PLEASE QUOTE

YOUR REFERENCE:

OUR REFERENCE: AN1512091509

ENQUIRIES TO: Aletta Nugent, Manager Strategic Planning

Ph: (07) 4030 2265

23 December 2015

Research Director
Infrastructure, Planning and Natural Resources Committee
Parliament House
George Street
BRISBANE QLD 4000

Email: ipnrc@parliament.qld.gov.au

Dear Sir/Madam

Submission – Planning Bill 2015 and Planning and Development (Planning for Prosperity) Bill 2015

Thank you for the opportunity to make a submission on the *Planning Bill 2015* (**Planning Bill**) and the *Planning and Development (Planning for Prosperity) Bill 2015* (**P&D Bill**).

Council made a submission to the Infrastructure, Planning and Natural Resources Committee on the P&D Bill on 9 July 2015. Council would like its comments on both the Planning Bill and the P&D Bill to be taken into account together, as these comments as a whole represent Council's views in relation to the final form the new planning legislation in Queensland should take. Therefore, Council requests that Council's earlier submission on the P&D Bill be replaced with this submission on both the P&D Bill and the Planning Bill.

Council has made a number of submissions on different versions of the proposed new planning legislation in recent years. This latest version of the proposed new legislation delivered through the Planning Bill has incorporated some positive changes. However, Council believes that there is still an opportunity to make some further improvements to the proposed new planning framework.

As it appears that this will be Council's last chance to comment on the form and content of the new planning legislation, Council officers have undertaken a detailed review of the Planning Bill and P&D Bill. The attached tables contain comments arising from that detailed review. Some general comments on both the Planning Bill and P&D Bill 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 standard of planning legislation in Queensland.

General comments on the Planning Bill and P&D Bill

A number of drafting changes have been made to the Planning Bill that simplifies the language used and improves the readability of certain sections. This improvement is commendable. In addition, the purpose of the Planning Bill has been greatly improved and is much clearer. Council supports this change to the purpose of the Planning Bill.

Council's previous submissions identified issues associated with a number of aspects of the proposed legislation. While improvements have been made in the Planning Bill, a number of issues present in the previous versions of the legislation remain and exist in both Bills.

Of particular concern is that the new planning system to be introduced by the Planning Bill and P&D Bill appear to increase complexity and the focus on process over outcomes, when compared to the existing regime. The Planning Bill and P&D Bill do not appear to create a new planning regime which is more flexible and responsible, or easier to navigate.

The removal of certain content that is currently contained in the *Sustainable Planning Act 2009* (**SPA**) from the Planning Bill and P&D Bill means that determining what needs to occur for an application or the preparation of a local planning instrument involves referring back and forth between multiple documents. While this may have resulted in a reduction in the size of the Bills as compared with SPA, the overall complexity this will cause in some cases appears unnecessary and outweighs any benefit from having a smaller Act.

Council understands that there was an intention to remove process requirements from the Planning Bill and include these in a regulation or statutory rules and guidelines. It is submitted that process requirements should be either in the Act or all in another instrument. There should not be some process requirements in the Act and other requirements in other instruments, as this creates a need to refer to multiple documents to determine what needs to occur.

It appears that in some cases there has been a deliberate decision when drafting the Bills to change the terminology used in SPA. Given that most of the processes remain almost exactly the same and differences in outcome are unlikely to be achieved, the changes in terminology are considered unnecessary and will result in a significant administrative burden to Council in transitioning to the new system. Every hard copy and electronic resource and system utilised by Council's development assessment section will need to change. It is submitted that the processes and intent around the terminology can be improved through the new Act, without having to change the actual terminology itself.

Council has concerns with the categories of assessment proposed in the P&D Bill. Council believes that the changes will not result in any positive outcomes and that the only result will be a burden on all those involved in the planning system in transitioning to the new system. However, Council does support the proposed delinking of public notification from impact assessment as proposed in the P&D Bill.

Council believes that the provisions in the Planning Bill regarding the categories of assessment and the associated decision rules can be refined to simplify the existing development assessment system and improve outcomes. Code assessment should be refined so that a development approval is assessed only against the applicable codes. Impact assessment should require a more holistic assessment against a broader range of factors, including the planning scheme in its entirety. Public notification however should be delinked from impact assessment, as proposed in the P&D Bill, allowing for a

local government to determine when public notification is required in its planning scheme.

Council supports the removal of compliance assessment from the Planning Bill. However, leaving code and impact as they currently are means that there is little to distinguish between the two, except for public notification. Also, there is no simpler and more streamlined process for the assessment of certain development applications for which an application is required. The changes recommended by Council means that the code and impact assessment as it exists currently will be captured by the new impact assessment (notifiable or non-notifiable), with a simpler and more streamlined application process available through the refined code assessment.

Council has concerns with the proposed removal of self-assessable development as a category of development in both the Planning Bill and P&D Bill.

There has been a significant expansion in the State's power to direct local government in relation to its local land use planning aspirations and actions in the both Bills, which is concerning. It is submitted that Councils should have autonomy to make decisions in the best interests of their local communities and therefore that this expansion of powers should be reconsidered.

Council is concerned about the requirements in the Planning Bill for Councils to publish detailed information on development applications and approvals on their websites. Many smaller Councils, including the Cassowary Coast Regional Council (**CCRC**), do not have the information technology resources to publish such notices in any meaningful way on their websites. In addition, a lack of planning resources within such Councils (again, including CCRC) means that planners will be spending all their time preparing notices and complying with other burdensome administrative requirements in the new Act, with no time left to focus on good land use planning outcomes.

It is acknowledged that the Planning Bill seeks to create greater transparency and community awareness around land use planning. However, this goal needs to be balanced with what is achievable within the resources of many local governments, and the risk that what will be created is a planning system that is process heavy and focused on administration rather than good planning outcomes.

Regarding the proposed third party assessment managers, their jurisdiction should be limited to the initial assessment of a development application and any request for a negotiated decision notice in both the Planning Bill and P&D Bill. All other steps such as change applications, extensions of approvals, cancellation of approvals and enforcement require consideration of a local government's broader policy position, and should not be able to be handled by a third party.

Conclusion

We hope that these comments are useful in finalising the new planning legislation in Queensland. 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 1 – comments on the provisions of the Planning Bill 2015 (Planning Bill)

Reference in the Planning Bill	Comment	Suggested amendments
Section 3 – Purpose of the Act	The purpose of the Planning Bill is supported and is considered to be an accurate representation of the desirable goals of a modern land use planning system.	Not applicable.
Section 5 – Advancing the purpose of the Act	The contents of this section are supported.	Not applicable.
Section 18(3), (4) & (6) – Making or amending planning schemes	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 the majority of 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 Minister's Rules and Guidelines for making or amending a local planning instrument (**Plan Making Rules**) should be available.	Amend section 18 so that: • seeking notice from the chief executive setting out a tailored process for making a planning scheme is not mandatory; and • allowing for a local government to utilise the standard/default process if it wishes.
Section 18(5) – Making or amending planning schemes	This subsection contains process matters which are more appropriately contained in the Plan Making Rules. It is not desirable to have some process in the Act and some in the statutory guidelines/rules - it should be either all in the Act or all in the guidelines/rules, to simplify the process and remove the need to refer back and forth between documents.	Amend subsection 18(5) as follows: "The notice, or amended notice, must state at least the matters identified as mandatory elements in the Minister's guidelines."
Section 18(5)(d) – Making or amending planning schemes	This subsection requires a notice from the chief executive about the making of a planning scheme to contain a communications strategy that the local government must implement for the making of a planning scheme. It is submitted that Councils know their communities well and are therefore in a position to determine how they communicate with their community about a new planning scheme. It is for this reason that any communications strategy should be at the discretion of the relevant local government.	If the recommendation to amend subsection 18(5) as outlined above is not implemented, delete subsection 18)(5)(d).

Reference in the Planning Bill	Comment	Suggested amendments
Section 18(8) – Making or amending planning schemes	This subsection should be amended to clarify which planning scheme replaces any other planning scheme.	Amend subsection 18(8) to include the underlined words as follows: "A planning scheme <u>created in accordance with this section</u> replaces any other planning scheme that the local government administers."
Section 19(1) & (2) - Applying planning scheme in tidal areas	It is unnecessary to create a new definition for non-port local government area, when this is just land that is not strategic port land within a local government area. A simple amendment to subsection 19(1) will remove the need for this new term.	Amend subsection 19(1) to include the underlined words and delete the strikethrough text as follows: "A local government may apply a planning scheme as a categorising instrument in relation to prescribed tidal works in the tidal area for its ~~non-port~~ local government area, <u>excluding land that is strategic port land,</u> to the extent prescribed by regulation." Amend section 19(2) to delete the definition of "non-port local government area".
Section 24(2) – Repealing TLPIs or planning scheme policies Section 26 – Power of Minister to direct action be taken	TLPIs and planning scheme policies address local planning matters and are not relevant to State interests. Therefore, there should be no need for the Minister to direct a local government to prepare or amend a TLPI or planning scheme policy. If the Minister considers that there is a State interest that should be addressed, a temporary State planning instrument or a State planning policy should be created or amended. There has been a significant expansion in the State's power to direct local government in relation to its local land use planning aspirations and actions in the Planning Bill which is concerning. It is submitted that Councils should have autonomy to make decisions in the best interests of their local communities.	Amend section 24(2) and section 26 to clarify that the Minister cannot direct a local government to take action in relation to a TLPI or a planning scheme policy.
Section 29(5) & (6) – Request to apply superseded planning scheme	The items referred to in subsections (5) and (6) should be outlined in section 29. After reviewing the relevant provisions in the draft Planning Regulation 2016 (**Regulation**), the only outcome achieved by moving the items referred to in subsections (5) and (6) into 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 this section (see for example subsections (7) and (8)) so there is no reason the requirements in subsections (5) and (6) cannot also be in the Planning Bill.	Move the items referred to in subsections (5) and (6) from the Regulation into section 29.

