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

Via email: ipnrc@parliament.qld.gov.au

Dear Sir/Madam,

Technical submission on Planning Bill 2015

Thank you for the opportunity to comment on the Planning Bill 2015.

I note that Sunshine Coast Council has played an active role in providing input into the State government's planning reforms, including the lodgement of submissions in relation to previous iterations of the Bill and related statutory instruments.

Background and context to submission

Key drivers and objectives of planning reform

The key drivers for planning reform are understood to be outlined in the *Better Planning for Queensland Directions Paper* and can be summarised as follows:-

- the current planning system is considered to be complex
- the current planning system focusses on process rather than outcomes
- the current planning system (at times) contributes to poor development outcomes on the ground and
- the time taken takes to assess some development applications and make or amend planning schemes.

The *Directions Paper* provides for five key matters required to create a better planning and development assessment framework, which are (to):-

- enable better strategic planning and high quality development outcomes
- ensure effective public participation and engagement in the planning framework
- create an open, transparent and accountable planning system that delivers investment and community confidence
- create legislation that has a practical structure and clearly expresses how land use planning and development assessment will be done in Queensland and
- support local governments to adapt and adopt the changes.

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To achieve these goals, the *Directions Paper* contends that a 'new, clear, logical and consistent Planning Act' is required.

Previous local government and Council positions

Council has provided ongoing correspondence to the State government and the Local Government Association of Queensland (LGAQ) in relation to planning reform.

In previous communications, while qualified support has been expressed for a number of the administrative reforms proposed, Council's overriding position has been in favour of amending the current *Sustainable Planning Act (SPA) 2009* (rather than introducing a new Planning Act). This position was stated most recently in an extensive submission provided to the Department of Infrastructure, Local Government and Planning (dated 23 October 2015) on the draft Planning Bill and related statutory instruments.

As outlined in the recent Local Government Planning Reform Position Paper (LGAQ, June 2015), 21 out of 24 high-growth councils in Queensland expressed a preference to retain SPA with appropriate reforms to address previously identified concerns.

As further outlined in the recent LGAQ Position Paper, greater recognition is required of local government's long standing commitment to planning reform and implementation of significant improvement to business practices. Initiatives such as *Risk Smart*, *Housing Affordability Fund Target 5 Days (HAF-T5)*, *Development Assessment Partnership Process – Operational Works and Large Subdivision Project (DAPR-OWLS)* and, more recently, the *Concept to Construction – Development Assessment Innovation (DAI) Project*, have made significant improvements to development assessment systems and processes and outcomes on the ground, without the need for legislative reform.

Submission overview

Council officers have undertaken a review of the Planning Bill 2015, full details of which are provided as **Appendix 1** to this submission. It is noted that these comments have been provided prior to the finalisation of Council's review of the statutory instruments related to the Bill. The following provides an overview of the key matters of consideration in that review.

Potential beneficial changes arising from proposed legislation

On the basis of council officer's review, certain proposed reforms are considered to have merit, including:-

- the proposed continued recognition of ecologically sustainable development (and greater recognition of the precautionary principle) as the overarching intent of the Act and decision processes under it

- potential for more flexibility in the planning scheme amendment processes (depending on how these provisions are implemented)

- local governments potentially receiving greater protection from compensation claims in relation to planning scheme amendments that have been made in response to natural hazards

- the extension of temporary local planning instruments to two (2) years, with the ability to amend these instruments

- the proposed re-introduction of former provisions relating to parties generally meeting their own costs in the Planning and Environment Court (as per the Planning and Environment Court Bill) and

- the introduction of exemption certificates for development that may be applied in certain circumstances.

In addition to this, there are a range of other beneficial changes that have been identified in the review, many relating to the corrections of ambiguous or inefficient aspects of the current legislation (refer to **Appendix 1**).

Major concerns with proposed legislation

Although certain beneficial operational changes have been identified, there are major concerns in relation to the most significant proposals of the legislation. Key concerns include:-

- The proposal for new development assessment categories and new rules for development assessment decision making processes, which will require a significant overhaul of operational development assessment procedures while offering only marginal potential benefits and giving rise to a range of significant new risks for Council (as discussed further below)

- The proposal to reintroduce 'bounded' code assessment which would prevent consideration of matters outside of the applicable assessment benchmarks identified in the planning scheme. This places at risk the current situation whereby councils are willing to support a wide range of potential land uses in this assessment category and incorporate targeted and succinct planning scheme codes into planning schemes. It is noted that the original 'bounded' code assessment introduced in the *Integrated Planning Act 1997* had to be modified as it was too restrictive for practical assessment purposes and resulted in perverse land use and assessment category outcomes. Council has recommended an alternative structure for assessment levels in this submission (refer to **Figure 1** to this letter and **Appendix 1** to the submission for further details)

- The potential ambiguity relating to both the structure of assessment benchmarks and the hierarchy of assessment benchmarks and how this ambiguity may affect the drafting of planning schemes. In relation to this, it is recommended that immediate consideration be given to a 'model' structure for a local government planning scheme under the new legislation, in order to improve the level of understanding of the new legislation more generally. Such a structure should be developed in consultation with local government stakeholders

- Operational inefficiencies associated with needing to refer to three separate documents to determine development assessment matters (i.e. the Act, regulation and rules)

- The need to undertake significant review and redrafting of planning scheme provisions to align with the different functioning of the proposed planning system. This will require substantially more than just changes to terminology and could easily upset the balance of new SPA planning schemes which are generally considered to be operating well and contributing to improvements in the operational efficiency of Queensland's planning system

- The absence of provisions for the transitional interpretation of existing planning schemes, which could have the practical effect of producing interpretations of planning scheme standards that do not reflect the original drafting intent, with a potential to produce unintended consequences and

- Changes in other terminology throughout the legislation (e.g. variation request), mostly without a corresponding change in meaning that would justify a series of different names – with the potential to create an added level of confusion among practitioners and the community in planning-related dialogue.

Conclusions on proposed planning reform and preferred way forward

The proposed planning reforms will require significant resources and change to implement yet are considered unlikely to achieve the intended planning reform objectives for a less complex, streamlined, outcome focussed planning system that leads to better outcomes on the ground. The proposed reforms are not considered to result in an overall improvement to the current planning and development system in Queensland.

