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Research Director
Infrastructure, Planning and Natural Resources Committee
ipnrc@parliament.qld.gov.au.

Dear Sir/Madam

RE: SUBMISSION ON PLANNING BILL

Council maintains its position that new planning legislation is not required and that the planning system in Queensland could be improved by minor amendments to the *Sustainable Planning Act 2009* (SPA) rather than new legislation that introduces new concepts and processes.

Council reiterates the strongly stated drafting principle that change should only be contemplated where there is either:

- A clearly identified and well established flaw in the current legislation; or
- Someone can clearly demonstrate a change will deliver a marked and measureable improvement.

That does not appear to be the case with the Planning Bill, with much of the change appearing to be change for changes sake.

Improvements

The following are considered to be improvements to SPA:

The limitation of liability provisions are a welcome addition.

Increasing the currency period for material change of use approvals to six years and reconfiguration of lots to four years.

Concerns

The definition of operational works should retain its connection to the list of activities defined to be operational work. The proposed definition is too broad and ambiguous and is likely to cause more confusion about what is operational works.

The strategic framework and strategic outcomes outlined within local government planning instruments need to be better articulated and linked to the Planning Bill (particularly within the section referencing advancing the purpose of the Act). The Act provides some outcomes

for advancing its purpose, however should reference growth management as this is a forward planning fundamental. In addition, terms such as overriding community need and the like are missing and need to be included as justification if there is a conflict with a requirement within the strategic framework as outlined in a local planning scheme. The Bill states that a local planning instrument must contain strategic outcomes, however nothing in relation to supporting these outcomes within the Bill itself. The question is raised in relation to the purpose of strategic frameworks and strategic outcomes, and how they are addressed when there is a conflict.

The current provisions in SPA dealing with compensation are appropriate.

The provisions in relation to a chosen assessment manager under section 46 of the Bill should be deleted. The only requirement for being on the list of people able to be an assessment manager is to be "suitably qualified". Neither the provisions of the Bill nor the draft Regulation deal with issues of liability (and insurance) for an incorrect decision having been made or specify what is to happen if the chosen assessment manager is no longer able to act. The assessment manager role should only be made available to local governments or the State as prescribed assessment managers.

Section 47(4) is likely to cause issues if a preliminary approval can override a later approval to the extent of any inconsistency. It is likely to lead to more applications to amend where this could be avoided if the later approval overrides the preliminary approval to the extent of any inconsistencies.

The Bill has taken away the local government's right to unilaterally extend the decision making period by 20 business days. This provision needs to be reinstated otherwise it leads to unfair outcomes for local governments. An application may need to be decided at a Council meeting or Committee meeting and the decision making period expires before the date of that meeting, if the applicant does not agree to extend the decision making period then the local government runs the real risk of facing a deemed approval situation for code assessable applications. This could be further exacerbated if the applicant has not provided all of the information needed to decide the application and it has opted out of the information request provisions. The applicant has the ability to stop the clock so local government should retain its right to extend the decision making period for 20 business days without having to obtain the consent of the applicant.

The terminology for code assessment and impact assessment should be retained as these are concepts that lay people have come to understand. Introducing terms like standard and merit assessment will likely cause confusion.

Council opposes the ability of the State to give private development an infrastructure designation.

Council opposes the suggestion that refunds should be paid on the Local Government Infrastructure Plan Schedule of Works date. It will corrupt the preparation of the Schedule of Works and could lead to extremely unfair outcomes for all parties.

Development assessment rules

The provisions enabling an applicant to opt out of an information request should be deleted. The way in which the Bill has been written has the potential to see Councils placed in a position where they are having to decide applications with limited information, which if applying the precautionary principle will most likely lead to more refusals.

The stop the clock provisions should be limited to one period of up to six months. Allowing multiple stoppages places an extra burden on local governments by having to keep track of how long the applicant has stopped the clock for.

Yours sincerely,

Tarnya Fitzgibbon
MANAGER DEVELOPMENT AND BUILDING