

Infrastructure, Planning and Natural Resources Committee

From: Martin Knox
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To: Infrastructure, Planning and Natural Resources Committee
Subject: Submission re Planning Bills

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Parliament House
George Street
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Martin Knox,

December 18th, 2015

SUBMISSION ON PLANNING BILLS

TO: INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES COMMITTEE

Acronyms used are as follows::

PB Planning Bill 2015

PDB Planning and Development (Planning for Prosperity) Bill 2015

PECB Planning and Environment Court Bill 2015

POLAB Planning (Consequential) and Other Legislation Amendment Bill 2015

PREAMBLE

Many Queensland people would not willingly accept more and better government development planning because it is coercive. They prefer free markets to provide people's wants. The high price Brisbaners are paying for a relatively unplanned urban environment is to reside in an aesthetic desert of featureless suburbs and shopping aggregates. Apart from a few prominent towers and flashy family homes, architecture is as barren and ugly as batteries of chook cages. Planning should require variation and diversity between streets and neighbourhoods with open common spaces, even small ones, for public recreation and socialising. Councils have an important role in making suburbs more attractive, by coordinating development without imposing stultifying uniformity.

Political representation in Queensland is woeful. The Commune of Grand Saconnex in Switzerland has 12,000 inhabitants with 25 elected representatives, compared with Brisbane's 2,300,000 inhabitants with 27. Brisbane has 200 times less representation per inhabitant. Each ward has about 82,000 inhabitants. No wonder Brisbane's planning does not do what people want - Councillors have too many residents in their wards to be physically able to find out what they want.

Queenslanders have only 7 of the 15 democratic rights most Swiss enjoy. We don't have as much freedom of speech. Not all of us have an equal say, nor do we all have fair representation in government; nor transparent processes. Nor do we all have representation by an individual who knows our personal circumstances. Nor do we have matters dealt with at the lowest level possible; nor can we assemble with whomever we want; nor are we free from arbitrary arrest. People get virtually no say in City planning. The only say in government most people get is a vote once every three years, to accept a candidate who they have not met and will never meet. Consequently people are angry and alienated. Government is becoming unstable. We do not have a good system of representative democracy.

I request a separate Parliamentary Commission to stop the bipartisan hegemony that has overseen decline of our democracy. It should amend the Local Government Act to remove party affiliations from ballot papers. These pander to a 'donkey vote' that reflects party gang advertising budgets rather than eliciting votes for candidates who merit selection as representatives. Tribes and gangs are okay for organising nomadic hunting and football but are

anachronistic for organising development of a civil society. Non-partisan government is practiced in many places, notably in Toronto, Canada, a city similar in size to Brisbane.

COMMENTS ON THE PLANNING BILLS

The following problems have been caused by planning that is so centralised it is regarded by many people as tyrannical.

1. People complain that the Government is not allowing the places they know to develop in the ways they would like. The current system of government planning in Brisbane City is a dinosaur-like organism that is too large and centralised to sufficiently recognise the wants of its inhabitants. The Principle of Subsidiarity should apply, that a matter should be dealt with no higher in the hierarchy than it needs to be. There seem to be no provision in the legislation for devolution of planning to wards and Councillors. The public does not get a say, or only a token one, on the grand parameters of City development. Zoning seems to be opportunistic and covert. The Council has its templates for various districts and precincts, but the options for a particular area are not common parlance. People take a NIMBY stance against developments because there is no community currency of the public good. Increased representation and devolution would inform people so that they can take more responsibility for planning. I propose amendment of ***PB Chapter 2 Planning Part 2 State Planning Instruments*** to end the decentralisation of planning schemes to local governments. It gives responsibility without necessary authority. I propose the State allows its councils to appoint a second tier of semi-autonomous planning authorities with their own elected councillors. Thus Brisbane could have 27 councils each with a mayor and elected voluntary councillors. The benefit would be more democratic planning and less-alienated inhabitants.