Reference in the Planning Bill	Comment	Suggested amendments
Section 30(4) - When this division applies	A new subsection should be included in subsection 30(4) so that a planning change resulting from a legislative requirement, requirement in a State planning policy or requirement in a State planning instrument is not an adverse planning change. Currently, subsection 30(4)(b) provides that a planning change made to comply with the regulated requirements is not an adverse planning change. It is submitted that a planning change made to comply with any legislative requirement, a requirements in a State planning policy or a requirement in a State planning instrument generally should also not be an adverse planning change potentially giving rise to compensation.	Include a new subsection in subsection 30(4) so that an adverse planning change does not include a planning change that: • is made to comply with a legislative requirement; or • is made to comply with a State planning policy; or • is made to comply with a State planning instrument.
Section 30(4)(e) – When this division applies	Council notes that the wording of this subsection has been improved compared with earlier versions of the Planning Bill. However, Council still has concerns with the proposed wording and the impact this will have on Councils' ability to address natural hazards in planning schemes without becoming liable to pay compensation. The rules referred to in subsection 30(4)(e)(ii) have not been released, so it is unclear what they may require. Subsection 30(5) states that these rules must require Council to prepare a report assessing feasible alternatives for reducing the risk. The requirement for Council to comply with rules and prepare a report in order to avoid having to pay compensation is not supported, as this increases the administrative burden on Councils and the complexity associated with dealing with natural hazards in a planning scheme. It is submitted that additional regulation should not apply to a Council who is seeking to reduce the risk to persons and property from natural hazards. It is considered unreasonable to burden Councils who seek to achieve this aim with additional administrative and regulatory requirements. An earlier version of the proposed planning legislation that was previously released for public consultation had an alternative provision (ea) which was worded clearly and appropriately to address this matter. It is recommended that this alternative wording be used in this section of the Planning Bill.	Replace (e) with (ea) as drafted in an earlier version of the proposed planning legislation that was released for public consultation.
Section 31(1) - Claiming compensation	The effect of this subsection is to allow a person with an "interest in premises" to claim compensation. "Interest in premises" is not defined for the purposes of this subsection. It is submitted that "interest in premises" is potentially very broad and should be defined to clarify that a person must own part or all of a premises to be able to claim compensation.	Define "interest in premises" so that a person must own part or all of a premises to have an interest in premises.

Reference in the Planning Bill	Comment	Suggested amendments
Section 37(1)(b)(ii) - Process for making or amending designation	This subsection provides that a designation can be amended by amending the type of infrastructure for which the premises were designated. Given that the purpose of a designation is to identify that premises is to be used for a specific type of infrastructure, it is submitted that changing the type of infrastructure will result in the need for a new designation, rather than an amendment.	Replace subsection 37(1)(b)(ii) with the wording as follows: "the form and way in which the infrastructure the subject of the designation is to be delivered."
Section 37(2) to (5) - Process for making or amending designation	Council understands that there was an intention to remove process requirements from the Planning Bill and include these in a regulation or statutory rules and guidelines. Subsection 37(6) refers to designation process rules for this purpose, however subsections 37(2) to (5) contain process requirements for making or amending a designation for premises. It is submitted that process requirements should be either in the Planning Bill or all in another instrument. There should not be some process requirements in the Planning Bill and other requirements in other instruments, as this creates a need to refer to multiple documents to determine what needs to occur.	Remove the contents of subsections 37(2) to (5) to the designation process rules.
Section 43 – Categorising instruments	This section introduces two new terms which are considered unnecessary – "categorising instrument" and "local categorising instrument". A whole page of the Planning Bill is required to explain what these terms mean. It is submitted that it would be simpler to instead refer to each instrument (eg. regulation, planning scheme or TLPI) as the context of a particular section requires. A variation approval should not be a categorising instrument and does not need to be referenced to in this section, as it is an approval which varies the provisions of a planning scheme. This section also introduces two terms which replace existing and well understood terminology – "assessment benchmarks" and "variation approval". The introduction of these terms, replacing the existing and well understood terms (codes and preliminary approval to override a planning scheme), will increase the implementation costs and complexity associated with the proposed new planning regime without having any beneficial impact on outcomes.	Delete the terms "categorising instrument" and "local categorising instrument" from the Planning Bill and replace with regulation, planning scheme or TLPI depending upon the context. Replace "assessment benchmarks" with "codes" where used in the Planning Bill. Replace "variation approval" with "preliminary approval to override the planning scheme" where used in the Planning Bill.
Section 43(4)(b) - Categorising instruments	The use of the word "prohibits" in this subsection is confusing, given that the development can also be prohibited in a regulation.	Amend subsection 43(4)(b) to include the underlined words and delete the strikethrough text as follows: "may not state that development is assessable development if a regulation ~~prohibits~~ <u>states that</u> the local categorising instrument ~~from doing~~ <u>cannot do</u> so; and"

Reference in the Planning Bill	Comment	Suggested amendments
Section 44(1) and (4) – Categories of development	This section introduces the concept of "accepted development". This is intended to replace "exempt development" and "self-assessable development". The introduction of this term, replacing the existing and well understood terms, will increase the implementation costs and complexity associated with the proposed new planning regime without any impact on outcomes It is submitted that it is possible to improve the processes around the existing terms without changing the terms themselves. In addition, merging self-assessment and exempt development will result in development that would have otherwise been classed as self-assessable being elevated to code assessment. This is because the drafting of the Planning Bill and associated statutory instruments appears to limit the ability to include meaningful criteria (by way of acceptable outcomes) for accepted development. This will result in the level of assessment for development increasing, and development applications being required for development that would have been self-assessable.	Replace "accepted development" where used in the Planning Bill with "exempt development" and "self-assessable development".
Section 45(1), (3), (4) – Categories of assessment	Council supports the retention of the existing and well understood terms - code and impact assessment - in the Planning Bill.	Not applicable.
Section 45(4) – Categories of assessment	This subsection states that an assessment manager does not have to advance the purpose of the Act when carrying out code assessment. It is unclear why an exemption from advancing the underlying and fundamental purpose of the Act would not apply to code assessment.	Delete subsection 45(4).
Section 45(3) and (5) – Categories of assessment	The full criteria for assessing code and impact assessable development applications should be outlined in this section, rather than having some of the criteria in this section, and then the rest in the Regulation. The way the Planning Bill is currently drafted, it is necessary to refer to two different statutory instruments to determine all the requirements for code and impact assessment. The requirements outlined in section 45(5) for impact assessment are not complete, in that they do not require a development to be assessed against the relevant planning scheme. This is a fundamental and basic requirement, which ensures that a development is assessed in accordance with a Council's local planning aspirations and policy framework. Therefore, this requirement should be included in section 45(5).	Amend subsections 45(3) and (5) to include all the requirements for code and impact assessment, and remove these requirements from the Regulation. Amend subsection 45(5) so that impact assessable development must be assessed against the relevant planning scheme.
Section 45(5)(b) – Categories of assessment	The ability for impact assessment to be carried out having regard to "any other relevant matter" is considered not to be appropriate, in that it is too broad and allows for potentially inappropriate factors to be introduced. There may also be costly legal disputes over what is a "relevant matter". To reduce uncertainty and	Replace the wording of subsection 45(5)(b) as follows: "having regard to any other relevant planning grounds".

Reference in the Planning Bill	Comment	Suggested amendments
	costly legal disputes, the relevant matters should be limited to existing, established and well understood planning grounds.	
Section 45(5)(b) – Categories of assessment	The current relevance of the assessment benchmarks in light of changed circumstances is stated as a relevant matter for the purposes of subsection 45(5)(b). The inclusion of this as a relevant matter allows the planning scheme and its contents to be disregarded. If a Council considers that a planning scheme and its contents are not representative of current circumstances, the planning scheme should be amended following the proper process, including public consultation. If the matter is urgent, then a TLPI should be introduced. It should not be possible to just disregard parts of the planning scheme on an ad hoc basis.	If the recommended amendments in the row above are not made, delete "the current relevance of the assessment benchmarks in the light of changed circumstances" where listed as an example of a relevant matter.
Section 45 - Categories of assessment	Council believes that this section and the associated decision rules can be refined to simplify the existing development assessment system and improve outcomes. Code assessment should be refined so that a development approval is assessed only against the applicable codes. Impact assessment should require a more holistic assessment against a broader range of factors, including the planning scheme in its entirety. Public notification however should be delinked from impact assessment, allowing for a local government to determine when public notification is required in its planning scheme. Council supports the removal of compliance assessment from the Planning Bill. However, leaving code and impact as they currently are means that there is little to distinguish between the two, except for public notification. Also, there is no simpler and more streamlined process for the assessment of certain development applications for which an application is required. The changes recommended by Council means that the current code and impact assessment will be captured by the new impact assessment (notifiable or non-notifiable), with a more simpler and streamlined application process available through the refined code assessment.	The provisions relevant to code assessment should be refined so that a development approval is assessed only against the applicable codes. The provisions relevant to impact assessment should be amended so that it requires a holistic assessment against a broader range of factors, including the planning scheme in its entirety. Public notification should be delinked from impact assessment, allowing for a local government to determine when public notification is required in its planning scheme.
Section 46(9)(a) and (c) – Exemption certificate for some assessable development	Council supports the use of "substantially started" in these subsections.	Not applicable.
Section 49(2) and (3) – What is a *development*	The wording of these subsections is confusing and not correct. The way the decision notice is referenced in each subsection is unnecessary.	Amend subsection 49(2) to include the underline text and delete the strikethrough text as follows:

Reference in the Planning Bill	Comment	Suggested amendments
approval, *preliminary approval* or *development permit*		"A ***preliminary approval*** ~~is the part of a decision notice for a development application that —~~ (a) approves ~~the~~ development to the extent stated in ~~the~~ a decision notice; but (b) does not authorise the carrying out of assessable development. Amend subsection 49(3) to include the underline text and delete the strikethrough text as follows: "A ***development permit*** ~~is the part of a decision notice for a development application that~~ authorises the carrying out of ~~the~~ assessable development to the extent stated in ~~the~~ a decision notice.
Section 49(4) – What is a *development approval*, *preliminary approval* or *development permit*	The wording of this subsection is not completely correct. It does not accurately reflect the interaction between a preliminary approval and a later development permit. It also does not consider the situation where a later development permit is issued for a completely different development compared with that applied for under the preliminary approval.	Consider rewording section 49(4) to use more appropriate language to describe the interaction between a preliminary approval and a later development permit, such as that used in section 243 of the *Sustainable Planning Act 2009* (**SPA**).
Section 51(2)(c) – Making development applications	Rather than requiring reference to the dictionary, the excluded premises should be listed in this section. This will make the final Act less complicated and easier to navigate.	Detail the relevant excluded premises in section 51(2)(c) and delete the definition of excluded premises from Schedule 1.
Section 53(1)(a) - Publicly notifying certain development applications	As stated in relation to section 45 above, Council recommends that public notification be delinked from impact assessment. Therefore, subsection 53(1)(a) should be amended so that public notification is only required for impact assessment if the relevant planning scheme identifies the development as requiring public notification.	Amend subsection 53(1)(a) to include the underlined text as follows: "requires impact assessment and the applicable planning scheme identifies that public notification is required for the development; or".
Section 53(4) to (9) - Publicly notifying certain development applications	Council understands that there was an intention to remove process requirements from the Planning Bill and include these in a regulation or statutory rules and guidelines. Subsection 53(2) refers to development assessment rules for this purpose, however subsections 53(4) to (9) contains process requirements for publicly notifying certain development applications. It is submitted that process requirements should be either in the Planning Bill or all in another instrument. There should not be some process requirements in the	Remove the contents of subsections 53(4) to (9) to the development assessment rules.

Reference in the Planning Bill	Comment	Suggested amendments
	Planning Bill and other requirements in other instruments, as this creates a need to refer to multiple documents to determine what needs to occur.	
Section 54 – Copy of application to referral agency	Council supports the decision to retain referral agencies that provide advice only and the decision not to introduce new terminology to describe these agencies (ie. referral agency (advice only)). The way that this has been done, by introducing limitations on a referral agency's powers in the Planning Regulation is supported. Overall, this represents a simplification of and improvement on the existing regime.	Not applicable.
Section 55(2) - Referral agency's assessment	This subsection states that a regulation may prescribed the matters the referral agency may, must or must only assess a development application against, and have regard to for the assessment. This aligns with the wording of the matters contained in the relevant Schedules in the Regulation for different types of development. However, there are also eight generic matters stated in section 23 of the Regulation for this purpose. It is submitted that the eight generic matters listed in section 23 of the Regulation should be stated in section 55 to assist and simplify the interpretation of the final Act and Regulation.	State the eight matters listed in section 23 of the Regulation in the section 55 of the Planning Bill.
Section 56(2) - Referral agency's response	In accordance with this subsection, there appears to be no ability for a referral agency to impose conditions on an approval of a variation request. It is submitted that a referral agency should be able to impose conditions on any approval of a variation request.	Amend subsection 56(2) so that a referral agency can impose conditions on an approval for a variation request.
Section 59 – What this division is about Section 61 - Assessing and deciding variation requests	This section introduces a term - "variation request" - which replaces an existing and well understood term. The introduction of this term, replacing an existing and well understood term (application for preliminary approval to override a planning scheme), will increase the implementation costs and complexity associated with the proposed new planning regime.	Replace “variation request” with “application for preliminary approval to override a planning scheme”.
Section 60 - Deciding development applications	See Council's comments in relation to section 45 above.	Consider implementing Council's recommended changes to code and impact assessment as outlined in the comments in relation to section 45 above.
Section 61(2)(d) - Assessing and deciding variation requests	Subsection 61(2)(d) refers to any other matter prescribed by regulation. The Regulation contains three matters in section 32 that must be considered when assessing a variation request. It is submitted that these three matters should be listed in subsection 61(2) to	State the three matters listed in section 32 of the Regulation in subsection 61(2) of the Planning Bill.

Reference in the Planning Bill	Comment	Suggested amendments
	assist and simplify the interpretation of the final Act. This will also remove the need to refer back and forth between different documents to determine what the assessment manager must consider when assessing a variation request.	
Section 61(3) - Assessing and deciding variation requests	In accordance with this subsection, there appears to be no ability for an assessment manager to impose conditions on an approval of a variation request. It is submitted that an assessment manager should be able to impose conditions on any approval of a variation request.	Amend subsection 61(3) so that an assessment manager can impose conditions on an approval for a variation request.
Section 63(1)(f) - Notice of decision	Subsection 63(1)(f) refers to any other person prescribed by regulation. The Regulation contains three persons in section 35 who must be given a notice of decision. It is submitted that these three persons should be listed in subsection 63(1) to assist and simplify the interpretation of the final Act. This will also remove the need to refer back and forth between different documents to determine who must be give a decision notice.	State the three persons listed in section 35 of the Regulation in subsection 63(1) of the Planning Bill.
Section 63(2) - Notice of decision	This subsection contains detailed requirements for what needs to be in a decision notice, so it appears unnecessary for the decision notice to also be in a specific approved form.	Amend subsection 63(2) to delete the strikethrough text as follows: "The notice must~~ be in the approved form and~~ state~~—~~"
Section 63(2)(e)(iv) – Notice of decision	The requirement for each condition about infrastructure to include details of the section under which the condition was imposed is an unnecessary administrative burden on local government. It also adds to the complexity of development approvals and gives the impression that local government cannot be trusted to impose appropriate and lawful conditions about infrastructure.	Delete subsection 61(2)(e)(iv).
Section 63(3) – Notice of decision	Subsection 63(3) requires a decision notice to also state, or be accompanied by, the documents prescribed by regulation. The Regulation contains five items in section 36 who must be stated in or accompany a decision notice. It is submitted that these five items should be listed in subsection 63(2) to assist and simplify the interpretation of the final Act. This will also remove the need to refer back and forth between different documents to determine what the requirements are for a decision notice.	State the five items listed in section 36 of the Regulation in subsection 63(2) of the Planning Bill.
Section 63(4) and (7) – Notice of decision	Council objects to the requirement for Councils to publish notices about all their planning decisions on their website. While it is not clear from subsection 63(7) which notice is referred to, it is assumed that this is intended to relate to a notice under section 63(4). If so, the	Delete subsections 63(4) and (7).

Reference in the Planning Bill	Comment	Suggested amendments
	requirement for the notice published by a Council to outline those matters is considered to be an unreasonable administrative burden on local government. Many smaller Councils, including the Cassowary Coast Regional Council (**CCRC**), do not have the information technology resources to publish such notices in any meaningful way on their websites. In addition, a lack of planning resources within such Councils (again, including CCRC) means that planners will be spending all their time preparing notices and complying with other burdensome administrative requirements in the new Act, with no time left to focus on good land use planning outcomes. It is acknowledged that the Planning Bill seeks to create greater transparency and community awareness around land use planning. However, this goal needs to be balanced with what is achievable within the resources of many local governments, and the risk that what will be created is a planning system that is process heavy and focused on administration rather than good planning outcomes. It is noted that there is a typing error in this section and that subsection 63(7) should be numbered 63(5).	
Section 64 - Deemed approval of applications	The current Development Assessment Rules allow an applicant to stop the clock and restart it at any time. The balance of the assessment manager's decision making period will remain once the clock is restarted by the Applicant. An assessment manager cannot extend its decision making period without the applicant's consent. All this means that the clock may be stopped by an applicant a few days before a decision is due on an application that the applicant knows is likely to be refused. The clock can then be restarted in such a way that it is not possible to have a decision made by Council at a scheduled Council meeting. For code assessable development, this means that a special meeting of Council will need to be called just for a particular development application. Otherwise, a deemed approval under section 64 of the Planning Bill will become available to the applicant, for a development that is potentially not suitable for approval. Therefore, Council submits that the ability for an applicant to secure a deemed approval should be removed from the Planning Bill, if the provisions of the Development Assessment Rules preventing an assessment maker from extending the period within which a decision can be made without the applicant's agreement are to remain unchanged.	Delete section 64 of the Planning Bill.

Reference in the Planning Bill	Comment	Suggested amendments
Section 64(4) - Deemed approval of applications	Subsection 64(4) requires an applicant to give a copy of a decision notice to a submitter for an application. As the deemed approval provisions only apply to code assessable development, there will be no submitters for an application.	If the recommendation in the row above is not implemented, amend subsection 64(4) to insert the underlined text and delete the strikethrough text: "The applicant must give a copy of the deemed approval notice to each person stated in section 63(1)(b)~~,~~ or (d) ~~or (e)~~ for the application."
Section 66(1)(d) – Prohibited development conditions	It is unclear why a condition requiring an access restriction strip is a prohibited condition.	Delete section 66(1)(d).
Section 66(2) – Prohibited development conditions	A development condition may need to be inconsistent with an earlier development approval that was issued many years prior or is for a completely different type of development. Also, a previous development approval may not have been acted upon, and therefore it is not relevant to the new development approval. Overall, there are circumstances where a development condition should not be inconsistent with a condition of an earlier development approval, but the current wording of subsection 66(2) is too broad and will have unintended consequences.	Consider rewording section 66(2) so that it does not unduly impact on the imposition of reasonable and relevant conditions on a development.
Section 68 - Development assessment rules	This section allows the creation of development assessment rules for the development assessment process. It is noted that the intention is that all of the process requirements for development assessment will be contained in separate rules. However, there is a significant amount of process requirements for development assessment in the Planning Bill. There is overlap between what is in the Planning Bill and the current version of the development assessment rules. There are also requirements that are not process requirements in the development assessment rules. Council has no objection to the inclusion of process requirements in development assessment rules separate to the Planning Act. However, if rules are going to be created for this purpose, then all the process requirements should be in this one place. There should not be a confusing mix of requirements in both the Act and rules. An applicant, assessment manager or referral agency should be able to refer to one place only (either the Act or rules) to determine the process that must be followed for making or amending a development application.	Consider whether the process requirements for making and amending a development application should be in the Act or separate development assessment rules, and ensure that all of the process requirements are in that one instrument.

