Amend paragraph a) in step 5.7 to state where and how the public notice must be published.
Part 2, Section A - Rules for making or amending a planning scheme for an LGIP	This section applies to making an administrative amendment to a LGIP. Undertaking amendments of the same nature to a planning scheme is exempt from the PM Rules. Therefore, it is submitted that making an administrative amendment to a LGIP should also be exempt, given it is part of a planning scheme.	Amend Section A so that making an administrative amendment to a LGIP is exempt from the PM Rules.
Part 2, Section A - Rules for making or amending a planning scheme for an	The requirement for two independent reviews as part of the making of LGIP represents a significant cost burden for local government. Council acknowledges that this is a requirement currently, but maintains that this	Remove the requirement for the two independent reviews of an LGIP.

Reference in the PM Rules	Comment	Suggested actions
LGIP - Table 1 Process for making or amending a local government infrastructure plan - Steps 1.5 and 1.26	requirement increases the resources required to prepare a LGIP and should be removed.	
Part 2, Section A - Rules for making or amending a planning scheme for an LGIP - Table 1 Process for making or amending a local government infrastructure plan - Step 1.8	There is a typing error in this step.	Replace the "and" between subparagraphs i. and ii. in paragraph b) with an "or".
Part 2, Section A - Rules for making or amending a planning scheme for an LGIP - Table 1 Process for making or amending a local government infrastructure plan - Step 1.8	Subparagraph v. in paragraph b) requires a local government to supply any supporting information as stated in the statutory instrument for LGIPs. For ease of use of the PM Rules, it is submitted that any other supporting information that is required should be outlined in Step 1.8b)	Include any additional supporting information that is required in Step 1.8b).
Part 2, Section A - Rules for making or amending a planning scheme for an LGIP - Table 1 Process for making or amending a local government infrastructure plan - Steps 1.26, 1.27, 1.28 and 1.29	It is submitted that this step is unnecessary. None of the amendments to the LGIP arising from public notification should be significant enough to require another compliance check.	Delete steps 1.26 to 1.29.
Part 2, Section A - Rules for making or amending a planning scheme for an LGIP - Table 1 Process for making or amending a local	Subparagraph vi. in paragraph b) requires a local government to supply any supporting information as stated in the statutory instrument for LGIPs. For ease of use of the PM Rules, it is submitted that any other supporting information that is required should be outlined in Step 1.30b)	Include any additional supporting information that is required in Step 1.30b).

Reference in the PM Rules	Comment	Suggested actions
government infrastructure plan - Step 1.30		
Part 2, Section A - Rules for making or amending a planning scheme for an LGIP - Table 1 Process for making or amending a local government infrastructure plan - Step 1.35	Paragraph c) requires a local government to include on its website any other documents identified in the statutory instrument for LGIPs. For ease of use of the PM Rules, it is submitted that any other documents that must be published on a local government's website should be outlined in Step 1.35c)	Include any other documents that must be published on a local government's website in Step 1.35c).
Part 2, Section A - Rules for making or amending a planning scheme for an LGIP - Table 1 Process for making or amending a local government infrastructure plan - Step 1.36	In accordance with this step, a local government must place a notice in the gazette if the local government decides not to proceed with the proposed LGIP. It is considered unnecessary for such a notice to be published in the gazette. A notice in a newspaper circulating generally in the local government's area and on its website is considered to be sufficient.	Delete the requirement for the notice to be published in the gazette in Step 1.36.
Part 2, Section B - Preparing a Local Government Infrastructure Plan	This section repeated refers to "an LGIP". This is not correct, and should be "a LGIP".	Replace "an LGIP" where used with "a LGIP".
Part 2, Section C - Local government infrastructure plan review and approval	See comments above in relation to Steps 1.5 and 1.26 in Table 1 of Section A. As stated, the requirement for two independent reviews as part of the making of LGIP represents a significant cost burden for local government. Council acknowledges that this is a requirement currently, but maintains that this requirement increases the resources required to prepare a LGIP and should be removed.	Delete references to the need for an independent review of an LGIP from Section C.
Part 2, Section C - Local government infrastructure plan review and approval - 3.1 Statutory instruments	It is submitted that the paragraph explaining what an interim local government infrastructure plan is should be amended to include an administrative amendment as an amendment that is not a local government infrastructure plan amendment.	Amend the paragraph in relation to an interim local government infrastructure plan amendment under the heading 3.1 Statutory instruments to include the underlined words as follows:

Reference in the PM Rules	Comment	Suggested actions
		"An ***interim local government infrastructure plan amendment*** (interim LGIP amendment) to a planning scheme is an amendment that is not a local government infrastructure plan amendment <u>or an administrative amendment</u>."
Part 2, Section C - Local government infrastructure plan review and approval - 3.1 Statutory instruments	The last paragraph under heading 3.1 Statutory instruments refers to the statutory instrument for MALPI. This is a typing error, as that statutory instrument no longer exists and has been replaced with the PM Rules.	Amend the last paragraph under heading 3.1 Statutory instruments so that it refers to the PM Rules instead of the statutory instrument for MALPI.
Part 2, Section C - Local government infrastructure plan review and approval - 3.15 Transitional arrangements	This section within Part C refers to the need for a local government to have LGIP prior to 1 July 2016, but does not take into account recent changes to SPA giving Councils an extra two years to prepare an LGIP in accordance with an approved project plan.	Amend the text under the heading 3.15 Transitional arrangements to refer to the current requirements for having an LGIP in place.
Schedule 1 - Types of amendments, Part 1 - Planning Scheme amendments	The wording of subparagraph (1)(c) is ambiguous. It appears to refer to an amendment of a regulated requirement. If so, this subparagraph should refer to an amendment of a regulated requirement.	Replace the current wording of subparagraph (1)(c) with "reflects an amendment to a regulated requirement".
Schedule 1 - Types of amendments, Part 1 - Planning Scheme amendments	The definition of major amendment states that it is not a minor amendment or interim amendment. It is submitted that interim amendment should be replaced with administrative amendment.	Replace "interim amendment" as used in the definition for major amendment with "administrative amendment".

Table – comments on the Draft Infrastructure Designation: Statutory Guideline for Local Government (LGID Guideline)

Reference in the LGID Guideline	Comment	Suggested actions
Section 3. Environmental assessment and consultation	There is a typing error in the fourth paragraph.	Delete the comma after "The nature and extent of impacts and community interest".
Section 3. Environmental assessment and consultation	It is submitted that the last element listed in the fourth paragraph regarding matters that may impact on the community interest in a proposed designation is not correctly worded and does not accurately capture the issue it is intended to. It is recommended that this part of the fourth paragraph be amended accordingly.	Replace "the sensitivity or hazardous nature of the natural environment" with "any values or constraints that apply to the subject land".
Section 3.1 Environmental assessment and consultation process	There is a typing error in the first paragraph under the heading Stage 1.1.	Amend the first paragraph under the heading Stage 1.1 to include the underlined text as follows: "As the first step in the formal planning and preparation stage of the environmental assessment and consultation process, the local government must complete an infrastructure proposal and provide this to the CEO in the approved format as outlined in Schedule 3 to this guideline."
Section 3.1 Environmental assessment and consultation process	There is a typing error in the second paragraph under the heading Stage 1.1.	Amend the first sentence in the second paragraph under the heading Stage 1.1 to delete the strikethrough text as follows: "The infrastructure proposal will address a broad~~er~~ range of matters including:"
Section 3.1 Environmental assessment and consultation process	In the second last paragraph under the heading Stage 1.1, there is reference to infrastructure that is deemed low impact. It is noted that "low impact designation is proposed to be a defined term, however this definition has not yet been provided in Schedule 2 of the LGID Guideline. It is submitted that it is important that this definition be provided for comment	Provide the definition of "low impact designation" for consideration by local government as soon as possible.

Reference in the LGID Guideline	Comment	Suggested actions
	as soon as possible.	
Section 3.1 Environmental assessment and consultation process	The second last paragraph under the heading Stage 1.1 provides that the consultation process for designations that are not low impact must be undertaken for a minimum of 15 business days. It is submitted that 15 business days is too short a timeframe, and that at least 30 business days should be allowed.	Replace "15 business days" in the second last paragraph under the heading Stage 1.1 with "30 business days".
Section 3.1 Environmental assessment and consultation process	There is a typing error in the last paragraph under the heading Stage 1.1.	Amend the last paragraph under the heading Stage 1.1 to include the underlined text and delete the strikethrough text as follows: "It is expected that a local government will provide evidence of early engagement with the State ~~to engage~~ on the management of significant State interests prior to lodging their infrastructure proposal with the CEO"
Section 3.1 Environmental assessment and consultation process	The first paragraph under the heading Stage 1.2 provides that consultation requirements will be confirmed by the CEO within 5 business days. It is submitted that 5 business days is too short a timeframe, and that at least 10 business days should be allowed.	Replace "5 business days" in the first paragraph under the heading Stage 1.2 with "10 business days".
Section 3.1 Environmental assessment and consultation process	There is a typing error in the first paragraph under the heading Stage 1.3.	Amend the second sentence in the first paragraph under the heading Stage 1.3 to include the underlined text as follows: "The draft environmental assessment report must provide more detail around the matters outlined in Stage 1.1 including site plans and descriptions of individual site uses as well as a comprehensive assessment of all environmental, social and economic impacts (both positive and negative) likely from the development of the proposed infrastructure and how any negative impacts can be avoided, mitigated or managed."