2. Incidents of ethnic, religious, domestic and other violence seem to be increasing in Queensland. Personal safety and security is the top priority to be achieved by the increased representation and devolved planning referred to in #1 above. Devolution should retain enough centralisation that it will integrate and harmonize Brisbane as a diverse cosmopolitan city. It is unduly repressive to force a person whose culture is foreign to assimilate, A defence being adopted is to live in a ghetto. It would be better if ghetto living were chosen for cultural affiliation rather than as a defence against alienation and persecution. I propose that the development assessment process should foster cultural diversity that allows cultural affiliation. CBD developments should have an integrating multicultural emphasis, without forcing assimilation. The legislation in ***PB Chapter 3 Development Assessment Division 2 & 3 59-57*** is proposed to be amended to take out all references to standard conditions and benchmarks. Such parity has little to commend it and promotes dissent. Diversity requires case by case consideration and arbitration. Inflexible development assessment is a type of violence that will rebound from its citizenry.

3. People say they do not want to live in a Brisbane conurbation endlessly strung along highways and taking away the few remaining open spaces for recreation in and around the City. Councils are elected to control the built environment and bolder planning is needed. I am appalled that Councils would consider paying compensation for changing of their zoning, whether for sea level rise or to create green belts. This is a risk that developers must absorb, not the community. Planning cannot be omniscient and the community should not be discouraged from attempting it. Accordingly, I propose omission of ***PB Chapter 2 Planning Part 4 Superseded planning schemes Division 2 Compensation***

4. People I have talked with want city population growth restricted with infrastructure, amenities and lifestyles maintained with growth switched to regional centres. People do not want to encourage the population to grow because they do not want their lifestyle to decline. They have to fund services shortfalls and alleviation of congestion. Zero population growth is desirable but it is unethical to plan for a certain population size. Whether there is growth, steady state or decline, it should not be controlled.

I propose that ***PB Chapter 2 Planning Part 3 Local Planning Instruments 16 (1) A planning scheme must—(a) identify strategic outcomes for the local government*** is amended to read (a) identify alternative outcomes for inhabitants that can be controlled ethically by local government. The benefit is that a planning scheme will then be able to be considered by ordinary people, not just local government strategists.

5. Brisbane's growth is a case of the Matthew Effect which has people congregating like lemmings. People do not want Brisbane (2.5 millions) to be Queensland's Sao Paulo (21 millions). A greater public good would be obtained by diverting growth to regional centres. This may be a matter of applying stricter assessment criteria. However, ***PB Chapter 3 Development Assessment Part 4 Development assessment rules*** has assessment by the Minister, who *'must make rules for the development assessment process, including rules about—the consideration of properly made submissions.'* I have experienced this power applied in the sale of public land at 405 Montague Road, West End to a developer, Pradella. The outcome was implemented arbitrarily without transparency or tendering and usurped Council's role in land use planning and assessment of developments. It is not appropriate that the Minister should be unfettered in selling a public asset in the market for development land. I propose that the Planning Bill is rewritten omitting the possibility of Ministerial intervention. The benefit would be

that the planning authority could consider alternative use of the public land for a public park or school to benefit the community instead of destroying it.

6. Many local people I have talked to are outraged that the West End's population is planned to increase by almost threefold in 2030. They want to know by what right anyone in the State Government or City Council can create partial plans for such a large increase in population. As a result of this vision, land and house prices have skyrocketed, rents have increased and local people are being displaced from their homes to find affordable accommodation. Many of the apartments being built are standing vacant or are inhabited by country or interstate migrants as well as immigrants. Governments are elected to foster a civil society but in West End it is being destroyed by rapid population change. Developers are in a feeding frenzy because of windfall profits allowed by low infrastructure contributions. This mayhem was stimulated by BCC publication of a Kurilpa Development Plan in 2014. The main aim seemed to be for the Government to appear to be creating economic security whereas for most people in West End it created insecurity. I propose that ***PB Chapter 1, 5(2) Advancing the purpose of this Act includes***— is amended by adding an additional decision making process ***(a)(iv) relate forecasts of community futures to needs of local people***. The benefit this will bring is that plans will consider outcomes for everyone, not just winners.

7. The Pareto criterion used in public welfare decision making is that 'No development should be approved if anyone is disadvantaged.' By contrast, the philosophy that seems to prevail in Queensland government follows Hicks Kaldor: 'The winners should be able to compensate all losers but they don't have to actually pay them anything.' This is not equitable and causes wealth to be concentrated in a few hands. Following on from #6 above, I propose a further decision making process ***(v) no development should be approved if anyone is disadvantaged by not being offered fair compensation***.