Reference in the Planning Bill	Comment	Suggested amendments
Section 71(1) and (2) - When development approval has effect	The wording of subsections 71(1) and (2) make the interpretation of these sections ambiguous. It is recommended that they be amended so their meaning is clear and unambiguous.	Amend sections 71 to include the underlined text and delete the strikethrough text as follows: "(1) ~~Generally, a~~ A development approval starts to have effect when the approval is given, or taken to have been given, to the applicant~~.~~, except if— ~~(2) However—~~ (a) an appeal about the approval is started, and subject to the outcome of the appeal—the approval starts to have effect when the appeal ends; or (b) no appeal about the approval is started, but there was a submitter for the development application who had not given the assessment manager a notice withdrawing the submitter's submission before the application was decided—the approval starts to have effect on the day after the last of the following happens— (i) the last submitter gives the assessment manager notice that the submitter will ot be appealing the decision; (ii) the last appeal period for the development approval ends." Renumber the subsequent subsections accordingly.
Section 71(2)(b)(ii) - When development approval has effect	The term "last appeal period" as used in this subsection is not defined and it is unclear what this means. If it means the appeal period for each submitter must end, then the subsection should be amended accordingly.	Amend subsection 71(2)(b)(ii) to clarify its meaning.
Section 71(3) - When development approval has effect	There is a typing error in this subsection. Subsection (2)(b) referred to in this subsection should be subsection (2)(b)(i).	Amend subsection 71(3) to include the underlined text as follows: "The assessment manager must give the applicant a copy of any notice under subsection (2)(b)(i)."
Section 71(5) - When development approval has effect	This subsection relates to the effect of a variation approval, not when a variation approval has effect. The subsection does not appear to belong in this section and should be moved to a separate section.	Move subsection 71(5) to a separate section.
Section 72 - When development may start	The word "start" is used repeatedly in this section in different contexts. Consider revising so the word "start" is used consistently.	Consider revising section 72 in relation to the use of the word "start".

Reference in the Planning Bill	Comment	Suggested amendments
Section 73 - Attachment to premises	The heading of this section is poorly worded and not representative of its contents.	Consider rewording the heading of section 73 so it is more representative of the section's contents.
Section 73 - Attachment to premises	The word "premises" is used repeatedly in this section. Following a review of the definitions for "premises" and "land" in Schedule 2 of the Planning Bill, it is submitted that the word "land" should be used in this section instead of the word "premises". This is more appropriate, especially in the context of an approval attaching to the land and transferring from the owner of the land to the owner's successors in title.	Replace the word "premises" in this section where used with the word "land".
Section 75 – Making change representations	This section introduces a term which replaces an existing and well understood term – “change representations”. The introduction of this term, replacing the existing and well understood term (request for a negotiated decision notice), will increase implementation costs and the complexity associated with the proposed new planning regime. Further, the current terminology used in SPA is clear in that it is descriptive of what is occurring. The new term is unclear in that “change representations” gives no clear indication of what is taking place. It is also easily confused with change application, or a request to change a development approval.	Replace “change representations” with “request for a negotiated decision notice”.
Section 76(2) - Deciding change representations	This subsection requires the assessment manager to give a decision notice in relation to change representations (a request for a negotiated decision notice). It is submitted that this is confusing, as a decision notice is a commonly accepted term used for the notice given when a development approval is granted or refused. The Planning Bill uses the term decision notice for the notice given in relation to the granting or refusal of a development approval. Therefore, describing another type of notice of decision as a "decision notice" creates unnecessary confusion.	Amend section 76 so that an assessment manager issues a negotiated decision notice if it agrees with the applicant's representations and gives simply a notice of decision if it does not agree with the applicant's representations.
Section 76(2)(b)(v) - Deciding change representations	Subsection 76(2)(b)(v) requires a negotiated decision notice to be given to another person prescribed by regulation. The Regulation contains three persons in section 38 who must be provided with a copy of the negotiated decision notice. It is submitted that these three person should be listed in subsection 76(2)(b) to assist and simplify the interpretation of the final Act. This will also remove the need to refer back and forth between different documents to determine what the requirements are for distributing a negotiated decision notice.	State the three persons listed in section 38 of the Regulation in subsection 76(2)(b) of the Planning Bill.
Section 77 - What this subdivision is about	The wording of this section is not correct and should be reviewed.	Amend section 77 to include the underlined text as follows:

Reference in the Planning Bill	Comment	Suggested amendments
		"This subdivision is about changing a development approval, other than to extend the currency period, after all appeal periods in relation to the approval end."
Section 78 – Making change application	This section introduces another new term – "change application". It is submitted that the creation of this new term is unnecessary. Section 78 and the other associated sections in Subdivision 2, Division 2 in Part 5 of the Planning Bill can operate without the creation of this new term to describe an application to change a development approval.	Remove references to "change application" from section 78 and other relevant sections in the Planning Bill.
Section 78(3)(c) - Making change application	The effect of subsection 78(3)(c) is that if a request to change a development approval is for a change that is not a minor change, then the assessment manager must process the application, even if the development approval was granted by the P&E Court. This reinforces Council's comments in relation to section 82 (see below) that a change to an approval that is not a minor change needs to be subject to a new development application, and should not be treated as a change to a development approval. It is not appropriate for the assessment manager to process a change to a development approval issued by the P&E Court. If the development proposed has changed such that the change cannot be considered minor, then a new development approval is required for new development.	Amend section 78 so it is clear that a request to change a development approval can only be made where the proposed change is a minor change.
Section 79(1)(b)(ii) – Requirements for change applications	See comments in relation to section 80 below. The use of the term "pre-request response notice" is unnecessary in subsection 79(1)(b)(ii) and can easily be replaced with out affecting the meaning of this subsection.	Amend subsection 79(1)(b)(ii) to include the underline text and delete the strikethrough text as follows: "for an application for a minor change—a copy of any ~~pre-request response~~ notice given under section 80(3) for the application; and"
Section 79(1)(b)(iii) – Requirements for change applications	Rather than requiring reference to the dictionary, the excluded premises should be listed in this section. This will make the final Act less complicated and easier to navigate.	Outline the relevant excluded premises in section 79(1)(b).
Section 80 – Notifying affected entities of minor change application	This section introduces two new terms "pre-request response notice" and "response notice". These terms are unnecessary and add to the complexity of this section and the Planning Bill. The notices that these terms represent can be described in the Planning Bill without the need to create new terms for these actions.	Remove the new terms "pre-request response notice" and "response notice" from section 80 and the Planning Bill. Amend subsection 80(6) to include the underline text and delete the strikethrough text as follows:

Reference in the Planning Bill	Comment	Suggested amendments
		"If the affected entity does not do so, the responsible entity must decide the application as if the affected entity had given a ~~response~~ notice under section 80(6) stating that the affected entity had no objection to the change."
Section 80(2) - Notifying affected entities of minor change	The wording of subsections 80(2)(a) and (b) are not correct.	Amend section 80(2)(a) and (b) to include the underlined text and delete the strikethrough text as follows: "(a) if the responsible entity ~~would be~~ is the assessment manager—a referral agency for the development application other than the chief executive; or (b) if the responsible entity ~~would be~~ is a referral agency—the assessment manager, and any other referral agencies for the development application, other than the chief executive; or"
Section 80(4) - Notifying affected entities of minor change application Section 81(6)(b) – Assessing and deciding application for minor changes	Subsection 81(6)(b) requires the responsible entity to decide the application to change a development approval within 25 business days after receiving the application. However, this only relates to where there is an affected entity. In accordance with subsection 80(4), an applicant is required to provide the affected entity with the application as soon as practicable after lodging the application with he responsible entity. Under subsection 81(6)(a), the affected entity then has 20 business days to provide a response. However, regardless of when the affected entity receives the application, the responsible entity must make a decision within 25 business days of receiving the application, even if a response has not been received from the affected entity in that time. If an applicant finds that the earliest they can provide the affected entity with a copy of the application is two or more weeks after the responsible entity receives the application, the timeframe the affected entity has to give a response is meaningless. Due to the vagueness of the phrase "as soon as practicable" in section 80(4), there is no incentive to the applicant to act promptly in providing the application to the affected entity. In fact, if the applicant believes the affected entity may not support the change, there is an incentive not to act promptly. Therefore, there should be a fixed timeframe within which the applicant must provide the application to an affected entity after providing the application to the responsible entity, that is consistent with the timeframes for making a decision imposed on affected entities and responsible entities.	Amend section 80(4) to require the applicant to give a copy of the application to the affected entity within 5 days of giving the application to the responsible entity.
Section 81(2)(c) and (6)(a)(i) - Assessing and	See comments in relation to section 80 above. Subsections 81(2)(c) and (6)(a)(i) do not need not need to include the terms "pre-request response notice" or	Amend subsection 81(2)(c) to include the underlined text and delete the strikethrough text as follows:

Reference in the Planning Bill	Comment	Suggested amendments
deciding application for minor changes	"response notice" and should be amended to remove these unnecessary terms.	"any ~~pre-request response notice or response~~ notice given under section 80(3) or section 80(5) in relation to the change application; and". Amend subsection 81(6)(a)(i) as follows: "the responsible entity receives a ~~pre-request response notice, or response~~ notice given under section 80(3) or section 80(5)~~,~~ from each affected entity; or"
Section 81(3)(a) – Assessing and deciding application for minor changes	The application should not be assessed against the matters that applied when the development application was made. Especially where the approval was issued some years ago, current circumstances and planning policy should be applied.	Reword section 81(3) so that current circumstances and planning policy is of greater importance than the framework that existed when the approval was granted.
Section 82 – Assessing and deciding application for other changes	If the proposed change is not "minor", then the proposed development becomes new development and a new application should be required. This section requires the application to be dealt with utilising processes and requirements that apply to a new application in any event. Therefore, it is submitted that it would be simpler and less complex to require a new application to be made if the change to the development approval is not a minor change.	Delete section 82.
Section 83(7) and (8) – Notice of decision	Council objects to the requirement for Councils to publish notices about all their decisions on requests to change an approval on their website. While it is not clear from subsection 83(8) which notice is referred to, it is assumed that this is intended to relate to a notice under section 83(7). If so, the requirement for the notice published by a Council to outline those matters is considered to be an unreasonable administrative burden on local government. Many smaller Councils, including CCRC, do not have the information technology resources to publish such notices in any meaningful way on their website. In addition, a lack of planning resources within such Councils (again, including CCRC) means that planners will be spending all their time preparing notices and complying with other burdensome administrative requirements in the new Act, with no time left to focus on good land use planning outcomes. It is acknowledged that the Planning Bill seeks to create greater transparency and community awareness around land use planning. However, this goal needs	Delete subsections 83(7) and (8).