Reference in the LGID Guideline	Comment	Suggested actions
Section 3.1 Environmental assessment and consultation process	The second paragraph under the heading Stage 2.1a states that a notice should be placed in a newspaper generally circulating in the area. It is submitted that it should be a mandatory requirement for the notice to be published, and therefore recommend that "should" be replaced with "must".	Replace "should" with "must' in the second paragraph under the heading Stage 2.1a.
Section 3.1 Environmental assessment and consultation process	The first paragraph under the heading Stage 4.1 provides that the final environmental assessment report will be assessed by the CEO within 20 business days. It is submitted that 20 business days is too short a timeframe, particularly given the potential scale of some of the infrastructure that may be proposed. Therefore, at least 30 business days should be allowed.	Replace "20 business days" in the first paragraph under the heading Stage 4.1 with "30 business days".
Section 5. Repealing designation - Owner's request	The second last paragraph in this section states that the CEO must, within 40 business days of receiving a request, take one of a number of steps. One of these steps is to decide to take other actions that the CEO considers appropriate in the circumstances. It is unclear what this action may be, for example, could this mean an amendment to the designation rather than its repeal?	Amend subparagraph (c) in the second last paragraph in Section 5 to clarify what action may be available to the CEO and whether this gives the CEO the ability to amend the designation rather than repeal it.

Table – comments on the Draft Infrastructure Designation: Statutory Guideline for Ministerial Designations (MID Guideline)

Reference in the MD Guideline	Comment	Suggested actions
Section 3. Environmental assessment and consultation	There is a typing error in the fourth paragraph.	Delete the comma after "The nature and extent of impacts and community interest".
Section 3. Environmental assessment and consultation	It is submitted that the last element listed in the fourth paragraph regarding matters that may impact on the community interest in a proposed designation is not correctly worded and does not accurately capture the issue it is intended to. It is recommended that this part of the fourth paragraph be amended accordingly.	Replace "the sensitivity or hazardous nature of the natural environment" with "any values or constraints that apply to the subject land".
Section 3.1 Environmental assessment and consultation process	There is a typing error in the first paragraph under the heading Stage 1.1.	Amend the first paragraph under the heading Stage 1.1 to include the underlined text as follows: "As the first step in the formal planning and preparation stage of the environmental assessment and consultation process, the infrastructure entity must complete an infrastructure proposal and provide <u>this</u> to the Minister in the approved format as outlined in Schedule 3 to this guideline."
Section 3.1 Environmental assessment and consultation process	There is a typing error in the second paragraph under the heading Stage 1.1.	Amend the first sentence in the second paragraph under the heading Stage 1.1 to delete the strikethrough text as follows: "The infrastructure proposal will address a broad~~er~~ range of matters including:"
Section 3.1 Environmental assessment and consultation process	In the third last paragraph under the heading Stage 1.1, there is reference to infrastructure that is deemed low impact. It is noted that "low impact designation is proposed to be a defined term, however this definition has not yet been provided in Schedule 2 of the MD Guideline. It is submitted that it is important that this definition be provided for comment	Provide the definition of "low impact designation" for consideration by local government as soon as possible.

Reference in the MD Guideline	Comment	Suggested actions
	as soon as possible.	
Section 3.1 Environmental assessment and consultation process	The third last paragraph under the heading Stage 1.1 provides that the consultation process for designations that are not low impact must be undertaken for a minimum of 15 business days. It is submitted that 15 business days is too short a timeframe, and that at least 30 business days should be allowed.	Replace "15 business days" in the third last paragraph under the heading Stage 1.1 with "30 business days".
Section 3.1 Environmental assessment and consultation process	There is a typing error in the first paragraph under the heading Stage 1.3.	Amend the second sentence in the first paragraph under the heading Stage 1.3 to include the underlined text as follows: "The draft environmental assessment report must provide more detail around the matters outlined in Stage 1.1 including site plans and descriptions of individual site uses as well as a comprehensive assessment of all environmental, social and economic impacts (both positive and negative) likely from the development of the proposed infrastructure and how any negative impacts can be avoided, mitigated or managed."
Section 3.1 Environmental assessment and consultation process	The second paragraph under the heading Stage 2.1a states that a notice should be placed in a newspaper generally circulating in the area. It is submitted that it should be a mandatory requirement for the notice to be published, and therefore recommend that "should" be replaced with "must".	Replace "should" with "must' in the second paragraph under the heading Stage 2.1a.
Section 5. Repealing designation - Owner's request	The second last paragraph in this section states that the Minister must, within 40 business days of receiving a request, take one of a number of steps. One of these steps is to decide to take other actions that the Minister considers appropriate in the circumstances. It is unclear what this action may be, for example, could this mean an amendment to the designation rather than its repeal?	Amend subparagraph (c) in the second last paragraph in Section 5 to clarify what action may be available to the Minister and whether this gives the Minister the ability to amend the designation rather than repeal it.