Some of the proposed initiatives aimed at (effectively) legislating for further efficiency of the development assessment process (for example 'bounded' code assessment and reduced assessment timeframes) may have unintended consequences and may therefore be counterproductive. They may also prompt significant review of planning schemes to adapt to the new legislation, notwithstanding that many councils have relatively new planning schemes and have taken significant steps within these planning schemes to streamline development assessment requirements.

The proposed reforms appear not to have regard to the lessons learnt from past attempts at legislating for efficiency of the development assessment and plan making process; in particular, the previous reversal of 'bounded' code assessment, the largely un-utilised 'compliance assessment' category and to some degree the Queensland Planning Provisions. Many improvements to efficiency in planning and development assessment have come from local government led development assessment initiatives and the resourcing of the preparation of new planning schemes.

Reservations are held about the desirability of removing development assessment rules from the Act and placing them in a secondary instrument. This is particularly so if unreasonable assessment timeframes are intended to be introduced and the need for referral to three separate documents is required for development assessment.

There is a need to seriously consider whether there is sufficient justification for a new Act (and the significant costs to implement these reforms), without there being a clear understanding that such reforms would materially improve the current situation. A limited range of identified beneficial changes to SPA (specifically those outlined under 'Potential beneficial changes arising from proposed legislation' above) could be undertaken at minimal cost and planning reform funding applied instead to other more demonstrably productive measures such as regional or coastal planning, or supporting ongoing local government process improvements and already successful culture change initiatives.

If the Committee is of a mind to recommend proceeding with the Planning Bill despite the absence of clear evidence that the reforms will lead to a material improvement to the current situation, then significant refinement and reworking of many of the provisions would be required, as outlined in this submission and **Appendix 1**.

It is noted that the LGAQ is also preparing a submission in relation to the proposed legislation. The direction of the LGAQ submission is generally supported. In particular, reference is made to representations in the LGAQ submission relating to infrastructure charges issues. It is noted that there may be some differences of viewpoint in relation to other specific technical matters contained within the LGAQ submission (e.g. the need for compliance assessment as an assessment level).

Once again, thank you for the opportunity to comment on the Planning Bill 2015.

Please contact Matthew Stevenson, Coordinator Regional Planning and Advocacy on 5420 8988 if there is any need for clarification of any of the matters raised.

Yours sincerely

Stephen Patey
MANAGER STRATEGIC PLANNING

Enc. Appendix 1 – Detailed Commentary on Planning Bill 2015

FIGURE 1. ALTERNATIVE DEVELOPMENT ASSESSMENT CATEGORIES FOR PLANNING BILL 2015

Accepted	Code (standard)	Code (merit)	Impact	Prohibited
• A combination of the 'Exempt' and 'Self-assessable' categories as used under the current Act (SPA). • Effectively as proposed in the Bill. • A category where a development application is not deemed to be necessary, provided a range of self-explanatory parameters or acceptable outcomes of a code(s) are satisfied.	• A 'bounded' assessment in which the decision rules are based on (and limited to) the assessment of an application against a range of applicable codes that are explicitly stated in a planning instrument. • A category used for low risk development that requires assessment to determine site-specific suitability.	• A broader code assessment between 'Code (standard)' and 'Impact'. • Shares characteristics with the existing code assessment rules i.e. under SPA • Protects the ability to make reference to higher level provisions in making a planning decision. • A category used for development that is generally in accordance with the planning scheme, but due to its scale, design or the presence of physical constraints, requires a more detailed assessment. • A category for development where the potential impact on the public interest is not sufficient to warrant public notification.	• Effectively 'impact assessment' as set out by the current Act (SPA).	• Prohibited uses as determined by the State (Schedule 9 of Bill). • Prohibited uses as determined by local government – where a local government can demonstrate that a certain defined uses would be unacceptable in a given location under any circumstances.

APPENDIX 1. DETAILED COMMENTARY ON PLANNING BILL 2015

December 2015

Issue Number	Section	Issue	Comments	Suggested Changes
GENERAL				
1		Multiple documents to cross-reference	The combination of the Bill, the Regulations and the Rules, which cross reference each other (and, therefore, send one back and forth endlessly) appear to be excessively complicated and unworkable in a 'high speed', quick approval environment.	There is a need to consider the simplification of the document structure, so that sections are more self-contained.

Issue Number	Section	Issue	Comments	Suggested Changes
PLANNING BILL 2015				
2	3	Support for ESD as purpose of the Act	The retention of ecologically sustainable development as central to the purpose of the Act is supported.	-
3	3(c)(4)	Purpose of Act	Section 3(c)(iv) of the purpose of the Act appears to be incomplete or somewhat ambiguous. It discusses the impacts of development on climate change, which is supported. However, there does not appear to be a corresponding provision where the impacts of climate change are accounted for in the design of development.	Suggest additional clause under section 3(c)(4) : "potential adverse impacts of climate change are taken into account in the design of development"
4	4	System for achieving ecological sustainability	Overall, the purpose is more coherent and easier to understand than SPA. It now includes 'system for achieving the purpose' which outlines a loose hierarchy of planning tools, reference to SARA, a description of the associated land use system (SPP, SPRP, Regional Plan, planning scheme, PSP, TLPI, DA system).	-

Issue Number	Section	Issue	Comments	Suggested Changes
5	3	Purpose of the Act	In the context of s3(3)(c), the use of the word 'maintaining' is poor. They are not static states and should be 'improved' or advanced'.	Make the following word changes: S3(3)(c) – ~~maintaining~~ advancing the cultural
6	5	Advancing purpose of Act	A section on advancing the Act's purpose is desirable. Given that the core matters for a planning scheme have now been removed it is considered that this section needs to ensure valuable features and places are protected through planning processes. In this sense, the inclusion of section 5(e) relating to conserving places of cultural heritage significance is supported. Including provisions around 'decision-making process' is supported, including reference to the precautionary principle.	-
7	Chapter 2 Planning	Location of plan making rules	It is noted that the rules relating to plan making are located across several different parts of the draft Bill (e.g. Ch. 2 Planning Part 3 Local planning instruments, Ch. 3 Development Assessment s41 Categorising instruments and s42 Categories of development), draft regulation (e.g. Division 2 Local planning instruments) and guidelines.	-
8	9(4)	Temporary Local Planning Instrument – commencement	Acknowledging the intent of section 9(4), temporary local planning instruments should be enabled to be enacted by local government prior to Ministerial approval, given they are designed to avert serious planning risks.	Enable local government to enact a temporary local planning instrument prior to Ministerial approval.
9	18	Use of the term "notice"	The term "notice" is used in three different contexts in this section including referring to a public notice, a notice given by the chief executive about process and notice given by the local government to the chief executive about how it has dealt with submissions.	Reconsider the terminology used in this section.
10	18(1)	Chief Exec notice to LG on amendment	The Bill uses the word 'propose' in relation to making an amendment. The Draft Plan Making Rules uses the word 'decide' and includes a definition of this term. Is there a practical difference between the two words?	Recommend using the same word, either 'propose' or 'decide' in order to provide clarity.