Reference in the Planning Bill	Comment	Suggested amendments
	to be balanced with what is achievable within the resources of many local governments, and the risk that what will be created is a planning system that is process heavy and focused on administration rather than good planning outcomes.	
Section 84 - Cancellation applications	This section introduces a new term "cancellation application". This new term is unnecessary and adds to the complexity of this section and the Planning Bill. The notice that this term represents can be described in the Planning Bill without the need to create a new term for this action.	Remove the new term "cancellation application" from section 84 and the Planning Bill. Amend subsection 84(1) to include the underline text and delete the strikethrough text as follows: "A person may apply ~~make an application (a ***cancellation application***)~~ to cancel a development approval, unless—." Amend subsection 84(2) to include the underline text and delete the strikethrough text as follows: "An application under section 84(1) ~~A cancellation application~~ must be made to—."
Section 84(3)(b)(ii) - Cancellation applications	This subsection refers to "the other person". While it is assumed that this means the person who proposes to buy the premises, this is not entirely clear from the wording of the subsection.	Replace "the other person" in subsection 84(3)(b)(ii) with "the person who has entered into an agreement to buy the premises".
Section 85(2) - Lapsing of approval at end of currency period	Monetary security may be required to make safe or rectify works that have been partially completed when part of a development approval lapses. Therefore, it should not necessarily be a requirement to release that security if that money is required in accordance with the relevant condition under which it is held.	Amend section 85(2) so that the monetary security does not have to be released if it is required in accordance with the condition under which it was held.
Section 86 - Extension applications	This section introduces a new term "extension application". This new term is unnecessary and adds to the complexity of this section and the Planning Bill. The notice that this term represents can be described in the Planning Bill without the need to create a new term for this action.	Remove the new term "extension application" from section 86 and the Planning Bill. Amend subsection 86(1) to delete the strikethrough text as follows: "A person may make an application ~~(an ***extension application***)~~ to the assessment manager to extend a currency period of a development approval before the approval lapses."

Reference in the Planning Bill	Comment	Suggested amendments
		Amend subsection 86(2) to include the underline text and delete the strikethrough text as follows: "The extension application in section 86(1) must be—."
Section 86(2)(b)(ii) – Extension applications	Rather than requiring reference to the dictionary, the excluded premises should be listed in this subsection. This will make the final Act less complicated and easier to navigate.	Outline the relevant excluded premises in subsection 86(2)(b)(ii).
Section 88 - Lapsing of approval for failing to complete development	This section should be either moved to after section 85 or incorporated as part of section 85. This would make this part of the Planning Bill flow more logically and easier to follow.	Move section 88 to after section 85 or incorporate the provisions of section 88 into section 85. Renumber subsequent sections accordingly.
Section 89(1)(a) - Particular approvals to be noted	The requirement to note a development approval that is considered "substantially inconsistent" with a planning scheme is considered vague and unnecessary. It is not clear what "substantially inconsistent" is and what the threshold for a development approval requiring notation in a planning scheme will be.	Delete subsection 89(1)(a) and renumber subsequent subsections accordingly.
Section 94 - Directions to decision-makers—future applications Section 95 – Directions to decision makers—current applications	The powers outlined in these sections are very broad and have the potential to impact on local government's autonomy for planning decisions. The nature and extent of these powers should be reconsidered and should be redefined so they are appropriate for dealing only with matters of State interest.	Reconsider the extent of the powers outlined in sections 94 and 95.
Section 101(3) - Seeking representations about proposed call in	Subsection 101(3) allows for the matters relating to the giving of a proposed call in notice to be prescribed in a regulation. 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 these matters should be outlined in the Act.	Outline the matters in relation to the giving of a proposed call in notice in subsection 101(3) rather than in a regulation.
Section 101(5)(b) - Seeking representations about proposed call in	In accordance with subsection 101(5)(b), a development approval takes effect from the day the applicant receives a call in notice for the approval. Is this correct?	Reconsider the wording and effect of subsection 101(5)(b).
Section 104(13)(d) – Deciding called in application	This subsection refers to making properly made submissions. However, in the context of subsection 104(13), it is submitted that this should be either receiving properly made submissions or undertaking public notification of an application.	Reconsider the wording of subsection 104(13)(d) in light of the context of subsection 104(13).
Section 111 – Regulation prescribing charges	Council supports the automatic indexation of maximum adopted charges provided for by section 111.	Not applicable.

Reference in the Planning Bill	Comment	Suggested amendments
Section 118(12)(c) - When charge may be levied and recovered	In accordance with this subsection, a levied charge attaches to the premises. Following a review of the definitions for "premises" and "land" in Schedule 2 of the Planning Bill, it is submitted that the word "land" should be used in this subsection instead of the word "premises". This is more appropriate, especially in the context of a levied charge attaching to the land. Also, in accordance with section 143, a levied charge is taken to be rates of the local government for the purposes of its recovery. This reinforces the need for the charge to attach to land rather than premises.	Replace the word "premises" in this subsection with the word "land".
Section 119(2)(b) – Limitation of levied charge	The effect of this subsection is that a lawful use that occurred many years ago will need to be taken into account in determining the demand generated by a development. There is no limitation on when this use occurred, or if the use has since ceased and other uses have since been made of the premises. This means that the demand generated by a development will need to be discounted by a historic land use with no relevance to the current development or infrastructure that is provided to the premises	Delete subsection 119(2)(b).
Section 119(2)(c) – Limitation of levied charge	The effect of this subsection is to potentially exclude self-assessable (or accepted) development from the requirement to pay levied charges. This may result in the elevation of the level of assessment for development that would otherwise be self-assessable (or accepted), so that levied charges can be collected for the development. It appears from the definition of infrastructure requirement as used in subsection 119(3)(b) that subsection 119(2)(c) is intended to apply to development approved through a variation approval or similar mechanism. However, the scope of subsection 119(2)(c) is much broader than this and will have unintended consequences in acting as a disincentive for local government to reduce the level of assessment for development.	Reword subsection 119(2)(c) so that it is clear that development that is self-assessable (or accepted) development can be subject to levied charges.
Section 120(3) – Requirements for infrastructure charges notice	The requirement for an infrastructure charges notice to include or be accompanied by a decision notice about the decision to give the notice is an unnecessary administrative burden on local government. It also adds to the complexity of an infrastructure charges notice. This requirement will also increase the complexity of the approval documents given to an applicant, as they will get two decision notices - one approving the development and a second one about the decision to give an infrastructure charges notice.	Delete section 120(3).

Reference in the Planning Bill	Comment	Suggested amendments
Section 121(1) - Payment triggers generally	The timing for payment as stated in subparagraphs (a), (b) and (c) should be prior to the events described occurring - eg. before the survey plan is submitted for signing, before the final inspection certificate is given and before the change happens.	Amend section 121(1) so that a levied charge becomes payable before the survey plan is submitted for signing, before the final inspection certificate is given and before the change happens.
Section 128 - Offset or refund requirements	It is submitted that the contents of this section should be reconsidered. Council disagrees with the introduction of mandatory offset and refund requirements, as the decision whether or not to provide an offset or refund should be in accordance with relevant Council policy, at Council's discretion and negotiated on a case by case basis with a particular developer. Any attempt to strictly regulate these matters will result in inflexibility and complexity.	Delete section 128.
Section 130(2) – Content of extra payment condition	The timing for payment specified in this subsection is not appropriate. A Council will only require the payment if the infrastructure is necessary to service the development. Requiring payment just before the development is to commence does not give a Council time to construct or upgrade the required infrastructure. Ultimately, Council should specify when payment is required, as it will know when the infrastructure will be required and how long it will take to construct or modify.	Reword section 130(2) so that the timing for payment is as specified by the local government.
Section 133 - Refund if development in PIA	In accordance with this section, a local government must refund to the payer the proportion of the establishment cost of the infrastructure that can be reasonably apportioned to other users. If the development of other land serviced by the infrastructure is some years away, this leaves the local government out of pocket and being subject to a financial liability that was not budgeted for.	Amend section 133 so that a local government only has to refund the payer the proportion of the establishment cost of the infrastructure that can be reasonably apportioned to other users when the local government recovers levied charges from the other users.
Section 134 - Refund if development approval stops	It is submitted that the use of the word "stops" in the heading of this section is not appropriate. Lapsed or cancelled would be better words to describe the circumstances in which section 134 applies.	Amend the heading of section 134 to replace "stops" with "lapses or is cancelled".
Section 136 - Process	See comments in relation to section 128 above. This section is overly complicated and unnecessary.	Delete section 136.
Chapter 4, Division 4, Subdivision 1 - Conversion of particular non-trunk infrastructure before construction starts	It is submitted that the contents of this subdivision are overly complicated and unnecessary. A local government is able to determine whether infrastructure is trunk infrastructure or non-trunk infrastructure, and this decision should not be open for challenge by an applicant at a later date.	Delete Subdivision 1 in Division 4 of Chapter 4.
Section 148 -	Council objects to the requirement for a local government to reimburse a person	Delete section 148.