8. Public opinion of developers amongst people I talk to is scathing. Contrary to hype, development companies suck employees from steady employment into temporariness, disrupt communities, reduce the physical quality of life as well as bringing an avalanche of outsiders that destroys security and social community. It is wrong that Council should allow an open slather of development in one place like West End, instead of concerting developments across the city. Council's role is to regulate development with charging to developers of full infrastructure costs. Thus where a developer's infrastructure payment only partly meets consequent infrastructure provision requirements, the government condones the developer profiting at the expense of local people. The government role is to avoid a feeding frenzy, not to nourish it. To fulfil this principle, ***PB Chapter 8 Part 1 Division 5 Infrastructure*** and ***PDB Part 4 Infrastructure agreements*** should be redrafted making payment of full infrastructure costs mandatory. The benefit will be that developments pay their own way instead of leeching off a community's resources.

9. An important issue that appears to be neglected in this legislation is the problem of DAs having gone too far for design to be revoked or changed in response to submissions. Developments have bugs, including disadvantages for others, that need to be addressed as early as possible. I propose that you add an additional reiterative step in the development assessment process. This would follow ***PDB Chapter 3 Development assessment, Part 4 Division 1, 52 Response before application*** A developer would be required to submit a Preliminary Development Application(PDA) to test the water, before they and the Council have to commit to costly processes that incline towards irreversibility and before they are first subject to scrutiny by political representatives and the public.

10. It is good that planning tribunals have been started to settle compensation matters. I congratulate those who drafted ***PDB Chapter 6 Part 3 Tribunals***. I hope that compensation will be considered recognizing that monetary recompense within a framework of capitalism and market supply and demand is not the only dimension the government has been elected to arbitrate. People I talk with are not fooled by jobs hype that has growth as a panacea and hurries Council's into bad approvals. We know that counting cranes on the horizon is primitive and wrong government. Government's objectives are at least fivefold: to regulate economic markets; to regulate the public good; make efficient use of natural and civic resources; take humanitarian care for the population; and achieve environmental sustainability. These five concerns need to be explicitly expressed in the legislation so that they are methodically evaluated and inconsiderate narrow growth is avoided. I have not found them recognised explicitly in the Bills, possibly defaulting to Ministerial whim — see #5 above. This omission should be rectified by amending ***PB Chapter 3 Development Application Part 2, Division 2 Assessment Manager's Decision***. The five considerations: market; welfare; efficiency; humane; and sustainability could be listed. The benefit would be a better development assessment process and approvals that have more community support.

11. The final citizen recourse to oppose a development is to appeal to the Planning and Environment Court. It is unfair that unsuccessful objectors may have to pay all legal costs, because they may be there by provocation and should therefore not have to bear all costs when they are unsuccessful. Developers whose conduct provokes compensation claims could be liable for a part of claimants' costs even when they win. Costs should be allocated by the courts on a case by case basis. I propose that ***PECB Part 6 Costs*** be amended accordingly.

12. The Australian Constitution has separation of powers of the legislature, judiciary and executive but the practice of the legislature has been to over-ride the judiciary. A development may be 'called-in' by the Government in the 'State interest' and approved. I have been a victim of this provision and respectfully request that ***PDB Chapter 3 Part 7 Ministers Powers, Division 3 Minister's call in, 97-100*** be deleted from the Bill.

My experience was that in 2010 approx the developer Australand's DA for construction at Yungaba was appealed by Yungaba Action Group. Part way through the Planning and Environment Court's proceedings the Minister called it in and dismissed the appeal. We had to bear the legal costs we had incurred to find out that due process was denied.. This was a travesty of justice. The 'State interest' was that the appeal would almost certainly have won and embarrassed the Bligh Government during its re-election campaign.

I hope that these ideas will be agreeable and contribute to the Commission's work in reforming Queensland's planning and development assessment system. I want to live in a society that regulates development so that ordinary people gain freedom, beauty, order, efficiency, compassion and stewardship of the land and its resources.

Thank you for this opportunity.

Signed: (Martin Knox)