Issue Number	Section	Issue	Comments	Suggested Changes
11	23(6)	Temporary Local Planning Instrument – duration in effect	The 2 year maximum duration in effect for a TLPI and their ability to be amended is supported.	-
12	25	Review period for planning schemes	The 10 year review period for planning schemes proposed is supported.	-
13	29(7), (8) & (9)	Request to apply Superseded Planning Scheme	It is noted that all types of notices that involve decisions on applications or other requests are all now called Decision Notices, a term specifically defined in the Dictionary. This is a cleaner, different approach to SPA. Change is supported.	-
14	30	Compensation for an adverse planning change	Provisions which exempt council from compensation claims for planning changes which are made to reduce the risk from natural events are supported, however the content of the associated 'rules' with respect to this section will be critical. The rules should refer to a decision a 'reasonable local government would make in the circumstances' based on advice from appropriately qualified persons and based on the best information available. The decision should not necessarily be linked to whether a condition on a development approval could mitigate the risk, as decisions made in a policy/plan making setting are inherently different to assessments made in development assessment on a site by site basis. Furthermore, it is arguable that essentially anything can be engineered, so leaving council's open to an argument about whether a condition could be imposed on any particular DA on any particular site to mitigate the risk leaves council vulnerable and ignores the context in which policy decisions are made.	Amend the rules about risk assessment to acknowledge the issues identified.

Issue Number	Section	Issue	Comments	Suggested Changes
15	30(4)(e)(i)	Planning for 'natural events' not an adverse change – climate change	There is a need to seek clarification that the consideration of natural events and processes can include future assumptions relating to climate change. It is currently assumed that this is the case based on the interpretation of this section.	Provide clarification that the consideration of 'natural events' and natural processes' can include possible future events based on assumptions incorporating climate change (i.e. that such a change would pass the test for a 'material risk of serious harm').
16	30	Compensation – Definitions of 'gross floor area' and 'yield'	Most definitions have been moved to the Dictionary. Why are definitions for 'gross floor area' and 'yield' still in the main text?	Move all definitions throughout the Bill text to the Dictionary, including 'gross floor area' and 'yield'.
17	34	Recording payment of compensation on title	The addition of s31 (recording of the amount of compensation being paid on title) is supported as this limits a person being able to claim compensation twice and also informs any prospective purchaser that compensation has already been paid.	-
18	44, 45 and 60	Core elements of proposed planning system	**Impact of 'bounded' code assessment and preference in relation to code assessment decision rules (s60)** The Bill appears to land back largely where planning reform under IPA started from in 1998, in that code assessment is proposed as a 'bounded' assessment against the assessment benchmarks (only). The reintroduction of 'bounded' code assessment is counter to the current ability to have regard to matters outside of the applicable assessment benchmarks identified in the planning scheme. This places at risk the current situation whereby councils are willing to support a wide range of potential land uses in this assessment category and incorporate targeted and succinct planning scheme codes into planning schemes. It is noted that the original 'bounded' code assessment introduced in the IPA had to be modified as it was too restrictive for practical assessment purposes and resulted in perverse land use and assessment category outcomes.	If the Department intends to proceed with the type of 'bounded' code assessment proposed, there is a need to ensure that the public understand the presumption in favour of approval for this type of development. There is also a need to consider the potential impact of a planning scheme drafting error in relation to the bounded' code decision rules, particularly for the determination of a refusal of a development application.

Issue Number	Section	Issue	Comments	Suggested Changes
			The presumption in favour of approval for code assessable development is not supported. It is noted that the code assessment rules appear to be structured in favour of an unbounded approval, but a bounded refusal. This process can account for an error made in a planning scheme in determining to approve development, but cannot take into account an error in the process of determining the refusal of a development application (i.e. where an assessment benchmark, if drafted correctly in accordance with the drafter's intent, would give cause to refuse a development proposal).	
19	44, 45 and 60	Core elements of proposed planning system	**Impact assessment** The general approach to impact assessment is supported. There are benefits in maintaining what is more or less the current approach to this level of assessment, particularly for the general public who have come to understand that impact assessment processes afford them the opportunity to provide direct input.	-
21	44, 45 and 60	Core elements of proposed planning system	**Prohibited development** There is a further need for local governments to be able to identify uses in the prohibited development category within their planning schemes (outside of those listed in Schedule 9 of the Regulation). This ability, while seldom required, would be of significant practical benefit where a local government can demonstrate that a certain form of development would be unacceptable in a given location under any circumstances. Concerns exist that the listing of prohibited uses remains very limited and State-controlled, in line with the original concept of a totally open 'performance based system'. This needs to be reviewed – the ability to list obvious prohibitions is imperative to a clear understanding of a planning scheme. The use of 'not preferred' terminologies in planning schemes is excruciatingly cumbersome. There needs to be a review of how prohibitions can be accommodated, while avoiding the problems of 'spot rezonings' of the past.	Allow local government the ability to identify forms of development not listed in Schedule 9 of the draft Regulation as prohibited development, where a local government can demonstrate that a certain form of development would be unacceptable in a given location under any circumstances.