Reference in the Planning Bill	Comment	Suggested amendments
Reimbursement by local government for replacement infrastructure	who provides infrastructure in accordance with a condition imposed by a State infrastructure provider. Council has no control over the imposition of such a requirement by a State infrastructure requirement. Therefore it is unreasonable for a local government to have to meet this unforeseeable and unbudgeted expense. It is submitted that a State infrastructure provider should not be imposing conditions on an approval requiring the construction of local government infrastructure.	
Chapter 4, Part 4 – Infrastructure agreements	An infrastructure agreement is a private agreement between an applicant and a government entity. The State should not be seeking to regulate these, particularly where the agreement is between a local government and an applicant. In addition, the regulatory regime applied to infrastructure agreements in the Planning Bill is complex. Given that it is unnecessary, the relevant provisions should be removed.	Delete sections 149 to 151 and section 66(1)(b).
Section 154 - When infrastructure agreement binds successors in title	The word "premises" is used repeatedly in this section. Following a review of the definitions for "premises" and "land" in Schedule 2 of the Planning Bill, it is submitted that the word "land" should be used in this section instead of the word "premises". This is more appropriate, especially in the context of an infrastructure agreement attaching to the land and transferring from the owner of the land to the owner's successors in title. In addition, the references to subdividing premises are not correct when the word premises is used. It is more correct to refer to land being subdivided.	Replace the word "premises" in this section where used with the word "land".
Section 158(1) – Particular local government land held on trust	Why must a local government only take land for public parks infrastructure or local facilities in fee simple on trust? Why can't the land become reserve land, with Council as trustee?	Replace "must" with "may" in subsection 158(1).
Section 168(2)(a) – Consulting private certifier about enforcement notice	What if the private certifier is no longer in business and cannot be contacted? In accordance with the current wording of section 168(2), an enforcement notice could not be issued in this circumstance.	Amend subsection 168(2) so that the enforcement notice can be issued if the enforcement authority has made reasonable efforts to contact the private certifier.
Section 175 - Enforcement orders	The word "premises" is used repeatedly in these sections. Following a review of the definitions for "premises" and "land" in Schedule 2 of the Planning Bill, it is submitted that the word "land" should be used in these sections instead of the	Replace the word "premises" in these sections where used with the word "land".

Reference in the Planning Bill	Comment	Suggested amendments
Section 179 - Enforcement orders	word "premises". This is more appropriate, especially in the context of an enforcement order attaching to the land and transferring from the owner of the land to the owner's successors in title.	
Section 179(13) - Enforcement orders	This subsection sets out the actions an enforcement authority may take if an enforcement order has not been complied with. However, in accordance with section 179, any person may seek an enforcement order from the P&E Court. Therefore, it is submitted that this subsection should be revised so it only applies where an enforcement authority applies for the enforcement order or so that it provides options for other persons to enforce an enforcement order.	Review subsection 179(13) so that it only applies where an enforcement authority applies for the enforcement order or so that it provides options for other persons to enforce an enforcement order.
Section 226(3) - Executive officer must ensure corporation complies with Act	Subsection 226(3) is poorly worded and complex. It is submitted that this subsection should be reworded so it is clearer.	Consider rewording subsection 226(3) so it is clearer.
Section 229(4)(a) – Notice of appeal	The service period stated in subsection 229(4)(a) should be extended to 10 business days, consistent with subsection 229(4)(b). Although the appeal may be started by a submitter or a referral agency, any other submitters will need to be given a copy of the notice of appeal. If there are a large number of submitters, it is unreasonable to require this to occur within 2 business days.	Amend subsection 229(4) so that the service period is 10 business days, regardless of who started the appeal.
Section 259 - Existing lawful uses, works and approvals	The wording of section 259, with its repeated use of the phrase "planning instrument change" is confusing and difficult to follow. It is submitted that this subsection should be reworded so it is clearer.	Consider rewording section 259 so that it is clearer, for example by removing the phrase "planning instrument change".
Section 260 - Implied and uncommenced right to use	It is unclear when or how an application will imply that a material change of use is accepted development. This section should be revised so it is clear what is meant by implied accepted development or deleted all together.	Revise section 260 so it is clear when an application will imply a material change of use is accepted development or delete section 260.
Section 263 - Public access to documents	It is submitted that the matters specified in this section as being prescribed in a regulation should be included in the Act and not the regulation as currently provided.	Include the matters specified in section 263 in the Act and not the regulation.
Section 279 - References in Act to particular terms	In relation to the reference in column 1 of this table to the local government for a development application, it is submitted that the column 2 statement should be amended to refer to "the local government" rather than "each local government". This is considered to be more correct in the context.	Amend the column 2 description for the local government for a development application to include the underline text and delete the strikethrough text as follows: "~~each~~the local government for the local government area where the development is proposed."

Reference in the Planning Bill	Comment	Suggested amendments
Section 287(7)(c) - Applications generally	It is submitted that in the context of this section, a submission would be about an infrastructure charges notice, not for an infrastructure charges notice.	Amend section 287(7)(c) include the underline text and delete the strikethrough text as follows: "a submission ~~for~~about an infrastructure charges notice under the old Act, section 641."
Schedule 2, definition of "affected area development application"	This definition refers to an application prescribed by regulation. It is submitted that to assist in the clarity and ease of interpretation of the Act, the applications referred to in this definition should be included in the Act.	Amend the definition of "affected area development application" to remove the reference to the regulation and include the applications excluded from this definition.
Schedule 2, definition of "enforcement authority"	A chosen assessment manager should not be an enforcement authority. Third parties should not be able to take enforcement action on behalf of a local government, as this requires a greater appreciation of the local government's enforcement policies and procedures.	Delete "including a chosen assessment manager" from the definition of enforcement authority in Schedule 2.
Schedule 2, definition of "operational work"	This definition is much narrower than the definition that currently exists in SPA. It does not give a clear indication of the types of development that are considered operational works. For example, it is not clear that vegetation clearing and the erection of an advertising device are operational works. If it intended that vegetation clearing and the erection of advertising devices be considered a different type of development, and not operational works, under the proposed new planning regime, then this needs to be clarified as it is not presently clear what type of development these activities would be.	Amend the definition of "operational works" to clarify the types of activities that will be considered operational works. If vegetation clearing and the erection of advertising devices are not to be considered operational works, amend the Bill to clarify what type of development these activities will be classified as.
Schedule 2, definition of "use"	This definition, particularly its reference to ancillary uses, is too broad. It is recommended that the current definition in SPA be retained.	Replace definition of "use" with the current definition from SPA.

Table 1 – comments on the provisions of the Planning and Development (Planning for Prosperity) Bill 2015 (P&D Bill)

Reference in the P&D Bill	Comment	Suggested actions
Section 3(1) – Purpose of the Act	Prosperity is an ambiguous term, which raises concerns in relation to its use as the whole basis of the planning system in Queensland.	Define "prosperity" or use alternative wording with greater clarity.
Section 9(4) – Minor amendments to State planning instruments	The list of amendments that will be classed as minor is extensive and accords with what would be considered reasonable to occur without public consultation. Therefore, it is not considered necessary to provide for additional matters to be prescribed by regulation.	Delete subsection (c)
Section 16 – Making or amending planning schemes	This section, when read in conjunction with the draft guideline for making and amending local planning instruments released in late 2014 (**MALPI Guideline**), adds delays to the making of 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 and the corresponding provisions in the MALPI Guideline 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.	Delete section 16 and the corresponding sections of the MALPI Guideline. Focus on making the standard or default process for making and amending a planning scheme under the MALPI Guideline as efficient and streamlined as possible. Alternatively, allow for a local government to opt out of the tailored process, and instead utilise the standard/default process.
Section 16(5)(a) – Making or amending planning schemes	The chief executive should not be able to direct a local government in relation to how any submissions about the proposed planning scheme must be dealt with. Councils should be required to consider all submissions received in relation to a draft Planning Scheme and advise submitters on how their submission was dealt with, but should have discretion to deal with the submissions received as they see fit.	Delete "such as how any submissions about he proposed planning scheme must be dealt with".
Section 17 – Amending planning schemes under Minister's rules	The wording of this section is unnecessarily complicated. Section 18 covers a similar matter but it sets out the requirements in a clearer and simpler way.	This section should be reworded so that it is consistent with the wording of section 18.
Section 19(1)(a) – Making or amending TLPIs	It is unclear what "conditions" means in this context.	Reword section 19(1)(a) to clarify the circumstances in which a local government may make a TLPI.
Section 20(2) – Repealing TLPIs or planning scheme policies	TLPIs and planning scheme policies address local planning matters and are not relevant to State interests. Therefore, there should be no need for the Minister to direct a local government to prepare or amend a TLPI or planning scheme policy. If the Minister considers that there is a State interest that should be	Amend section 20(2) and section 21 to clarify that the Minister cannot direct a local government to make a TLPI or a planning scheme policy.