Issue Number	Section	Issue	Comments	Suggested Changes
22	44, 45 and 60	Core elements of proposed planning system	**Categories of assessment** The current approach to assessment levels is not understood to have significant fundamental problems affecting its implementation. On this basis, it is suggested that the feasibility of maintaining the current rules be reconsidered, with view to the operational advantages this would present to the development industry, to councils and to the community. In terms of the system proposed, it is missing a vital level of assessment that is appropriate for a development proposal that generally accords with a planning scheme (i.e. meets policy intent) but has some variations (e.g. lacks active ground floor uses in a side street), or comes in an unanticipated form (e.g. row housing instead of vertical residential arrangements). Such development is a 'merit' assessment that lies somewhere between 'bounded' code assessment and full impact assessment. Many more uses would be able to move out of the full policy assessment category of 'impact assessment' (under the proposed arrangements), and codes could be streamlined, if a 'Code (merit) assessment' category was available. This would vastly improve the fast tracking of lower risk applications, and also enable the reduction of application fees (through uses no longer being listed as impact assessable). Consideration of the proposed legislation has raised the possibility of an alternative set of development assessment categories, as follows: • Accepted development • Code (standard) assessable development • Code (merit) assessable development • Impact assessable development • Prohibited development The key differentiating characteristic of such assessment levels is between Code (standard) assessable development and Code (merit) assessable development. Code (standard) assessable development would effectively be a 'bounded' assessment, subject to similar assessment rules as currently provided for under the	Amend the suite of draft legislation to accommodate a different approach to the assessment levels being either: • Assessment categories and rules that mirror the existing arrangements; or • Assessment categories and corresponding rules that are based on the following categories: o Accepted development o Code assessable (standard) development *(effectively a 'bounded' code assessment)* o Code assessable (merit) development o Impact assessable development o Prohibited development *(with local governments granted abilities to identify prohibited uses)*

Issue Number	Section	Issue	Comments	Suggested Changes
			Bill. Code (merit) assessable development would be subject to a more broadly based assessment that would share characteristics with the existing code assessment rules and that would protect the ability to make reference to higher level provisions in making a planning decision.	**Assessment hierarchy – non-compliant uses being elevated to higher level of assessment** The Bill should consider reverting to an assessment hierarchy (as previously existed prior to IPA), where if a development fails to meet the criteria for 'accepted' development then it should be elevated or 'triggered up' to code assessment. Likewise, where a development fails to meet the parameters of code assessment, it should elevated to a higher level of assessment.
23	44, 45 and 60	Core elements of proposed planning system	**Compliance assessment** The compliance assessment category is rarely used by local governments and has never been used by Sunshine Coast Council. On this basis, Council would not oppose its removal.	The removal of the compliance assessment category is supported.
24	44, 45 and 60	Core elements of proposed planning system	**Planning scheme interpretation / assessment rules** Consideration of the assessment rules also raises the issue of planning scheme interpretation (i.e. a statement on the hierarchy of different planning provisions). There appears to be a direction taken in the structuring of the proposed planning system that does not require rules in relation to the hierarchy of assessment criteria in a planning scheme (as is the case at present, with standard code and planning scheme interpretation rules identified in the QPP). This is a potentially significant issue that may result in planning schemes operating quite differently across the State (and potential transitional problems with SPA schemes which were specifically drafted in accordance with this hierarchy). It is considered important to retain the hierarchy of assessment criteria and standard code/assessment benchmark	Amend the Bill (and Regulation as necessary) to include standardised planning scheme and code/assessment benchmark interpretation rules, as per the current QPP v3.1. It is recommended that immediate consideration be given to a 'model' structure for a local government planning scheme under the new legislation, similar in nature to the

Issue Number	Section	Issue	Comments	Suggested Changes
			interpretation rules to ensure consistency across the state and clarity in situations where conflicts may arise between code/assessment benchmark provisions. In lieu of standardised interpretation rules, scheme users may be required to understand interpretation rules that are unique to each planning scheme, which would create operational difficulties for users of multiple planning schemes. This issue is also relevant to provisions that occur within the context of a 'bounded' assessment e.g. the standing of overlay code provisions as compared with local plan codes or development codes.	QPP, in order to facilitate local government implementation activities. Such a structure should be developed in consultation with local government stakeholders.
25	44, 45 and 60	Core elements of proposed planning system	**Operation of Current/Transitional Planning Schemes** The decision and assessment rules provide the specific basis on which planning schemes are drafted. Applying new rules to the operation of a scheme drafted on the basis of a different set of rules could present unforseen difficulties with respect to certain applications. As the SPA schemes are relatively new, the SPA assessment process has not had a chance to be implemented to properly ascertain the strengths and weaknesses of the current approach.	Refer to recommendations above.
26	44, 45 and 60	Core elements of proposed planning system	**Operation of New Planning Schemes** The proposed changes to assessment levels and decision rules are also likely to have unintended consequences for planning schemes drafted under the legislation. These may include a return to lengthy codes, as councils seek to ensure their codes/assessment benchmarks cover all possible aspects of any particular development. Alternatively councils may look to elevate levels of assessment back up to impact assessment to avoid these issues. The plan making benefits of the proposed changes are relatively difficult to discern, and do not appear to outweigh the significant impost that the changes would impose.	Refer to recommendations above.

Issue Number	Section	Issue	Comments	Suggested Changes
27	44, 45 and 60	Core elements of proposed planning system	**Operational impacts on development assessment** The proposed changes would have far reaching impacts at an operational development assessment level, where adaptation to the new development assessment levels and operational rules would require reconstruction of existing development assessment systems and processes across all councils. As well as this, operational practitioners seeking to adapt to the changes would be likely to see a prolonged period in which previous understandings of the development assessment process would need to be constantly checked and revised. It seems likely that the proposed system (when considered in its totality) would create a significant impost on ability of local government to conduct high quality development assessment processes.	Refer to recommendations above.
28	44, 45 and 60	Core elements of proposed planning system	**Community benefit** The community benefit of changing the categories of development and levels of assessment is also relatively difficult to discern. Part of the impost of adapting to a new assessment regime would include the need to educate the local community on the practical effect of the changes proposed. The experience of implementing IPA and SPA has demonstrated that such processes are prolonged and difficult. Although the IPA/SPA regime has been in place since 1998, the use of many generic planning terms (e.g. "rezoning") remains widespread. It has been observed locally that code and impact assessment are now generally understood.	Refer to recommendations above.
29	51	Making Development Applications	There is support for the requirement for owner's consent to be provided prior to an application being accepted by an Assessment Manager. The clarity provided by s51(2) and the true meaning of 'accept' in s51(4) are supported.	-
30	53	Public notification of certain applications	The retention of public notification requirements for impact assessable applications is supported.	-

Issue Number	Section	Issue	Comments	Suggested Changes
31	56(2)	Referral agency's response	This provision only allows a referral agency the ability to tell the assessment manager it has no requirements, or to approve only some of the variations or approve different variations or refuse the variation. It does not allow the referral agency to impose conditions as stated in section 56(1)(b)(i) (i.e. for applications *other than a variation request*).	Need to review s56(2) to enable referral agencies to impose approval conditions.
32	60(4)	Deciding development applications	A change appears to have been made to section 60(4), relating to referral agency directions. Original: *"The assessment manager must not assess any part of the application for which, were that part of the application the subject of a separate development application, there would be a different assessment manager."* Revised: *"The assessment manager must approve any part of the application for which, were that part of the application the subject of a separate development application, there would be a different assessment manager—* *(a) other than to the extent a referral agency for the development application directs the refusal of the part under section 56(1)(c); and* *(b) subject to any requirements of the referral agency under 56(1)(b)."*	Concern is raised in relation to the apparent change made to this provision and the possible practical scenarios that may result for an assessment manager.
33	64	Deemed approval of applications	Section 64(3) does not reiterate that the applicant can only seek a deemed approval where the assessment manager does not decide the application within the allowed period, as follows: *'(3) The applicant may, before the application is decided, give a notice (a **deemed approval notice**), in the approved form, that states the application should be approved, to the assessment manager.'* While it is acknowledged that section 64(1) specifies the timing of a deemed approval notice, wording should remain consistent with the current *SPA 2009* to avoid misinterpretation and potential for notices being submitted prior to the end of an assessment manager's period.	Suggestion to reword as follows: '(3) If the assessment manager does not decide the application within the assessment period, including any extension of the period, the applicant may, before the application is decided, give a notice (a deemed approval notice), in the approved form, that states the application should be approved, to the assessment manager.'

Issue Number	Section	Issue	Comments	Suggested Changes
34	67	Agreement about conditions	Section 67 discusses the possibility for an agreement to be entered with an assessment manager, referral agency or other person with regard to conditions.	There is a need to define how an agreement would be reached (i.e. written, etc.)
35	71	Approvals, submitter rights for advice agencies and appeal period.	When approval takes effect, provisions are similar to existing SPA provisions. The major difference in the new Bill is the reference to eligible submitters or advice agencies. Presumably this recognises that right of an advice agency to submit a third party appeal without having to make a submission. The approval takes effect when the approval decision is given, unless there are advice agencies or eligible submitters. In those cases, the approval takes effect either when their appeal period is completed, when they have confirmed they accept the decision, or when an appeal is decided. The change to give advice agency third party appeal rights, in addition to submitters is change that is supported, given that most advice agencies ask for their response to be treated as a properly made submission anyway.	-
36	75	Making change representations	It is noted there is now a decision time frame around determining Negotiated Decision Notice requests – 20 business days. This is supported.	-
37	78	Pre-request responses	Pre-request response provisions have been retained in s78(3) of the Bill. Notably, only change applications involving submitters are required to go back to court. This is supported, as it provides greater clarity about which applications are required to go back to court.	-
38	80	Notifying affected entities of minor change application	States that the person who proposes the change application is responsible for notifying all affected entities and providing them with the change details. As this will typically be the applicant, how is this tracked or confirmed? Also, there does not appear to be timeframes for when or how soon the person has to notify/provide info to the affected entities.	Add clarification as to who is responsible for issuing and verifying notification to affected entities, and a timeframe (5 business days from lodging the request with the responsible entity) for when this

Issue Number	Section	Issue	Comments	Suggested Changes
				notification has to occur. This will then make more sense of the timeframes in Section 81(6).
39	80(5)	Notifying affected entities of minor change application	States that any affected entity must respond within 15 days of receiving a change application (which is sent by the applying person). However, as the applying person might send notification prior to the responsible entity accepting the application, this could trigger a response to a non-existent application. Conversely, there is no timeframe for when the person has to send the notifications – so they could conceivably be sent just a day before the response is due.	Add clarification that notifications cannot be sent to affected entities until after the responsible entity has confirmed receipt of a 'complete' change application, and provide a specific timeframe after the confirmed receipt with which to send the notifications.
40	81(3)	Assessing and deciding application for minor changes	This allows consideration of matters that applied when the original application was made and when the change application was made. This is supported. This is a provision that allows new situations and new laws, standards, and planning scheme requirements to be considered, in addition to the original considerations.	-
41	81(4)	Assessing and deciding application for minor changes	This allows the responsible entity to refuse the change application after an assessment. There is no discussion as to whether or not any reasoning needs to be provided for the refusal.	Add provisions stating that any refusal must have specific reasoning stated, or else language clarifying that a refusal is up to the responsible entity's sole discretion and that reasons are not required.
42	81(5)	Assessing and deciding application for minor changes	This section clearly states the assessment manager has 20 business days to determine the minor change. It does not state how long the assessment manager has to notify the applicant of the decision. It is noted that extension of time requests in s85 give an additional 5 business days on top of the 20 business days to determine the extension request.	All decisions made across all application types should have an extra 5 business days for the assessment manager to notify the applicant of the decision.

Issue Number	Section	Issue	Comments	Suggested Changes
			It is also noted that in the DA Rules for the primary applications (MCU, REC or OPW), the decision notice must be given within the 20 business days decision stage. In addition, for Superseded Planning Scheme Requests (s26(7), an additional 5 business days on top of the decision period is given to issue a decision notice. There is inconsistency across the various application types in both the rules and the bill. All applications should have an extra 5 business days to issue the Decision Notice.	
43	81(6)	Assessing and deciding application for minor changes	This provides for a decision timeframe when there are one or more affected entities involved. It is possible affected entities will not be notified until long after the application is received.	Rather than basing timeframes on the date the responsible entity received the application, it should be based on the date that the affected entities were notified.
44	84	Cancellation applications	A timeframe should be attached to give local authorities motivation to get their cancellation processes in order. Cancellations do not happen regularly so it should not be a heavy impost. A swift cancellation is often to the benefit of both parties.	Change wording to the existing part 84(4) to state: "On receiving an application that complies with this section, the assessment manager must, **within 10 business days**".
45	85	Lapsing and extending development approvals	Section 85 changes some default currency periods. These changes are supported. Deletion of the rollover provisions is supported.	-
46	88	Lapsing of Approval for failing to complete development	This section effectively gives a sunset clause on the life of variation approvals (5 years). This is supported.	-