Reference in the P&D Bill	Comment	Suggested actions
Section 21 – Power of Minister to direct action be taken	addressed, a temporary State planning instrument or a State planning policy should be created or amended.	
Section 23(5) – Request to apply superseded planning scheme	The items referred to in subsection (5) should be outlined in section 23. After reviewing the relevant provisions in the draft Planning and Development Regulation 2014 that was released in late 2014 (**Regulation**), the only outcome achieved by moving the items referred to in subsection (5) into the Regulation is an increase in overall complexity arising from the need to refer to multiple documents.	Move the items referred to in subsection (5) from the Regulation into section 23.
Section 24(4)(e) – When this division applies	The wording of this subsection is not supported and does not give local government the ability to address natural hazards in planning schemes without becoming liable to pay compensation. The version of the P&D Bill that was previously released for public consultation had an alternative provision (ea) which was worded clearly and appropriately to address this matter.	Replace (e) with (ea) as drafted in the earlier version of the P&D Bill that was released for public consultation.
Section 31(4) – Making or amending a designation	15 business days is not long enough for submissions to be made, particularly if the proposed infrastructure is significant in scale and potential impact.	Extend the minimum period for accepting submissions to 30 business days.
Section 38 – Categorising instruments	This section introduces two new terms which are considered unnecessary – "categorising instrument" and "local categorising instrument". Rather than taking up 1.5 pages of the P&D Bill explaining what these are, it would be simpler just to refer to each instrument (eg. Regulation, planning scheme or TLPI) as the context of a particular section requires. A variation approval should not be a categorising instrument and does not need to be referenced in this section, as it is an approval which varies the provisions of a planning scheme. This section also introduces two terms which replace existing and well understood terminology – "assessment benchmarks" and "variation approval". The introduction of these terms, replacing the existing and well understood terms (codes and preliminary approval to override a planning scheme), will increase the implementation costs and complexity associated with the proposed new planning regime.	Delete the terms "categorising instrument" and "local categorising instrument" from the P&D Bill and replace with regulation, planning scheme or TLPI depending upon the context. Replace "assessment benchmarks" with "codes" where used in the P&D Bill. Replace "variation approval" with "preliminary approval to override the planning scheme" where used in the P&D Bill.
Section 39(1) and (4) – Categories of development	This section introduces the concept of "accepted development". This is intended to replace "exempt development" and "self-assessable development". The introduction of this term, replacing the existing and well understood terms, will increase the implementation costs and complexity associated with the proposed new planning regime.	Replace "accepted development" where used in the P&D Bill and associated statutory instruments with "exempt development" and "self-assessable development".

Reference in the P&D Bill	Comment	Suggested actions
	It is submitted that it is possible to improve the processes around the existing terms without changing the terms themselves. In addition, merging self-assessment and exempt development will result in development that would have otherwise been classed as self-assessable being elevated to code assessment (standard assessment). This is because the drafting of the P&D Bill and associated statutory instruments appears to limit the ability to include meaningful criteria (by way of acceptable outcomes) to apply to accepted development. This will result in the level of assessment for development increasing, and development applications being required for development that would have been self-assessable. This is contrary to the stated aim of the proposed new planning regime of reducing red tape.	
Section 40(1), (3), (4) – Categories of assessment	This section introduces the terms "standard assessment" and "merit assessment". This is intended to replace "code assessment" and "impact assessment". The introduction of these terms, replacing the existing and well understood terms, will increase the implementation costs and complexity associated with the proposed new planning regime. It is submitted that it is possible to improve the processes around the existing terms without changing the terms themselves.	Replace "standard assessment" where used in the P&D Bill and associated statutory instruments with "code assessment". Replace "merit assessment" where used in the P&D Bill and associated statutory instruments with "impact assessment".
Section 40(3) and (4) – Categories of assessment	The full criteria for assessing standard and merit assessable development applications should be outlined in this section, rather than having some of the criteria in this section, and then the rest in the Regulation. This means that it is necessary to refer to two different statutory instruments to determine all the requirements for standard and merit assessment. Further, it is not possible to comment on the completeness of the requirements for standard and merit assessment while these requirements are excluded from the P&D Bill. The requirements outlined in section 40(4) for merit assessment are not complete, in that they do not require a development to be assessed against the relevant planning scheme. This is a fundamental and basic requirement, which ensures that a development is assessed in accordance with a Council's local planning aspirations and policy framework. Therefore, this requirement should be included in section 40(4).	Amend section 40(3) and 40(4) to include all the requirements for standard and merit assessment, and remove these requirements from the Regulation. Amend section 40(4) so that merit assessable development must be assessed against the relevant planning scheme.
Section 40(4)(b)(iii) - Categories of assessment	The ability for merit assessment to be carried out having regard to "any other relevant matter" is considered not to be appropriate, in that it is too broad and allows for potentially inappropriate factors to be introduced. There may also be costly legal disputes over what is a "relevant matter". To reduce uncertainty and	Amend section 40(4)(b)(iii) so that it states "having regard to any other relevant planning grounds".

Reference in the P&D Bill	Comment	Suggested actions
	costly legal disputes, the relevant matters should be limited to existing, established and well understood planning grounds.	
Section 40(4)(b)(iii) – Categories of assessment	The current relevance of the assessment benchmarks in light of changed circumstances is stated as a relevant matter for the purposes of section 40(4)(iii). The inclusion of this as a relevant matter allows the planning scheme and its contents to be disregarded. If a Council considers that a planning scheme and its contents are not representative of current circumstances, the planning scheme should be amended following the proper process, including public consultation. If the matter is urgent, then a TLPI should be introduced. It should not be possible to just disregard parts of the planning scheme on an ad hoc basis.	If the recommended amendments in the row above are not made, delete "the current relevance of the assessment benchmarks in the light of changed circumstances" where listed as an example of a relevant matter.
Section 41(7)(a) and (c) – Exemption certificate for some assessable development	The use of "started" in these two subsections is too broad. The effect of these subsections should be refined by replacing "started" with "substantially started". There may be disputes over what started means, as an applicant may argue that the fact they have engaged someone to draw up plans, even if the work has not commenced, should be considered having started the development or works. There should be a requirement for the works or development to have actually commenced on the ground, rather than just preparatory works. This can be assured by amending these subsections as recommended.	Replace "started" in sections 41(7)(a) and (c) with "substantially started".
Section 43(5) – Who is the assessment manager	It is unclear what the purpose of section 43(5) is? Does this mean that a local government can be bypassed as assessment manager for particular types of development under its planning scheme? Given the broad ability for the State to nominate the assessment manager for particular types of development in section 43, the inclusion of section 43(5) appears unnecessary.	Delete section 43(5).
Section 44(4) – What is a development approval	The wording of this subsection is not completely correct. It does not accurately reflect the interaction between a preliminary approval and a later development permit.	Consider rewording section 44(4) to use more appropriate language to describe the interaction between a preliminary approval and a later development permit, such as that used in section 243 of the *Sustainable Planning Act 2009* (**SPA**).
Section 46(2)(c) – Making development applications	Rather than requiring reference to the dictionary, the excluded premises should just be listed in this section. This will make the final Act less complicated and easier to navigate.	Detail the relevant excluded premises in section 46(2)(c) and delete the definition of excluded premises from Schedule 2.
Section 51(6) – Referral agency response	This section introduces the concept of "referral agency (advice only)". This is intended to replace "advice agency". The introduction of this term, replacing an existing and well understood term, will increase the implementation costs and complexity associated with the proposed new planning regime. In addition, the	Replace "referral agency (advice only)" with "advice agency".

Reference in the P&D Bill	Comment	Suggested actions
	"wordiness" of the proposed new term detracts from the purpose of the proposed new planning regime to simplify and streamline the development assessment process. Overall, the decision to retain advice agencies is supported, however the decision to change the term for these agencies is not.	
Section 55 – What this division is about	This section introduces a term which replaces an existing and well understood term – "variation request". The introduction of this term, replacing an existing and well understood term (application for preliminary approval to override a planning scheme), will increase the implementation costs and complexity associated with the proposed new planning regime. Also, the removal of this term would reduce the length of section 55.	Replace "variation request" with "application for preliminary approval to override a planning scheme".
Section 60(2)(d)(iv) – Notice of decision	The requirement for each condition about infrastructure to include details of the section under which the condition was imposed is an unnecessary administrative burden on local government. It also adds to the complexity of development approvals.	Delete section 60(2)(d)(iv).
Section 60(3) – Notice of decision	The material that should be included in or accompany a decision notice should be outlined in section 60. After reviewing the relevant provisions in the Regulation, the only outcome achieved by moving the material referred to in subsection (3) into the Regulation is an increase in overall complexity arising from the need to refer to different documents.	Move the material that should be included in or accompany a decision notice from the Regulation into section 60.
Section 63(1)(d) – Prohibited development conditions	It is unclear why a condition requiring an access restriction strip is a prohibited condition.	Delete section 63(1)(d).
Section 63(2) – Prohibited development conditions	A development condition may need to be inconsistent with an earlier development approval that was issued many years prior or is for a completely different type of development. Also, a previous development approval may not have been acted upon, and therefore it is not relevant to the new development approval. Overall, there are circumstances where a development condition should not be inconsistent with a condition of an earlier development approval, but the current wording of section 63(2) is too broad and will have unintended consequences.	Consider rewording section 63(2) so that it does not unduly impact on the imposition of reasonable and relevant conditions on a development.
Section 68(4)(a) – When development approval has effect	To reduce the wordiness and complexity of this subsection, which currently requires reference to two separate definitions in the dictionary in Schedule 2, the definition of "eligible submitter" in Schedule 2 should be amended to include the definition currently included in Schedule 2 for "eligible referral agency".	The definition of "eligible submitter" in Schedule 2 should be amended to include the definition currently included in Schedule 2 for "eligible referral agency".