Issue Number	Section	Issue	Comments	Suggested Changes
47	89	Noting development approvals on planning scheme	It is noted that this section is the same as section 391 (Particular Approvals to be recorded on planning scheme) Division 6 (Recording approvals on planning scheme), Part 8 (dealing with decision notices and approvals), Chapter 6 Integrated development assessment system of SPA 2009. There are some minor wording changes to reflect new terminology but the intent is the same and wording is almost verbatim. It is unclear why the Chief Executive needs to be notified about any of the listed items (including s267(13) Urban Encroachment, which also has to be noted against the planning schemes). In relation to Superseded Planning Scheme approvals - Section 89(1)(c), Council just processed some 240 of these applications relating to the two former planning schemes. These records should be stored as suggested by the local government in some sort of register or schedule, but there appears no reason as to why the Chief Executive needs the information required by s89(1)(a)-(c) and s267(13), especially given the effect of Section 89(4).	Remove notification of Section 89(1)(a)-(c) to the Chief Executive. This info should be held in some sort of register/schedule to the planning scheme by the local government. Alternatively, remove at least 89(1)(c). If section 89 remains, clarity should be provided around why the Chief Executive needs to be notified when councils keep records of these decisions. It is unclear what value the Chief Executive's Office will gain from keeping these records for the community, especially given Section 89(4), and that very few councils would have fulfilled this existing obligation that has been in since the inception of the IPA.
48	108	Refunding or waiving fees	This section provides the ability to waive or reduce fees by agreement if thought warranted. This is supported.	-
49	Chapter 5 – Offences and Enforcement – General	Penalty units	Maximum penalties for development offence have been increased from 1665 penalty units and one year imprisonment, to 4500 penalty units and 2 years imprisonment. This is in line with other offence provisions under other legislation. The change is supported.	-

Issue Number	Section	Issue	Comments	Suggested Changes
50	Chapter 5 – Offences and Enforcement – Part 2 Development Offences	Development Offences	The number of offence types has been consolidated. This is supported.	Change supported.
51	162	Development Offences	This section should also reference emergency works.	Add a reference to emergency works to end of section 162(2) OR to the extent that is permitted under section 165.
52	163	Development Offences	Clause 163 states that "A person must not contravene a development approval", whereas s580 of SPA stated "A person must not contravene a development approval, including any condition in the approval". While Clause 44(5) of the Planning and Development (Planning for Prosperity) Bill provides reference to a development approval, including the development conditions imposed on the approval. The latest change appears to be less clear and/or convenient when notifying an alleged offender (who is likely to be a lay person).	It is recommended to maintain the relevant clauses from the previous legislation.
53	165	Emergency Works	Reference is made to emergency works being undertaken in accordance with a 'safety management plan', however, this plan does not need to be prepared by a professional person, the only relevant provisions is that the plan 'if practicable' needs to consider the advice of a registered professional engineer.	It is suggested that, for any works that are deemed as emergency works, it is the registered professional engineer who should be the responsible entity for compiling the safety management plan. Modify section 165(2) (a) to state that a Registered Professional Engineer must make the safety management plan for the works.

Issue Number	Section	Issue	Comments	Suggested Changes
54	165	Emergency Works	A definition of and guidance around a safety management plan should be included.	Incorporate a definition of and provide guidance around a ***safety management plan*** in the Dictionary.
55	172	Power of enforcement authorities	Section 172 of the Bill (quoted below) gives a power to enforcement authorities to do anything necessary to ensure a notice is required with. It is understood that this can mean to undertake the works in question (if necessary) and to recover costs. The wording in s 596 of SPA (quoted below) is preferred as is clear there that the assessing authority may do the works, although it is noted that there is a problem with the SPA clause as well. The assumption in both the Bill and SPA is that local government has the same power in section 142 of the LGA. This is not true as the power in s142 can only be applied to the owner or occupier of land where the works are in the land. It doesn't cover external works which either have not been done or have failed. If these works are underground the problem may not be discovered until after the use has commenced and ownership has changed hands. Local government is put to the cost of undertaking the works and suing in negligence to recover the costs. **172 Enforcement authority may remedy contravention** (1) This section applies if an enforcement notice is contravened *and the enforcement authority is not a local government.* *Note—* If the enforcement authority is a local government, see the Local Government Act, section 142 or the City of Brisbane Act, section 132. (2) The enforcement authority may— (a) do anything reasonably necessary to ensure the notice is complied with; and (b) recover any reasonable costs and expenses incurred in doing so as a debt owing by the recipient to the authority.	Delete the words: "*and the enforcement authority is not a local government"* from s172(1).

Issue Number	Section	Issue	Comments	Suggested Changes
			596 Assessing authority may take action (1) If a person to whom an enforcement notice is given contravenes the notice by not doing something, the assessing authority, if it is not a local government, may do the thing. *Note—* If the assessing authority is a local government, it has similar powers and may recover its costs. See the Local Government Act, section 142 and the City of Brisbane Act, section 132. (2) Any reasonable costs or expenses incurred by an assessing authority in doing anything under subsection (1) may be recovered by the authority as a debt owing to it by the person to whom the notice was given.	
56	173	Timing for proceedings	There is now a 1 year period after an offence comes to the complainant's knowledge to commence proceedings in the Magistrate's court. This change is supported, to allow more time to take action and to use other enforcement tools to attempt to achieve compliance before considering costly legal action.	-
57	175(10) and 179(9)	Enforcement Orders registered on title	Enforcement Orders require the defendant to give register of titles a copy of the enforcement order and the order attaches to the premises and binds the owner, the owner's successors in title and any occupier of the premises. The defendant can go to Court for this to be removed once compliance is achieved. This is supported, as it saves having to reapply to court for new orders if the property sold to another party.	-
58	224	Application of other Acts	In relation to Erosion and Sediment Control (ESC) offences, the arrangement allows the same ESC offence to be pursued under both the Environmental Protection Act and the provisions of the development approval (i.e. breaches of water contamination under the Environmental Protection Act and the same breach under the development conditions of approval).	It is suggested that, if the offence is in breach of a development condition, then the enforcement has to be pursued and only once under the planning legislation which allowed the works.

Issue Number	Section	Issue	Comments	Suggested Changes
59	Chapter 5 & 6 – Dispute Resolution - General		Chapter 6 – Dispute resolution – is an improvement to Chapter 7 of SPA 2009 by separating Offences and Enforcement to another chapter of the Bill (5 & 7). This assists in clarifying and streamlining those provisions relevant to appeals i.e. an Appeal or Declaration to a Tribunal or the P&E court. This change is supported as it provides improved legibility regarding matters relating to appeals.	-
60	Chapter 6 – Dispute Resolution - General		Dispute resolution does not significantly alter the Dispute Resolution provisions of SPA 2009, but does consolidate and streamline much of the existing legislation for greater legibility. This change is supported.	-
61	Chapter 6 – Dispute Resolution - General		Significant changes relate to: 1. Renaming the Building and Development Dispute Resolution Committee (BDDRC) to Tribunal. 2. Removing the provisions relating the constitution, composition and jurisdiction of the P&E Court to a separate piece of legislation (Planning and Environment Court Bill 2015). These changes are supported.	-
62	228	Appeal Periods	Appeal periods have been retained as per SPA 2009. Third party appeal rights have been retained. Notice of Appeal procedures have been retained. This is supported.	-
63	231	Rules of the P&E Court	The Rules of the P&E Court are to be maintained. No new Rules provided at this point in time, therefore the *P&E Court Rules 2010* will apply during the transitional period. This is supported.	-

Issue Number	Section	Issue	Comments	Suggested Changes
64	Schedule 1, s1	Tribunal Jurisdiction	The jurisdiction for the Tribunal has been amended to include Operational Works associated with building works, or a retaining wall or tennis court. But this jurisdiction does not apply to Impact applications that have received a submission/s. This is supported. However, there is a need to clarify what type of operational works applications associated with building work, that are not already building works, to which this applies. Refer to 'building work' definition.	Supported. However, there is a need to clarify what type of operational works applications associated with building work, that are not already building works, to which this applies. Refer to 'building work' definition.
65	General	Appeals to the Tribunal and P&E Court	The Bill removes provisions made redundant by the Planning Bill, while ensuring all relevant SPA appeal rights are retained. This is supported.	-
66	Schedule 1, s1	Development Conditions	Under this section, appeals can be made to the Tribunal relating to Development Conditions for Class 2 buildings, up to 3 storeys in height and up to 60 dwelling units. This is supported. This section expands the jurisdiction of Tribunal. The Tribunal generally deals with Classified Buildings (Class 1 and 10).	-
67	Schedule 1, Table 3 and Schedule 2 Definitions	Building Advisory Agency appeals	Building Advisory Agencies are a new component of the Planning Bill. This is supported.	-
68	228	Appeals of Infrastructure Charges	Under this section, an appeal must not be about the Adopted Charge itself or a decision about an offset or refund where in accordance with the LGIP provisions or cost was decided using the Local government charges resolution. This is supported.	-
69	232 and 233	Development Tribunal	This part of the Bill simplifies provisions about who can be appointed to the tribunal. These provisions are supported, as they simplify and streamline the existing SPA provisions.	-

Issue Number	Section	Issue	Comments	Suggested Changes
70	Section 59 of Planning and Environment Court Bill	Cost	The cost provisions of Chapter 7 of SPA have now been relocated to the P&E Court Bill (s59). This is supported.	-
71	267	Urban encroachment	This section allows a person to apply to register their premise if the activity that involves emissions complies with the development approval for the premises (and conditions). Compliance with conditions is an ongoing requirement (particularly in relation to emissions) given one day emissions may comply and the next day not. Concern is that evidence from a point in time could be provided to Minister when emissions are low (i.e. comply) when in fact emissions from the affected area may vary over time (due to a number of factors, e.g. weather, production levels may change, etc.) which may exceed the approved levels and then affected parties would have no recourse to take action.	Further clarification in relation to the measurement of emissions for compliance purposes is needed.
72	267(13)	Urban encroachment – making or renewing registrations	This section requires the local government to note the registration on the planning scheme. This section is related to Section 89 (Noting development approvals on planning scheme). As per comments above the Chief Executive need not be notified for any of this and s89 and s267 should be linked.	Link Section 89 and 267(13).
73	268	Urban encroachment	"(1) The Minister, after seeking representations from the owner of premises registered under this part, may decide to— …(b) cancel the registration if— (i) the levels of emissions from the premises no longer comply with section 267(7)(a); or (ii) a condition of the registration is contravened." Whose role would it be to monitor compliance with the conditions of registration? (Local Government or State Government?)	Provide clear direction on whose role it would be to monitor compliance with the conditions of registration (Local Government or State Government).

Issue Number	Section	Issue	Comments	Suggested Changes
74	Chapter 7, Part 4 Urban Encroachment	Urban encroachment	It is unclear what would prevent all development sites that produce emissions (i.e. industry) (and comply with their DA) seeking their premises to become registered for a period of up to 25 years.	Provide clarification.
75	278	Electronic service	In relation to the receipt of electronic submissions, it is noted that the draft Planning Act introduces provisions discussing 'Electronic Service' (Section 278). It is not clear whether this covers the current provision of given electronic submissions, under Section 758 of the SPA. Under these current provisions, a submission may be made electronically *if the notice states* it may be made electronically. This appears to be silent under the draft Planning Bill. Under Section 278 (7) of the Planning Bill, consent to communicate electronically is still required.	There is a need to include provision for giving submissions electronically.
76	287(4)	Applications generally	These provisions represent a great opportunity to provide the assessment manager with the ability to communicate electronically, rather than only when the applicant consents to electronic communication under s278.	Consider other options for electronic communications, having regard to the Electronic Transactions (QLD) Act 2001. It should be that unless notified in writing that an applicant chooses not to communicate electronically, electronic communication is assumed *where the application is made electronically*. Electronic communication will further streamline the assessment process and improve timeframes.

Issue Number	Section	Issue	Comments	Suggested Changes
77	288(c) Column 2	References to old Act	This section is very confusing and long-winded for what is simply a notice about a superseded planning scheme request. This section relates to section 29(7) and there it calls it a 'decision notice'? The use of the same name for a different notice is very confusing. The need for the new drafting of these provisions is unclear. It is noted that between the September 2015 and November 2015 Bills, the drafting of this section has changed and now appears to be more complicated, direct reference to "a notice about a superseded planning scheme request" has been replaced with "a notice about a request under the old Act, section 95".	Reconsider the drafting for the 5th row which currently states 'a notice of a local government's decision about a request given under section 29(7) or taken to have been given under section 29(8)'. Re-draft to say – "a notice about a superseded planning scheme request".
78	295	Water infrastructure applications	This section will simplify the current complex Distributor Retailer Act provisions and now identifies Unitywater as a referral agency for continuing, changes and new (related) applications. This will save substantial time for not only local government, but also streamline and simplify the process for the development industry. This is supported.	-
79	306	Enforcement & Appeals - committee	Building & Development Dispute Resolution Committee has been changed to 'Development Tribunal'. This is supported.	-
80	311	Effect of Structure Plans	There are concerns in relation to s311 of the Planning Bill which indicates that "to remove any doubt, it is declared that each structure plan made by the Sunshine Coast Regional Council under the old Act stopped having effect on 21 May 2014." The Explanatory Notes to the Bill add to this concern: "The only local government yet to have made or amended its planning scheme to comply with the former section 761A is the Sunshine Coast Regional Council. Consequently subclause (1) seeks to put beyond doubt that the Council's planning scheme no longer includes a structure plan." (p191, Planning Bill Explanatory Notes, Nov 2015)	As such, it is requested that the Palmview Structure Plan currently in effect for the Palmview Master Planned Area (and which is currently being amended) is able to be retained and is deemed to be incorporated in the *Sunshine Coast Planning Scheme 2014*.