Reference in the P&D Bill	Comment	Suggested actions
Section 70(1)(a) – Attachment to the premises	Upon review of the definitions for "premises" and "land" in Schedule 2, this subsection should be amended so that the development approval attaches to the land, and not the premises. Based on the definition of "premises" in Schedule 2, it is not logical for an approval to attach to the premises.	Amend section 70(1)(a) so that the development approval attaches to the land.
Section 72 – Making change representations	This section introduces a term which replaces an existing and well understood term – "change representations". The introduction of this term, replacing the existing and well understood term (request for a negotiated decision notice), will increase implementation costs and the complexity associated with the proposed new planning regime. Further, the current terminology used in SPA is clear in that it is descriptive of what is occurring. The new term is unclear in that "change representations" gives no clear indication of what is taking place.	Replace "change representations" with "request for a negotiated decision notice".
Section 75 – Making change application	This section introduces another new term – "change application". This section and the other associated sections in Subdivision 2, Division 2 in Part 6 of the P&D Bill will operate without the creation of this new term to describe an application to change a development approval.	Remove references to "change application" from section 75 and other relevant sections in the P&D Bill.
Section 76(2)(a) – Requirements for change applications	Rather than requiring reference to the dictionary, the excluded premises should just be listed in this section. This will make the final Act less complicated and easier to navigate.	Outline the relevant excluded premises in section 76(2)(a).
Section 77 – Notifying affected entities of minor change application	In accordance with this section, a person who wants to change a development approval needs to notify affected entities, but then if they do not receive a "prerequest response notice", they have to forward the application to the affected entity in any event. Therefore, section 77 introduces an additional process and step for anyone who wants to apply to change a development approval. Council understands that the purpose of this requirement is to allow for the resolution of matters outside the formal application process, however the outcome of including this new section is to introduce an additional formal process and step where there wasn't one previously. Further, the "wordiness" of newly introduced terms such as "pre-request response notice" detracts from the aims of the P&D Bill to simplify and streamline the development assessment process. Overall, it is submitted that a person who wishes to amend a development approval should just forward the application to an affected entity as soon as practicable after giving the application to the responsible entity.	Delete section 77.

Reference in the P&D Bill	Comment	Suggested actions
Section 78(3) – Assessing and deciding application for minor changes	Should "person" as used in this section be "responsible entity"? The interchangeable use of terms (in particular where they are all new) makes this section difficult to interpret.	Replace "person" with terminology appropriate to deliver the outcome sought by section 78(3) and consistent with the terminology used elsewhere in section 78.
Section 78(3)(a) – Assessing and deciding application for minor changes	The application should not be assessed against the matters that applied when the development application was made. Especially where the approval was issued some years ago, current circumstances and planning policy should be applied.	Reword section 78(3) so that current circumstances and planning policy is of greater importance than the framework that existed when the approval was granted.
Section 78(7)(a) – Assessing and deciding application for minor changes	This subsection is confusing and difficult to interpret. It should be reworded so that it is clearer. The removal of some of the new terms which could instead be replaced with a description of the thing/action would assist.	Reword section 78(7)(a) so it is clearer and less complex.
Section 79 – Assessing and deciding application for other changes	If the proposed change is not "minor", then the proposed development becomes significantly different and a new application should be required. This section requires the application to be dealt with utilising processes and requirements that apply to a new application in any event, so it would be much simpler and less complex just to require a new application to be made if the change to the development approval is not a minor change.	Delete section 79.
Section 83(4)(a) – Extension applications	Rather than requiring reference to the dictionary, the excluded premises should just be listed in this section. This will make the final Act less complicated and easier to navigate.	Outline the relevant excluded premises in section 83(4)(a).
Section 83(4)(c) – Extension applications	If a property owner's interests are materially affected, their consent to an application should be required.	Amend section 83(4)(c) so that subsection (3)(b)(ii) applies unless the assessment manager is satisfied that the owner's interests are not materially affected.
Section 83(4)(c) – Extension applications	The powers outlined in this section are very broad and have the potential to impact on local government's autonomy for planning decisions. The nature and extent of these powers should be reconsidered and should be redefined so they are appropriate for dealing only with matters of State interest.	Reconsider the wording of section 92 so that the powers outlined are appropriate for dealing only with matters of State interest.
Section 100(3)(a) – Deciding called in application	The ability for the Minister to consider anything the Minister considers relevant allows for the consideration of matters that are not of State interest. The Minister should only step in where a matter of State interest is affected. Therefore, the matters that the Minister can consider should be limited to those matters affecting a State interest.	Reword subsection 100(3)(a) so that the matters the Minister can consider are limited to those matters affecting a State interest.
Section 107(3) – Regulation prescribing charges	The effect of subsection (3) is that a legislative amendment will be required to increase the maximum adopted change above the Producer Price Index for	Move the contents of this subsection to the Regulation. Amend "PPI index" where used in the P&D Bill so that it is

Reference in the P&D Bill	Comment	Suggested actions
	construction. There should be the flexibility to do this without an amendment to the Act, and therefore this provision should be moved to the Regulation. It is also noted that there is a typing error in this subsection and in the definition for "PPI index" in Schedule 2. As currently written, this reads as the Producer Price Index index.	just "PPI" or "Producer Price Index".
Section 114(12)(c) – When charge may be levied and recovered	Upon review of the definitions for "premises" and "land" in Schedule 2, this subsection should be amended so that the levied charge attaches to the land, and not the premises. Based on the definition of "premises" in Schedule 2, it is not logical for the charge to attach to the premises.	Amend section 114(12)(c) so that the levied charge attaches to the land.
Section 115(2)(b) – Limitation of levied charge	The effect of this subsection is that a lawful use that occurred many years ago will need to be taken into account in determining the demand generated by a development. There is no limitation on when this use could have occurred, or if the use has since ceased and other uses have since been made of the premises. This means that the demand generated by a development will need to be discounted by a historic land use with no relevance to the current development or infrastructure that is provided to the premises	Delete subsection 115(2)(b).
Section 115(2)(c) – Limitation of levied charge	The effect of this subsection is to potentially exclude self-assessable (or accepted) development from the requirement to pay levied charges. The result of including this subsection will be the elevation of the level of assessment for development that would otherwise be self-assessable (or accepted), so that levied charges can be collected for the development.	Reword subsection 115(2)(c) so that it is clear that development that is self-assessable (or accepted) development can be subject to levied charges.
Section 115(3)(b) – Limitation of levied charge	This subsection is confusing and difficult to interpret. It should be reworded so that it is clearer. The removal of the new term (ie. infrastructure requirement), which could instead be replaced with a description of the thing/action, would assist.	Reword section 115(3)(b) so it is clearer and less complex.
Section 116(2) – Requirements for infrastructure charges notice	The requirement for an infrastructure charges notice to include or be accompanied by an information notice is an unnecessary administrative burden on local government. It also adds to the complexity of an infrastructure charges notice.	Delete section 116(2).
Section 128(2) – Content of additional payment condition	The timing for payment specified in this subsection is not appropriate. A Council will only require the payment if the infrastructure is necessary to service the development. Requiring payment just before the development is to commence does not give a Council time to construct or upgrade the required infrastructure. Ultimately, Council should specify when payment is required, as it will know	Reword section 128(2) so that the timing for payment is as specified by the local government.

Reference in the P&D Bill	Comment	Suggested actions
	when the infrastructure will be required and how long it will take to construct or modify.	
Section 139(5) – Effect of and action after conversion	This subsection refers to a table 1 in schedule 1. There is no schedule 1 in the P&D Bill.	Amend this subsection so it refers to the correct part of the P&D Bill.
Chapter 4, Part 4 – Infrastructure agreements	An infrastructure agreement is a private agreement between an applicant and a government entity. The State should not be seeking to regulate these, particularly where the agreement is between a local government and an applicant. In addition, the regulatory regime applied to infrastructure agreements in the P&D Bill is complex. Given that it is unnecessary, the relevant provisions should be removed.	Delete sections 147 to 149 and section 63(1)(b) of the P&D Bill.
Section 152(1)(b), (3), (4) and (5) – When infrastructure agreement binds successors in title	Upon review of the definitions for "premises" and "land" in Schedule 2, these subsections should be amended so that the infrastructure agreement attaches to the land, and not the premises. Based on the definition of "premises" in Schedule 2, it is not logical for an infrastructure agreement to attach to the premises.	Amend subsections 152(1)(b), (3), (4) and (5) so that the infrastructure agreement attaches to the land.
Section 153 – Exercise of discretion unaffected by infrastructure agreement	The inclusion of section 153 is supported.	Not applicable.
Section 156(1) – Sale of particular local government land held on trust	Why must a local government only take land for public parks infrastructure or local facilities in fee simple on trust? Why can't the land become reserve land, with Council as trustee?	Replace "must" with "may" in subsection 156(1).
Section 166(2)(a) – Consulting private certifier about enforcement notice	What if the private certifier is no longer in business and cannot be contacted? In accordance with the current wording of section 166(2), an enforcement notice could not be issued in this circumstance.	Amend subsection 166(2) so that the enforcement notice can be issued if the enforcement authority has made reasonable efforts to contact the private certifier.
Section 184(5)(a) – Appeals to tribunal or P&E Court	The service period stated in section 184(5)(a) should be extended to 10 business days, consistent with subsection 184(5)(b). Although the appeal may be started by a submitter or a referral agency, any other submitters will need to be given a copy of the notice of appeal. If there are a large number of submitters, it is unreasonable to require this to occur within 2 business days.	Amend subsection 184(5) so that the service period is 10 business days, regardless of who started the appeal.
Section 217 – Rules to ensure appropriate public access	It adds to the complexity of the proposed new planning regime to have to check between different legislative instruments to determine the requirements for a certain matter, therefore the access rules should be outlined with the other requirements for public access to information in Part 3 of Chapter 7 of the P&D	Include the material that will form the access rules in Part 3 of Chapter 7 of the P&D Bill.

Reference in the P&D Bill	Comment	Suggested actions
Section 218 – Access rules for certain documents Section 219 – Public access rights	Bill.	
Schedule 2, definition of "enforcement authority"	A chosen assessment manager should not be an enforcement authority. Third parties should not be able to take enforcement action on behalf of a local government, as this requires a greater appreciation of the local government's enforcement policies and procedures.	Delete "including a chosen assessment manager" from the definition of enforcement authority in Schedule 2.