Issue Number	Section	Issue	Comments	Suggested Changes
			When the section of the Bill and the Explanatory Notes are read in combination, it raises concerns as to whether the legitimacy of the Palmview Structure Plan as currently incorporated into the *Sunshine Coast Planning Scheme 2014* is effectively recognised. There are a number of salient points which need to be taken into account with respect to this issue: 1. Under s761A of the Sustainable Planning Act 2009 (SPA) which was amended 22 November 2012, Council had three years to incorporate the structure plan into the planning scheme and transitional arrangements were included to ensure the rights and obligations obtained under the structure plan arrangements were preserved. 2. In December 2012, the Palmview landowners tabled new plans and planning provisions for the Palmview Structure Plan area. These documents were included in the Palmview landowners' combined submission to the draft Sunshine Coast Planning Scheme. 3. The proposed changes include, but were not limited to: • removal of the provisions relating to the sequencing of development and infrastructure provision; • reduction of the desired standards of service for infrastructure to a standard consistent with the draft planning scheme policies; • reduction of the residential densities and an increase to the developable area; • removal of the four Local Activity Centres; • removal of the Local Industry and Enterprise Area; • increase to the size of the District Activity Centre; • reduction of the extent of open space and changes to the location of the open space; • co-location of part of the southern and south-east road links;	

Issue Number	Section	Issue	Comments	Suggested Changes
			• removal of the Dedicated Transit, Bicycle and Pedestrian Corridor (part of Greenlink) and Major Transit Station; and • reduction of the work and financial contribution requirements. 4. The changes proposed to the Palmview Structure Plan related to matters which were also the subject of a related Infrastructure Agreement between the Council, Unitywater and the Palmview landowners and as such changes to the Infrastructure Agreement were also required. 5. In February 2013, it was acknowledged that the majority of changes proposed by the Palmview landowners could not be included in the draft Sunshine Coast Planning Scheme due to the extent of change proposed and the lack of opportunity the community would have to comment on the changes. It was agreed that a planning scheme amendment process be undertaken in parallel with the finalisation of the draft Sunshine Coast Planning Scheme with a view to having the amendment gazetted as soon as possible after the adoption and gazettal of the draft Sunshine Coast Planning Scheme. 6. In preparing the planning scheme amendment in relation to the Palmview Structure Plan it was realised that incorporating the Palmview Structure Plan into the planning scheme by way of zoning, Local Plan and overlays would result in the s242 preliminary approval applications becoming Impact Assessable rather than Code Assessable as they are under the current Structure Plan provisions. This was considered less than desirable by the landowners, Council and regional DILGP office. Further, if the land was zoned and the landowners wanted to change the zoning, the applications would become impact assessable s242's thus losing the flexibility offered under the current Structure Plan provisions. In addition, the Palmview Structure Plan development entitlements, infrastructure obligations and sequencing are closely aligned to the Palmview Structure Plan Infrastructure Agreement which was executed on the 23 April 2015 between Council, the 3 Palmview landowners and Unitywater. It is considered that there is significant potential to destabilize these links if the Structure Plan provisions are spread throughout the Planning scheme resulting in rights and obligations obtained under the structure plan arrangements not being preserved.	

Issue Number	Section	Issue	Comments	Suggested Changes
81	Schedule 2	Definitions	The removal of most definitions and meaning of terms within the Bill to Schedule 1 is supported.	-
82	283(2) and Schedule 1 Definitions	'Minor change of use' and 'Material change of use'	It is unclear as to what a 'minor change of use' that is not a 'material change of use' is and what such a regulation would relate to (refer s283(2)). The functioning of the current SPA 'material change of use' definition is quite clear.	Provide clarification on the need to define 'minor change of use'.
83	Schedule 2, Planning Bill	Definitions – Operational Work	The definition of operational work has changed significantly from the SPA definition. The new definitions represent only part of the current definition (being part (e) of the current definition). Certain items, e.g. conducting a forest practice, placing an advertising device, taking of water (i.e. installing a pump) or damaging a marine plant, would not appear to fall under the proposed definition. Determining what activities are or are not operational works could be difficult if subject to the test of whether they "materially affect the premises". For instance, it is questionable whether tidal work "materially affects premises" and, if so, which premises (adjoining property or canal). There is already a grey area in regards to building works vs operational works, particularly for building pads. Introducing a more generic definition is only going to increase the ambiguity.	Retain the current, more comprehensive, definition of Operational Works.
84	Schedule 2 Properly made		The definition of a properly made submission removes reference to *'in writing'* and *'unless the submission is made electronically under this Act, is signed…'* which will have impacts that have not been appropriately considered. 1. If not *'in writing'* means are we allowing voice memos, videos, how are these to then be placed on the web by Council for viewing? 2. Removal of *'unless the submission is made under this Act, is signed'*, indicates that a submission, which despite being emailed, would need to include a scanned electronic signature. The provisions under Section 300 of the Planning Act do not replace these previous provisions.	Include *'in writing'* and *'unless the submission is made electronically under this Act, is signed…'* within the definition of 'properly made' (as per the existing definition under SPA)

Issue Number	Section	Issue	Comments	Suggested Changes
			The ability to for the Act to allow for electronic submissions was a long time coming and is heavily used. The proposed provisions appear make it more difficult for someone to make a properly made submission.	
85	Schedule 2 Dictionary	'Use' definition	There is concern over the definition of 'use' and the possibility of the definition allowing for other unintended activities that are not incidental or necessarily associated with the primary use approved.	It is recommended to retain the current SPA definition for 'use'.