



**January 2016**

**SEQ CATCHMENTS LTD.**

Submission on: *Planning Bill 2015*

Report by SEQ Catchments Chief Executive Officer, Simon Warner

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

Dear Sir

SEQ Catchments Limited thanks the Committee for the opportunity to offer our views on the Planning Bill 2015 (the Bill). SEQ Catchments is the regional Natural Resource Management body for SEQ. We are a community based organisation, which works with landholders, the community, the corporate sector and all levels of Government to ensure the long term sustainability of our natural assets.

We believe the planning system is very important to the management of our natural assets especially to get the balance right between appropriate exploitation of the assets as a key part of our economy and wellbeing and their maintenance for future generations. The planning system should facilitate the highest expression of the community's wishes for Queensland in general and regional and local communities in particular. As such, the planning system should be perceived by the community as an expression of their aspirations and not as it appears at present to be favouring the interests of a few.

#### **OVERALL COMMENTS**

We note and support the policy objectives outlined in the Explanatory Notes and purpose as stated in Section 3 of the Bill; however, believe the Bill's implementation provisions fall short of these objectives and the purpose. We also note the Bill remains primarily concerned with the development assessment system and processes and is designed to favour assessment approval. It does not take advantage of the many advances in planning across the world including collaborative governance models and spatial technology innovations.

As a result, we are of the view that the Bill does not represent best practice in planning and misses an opportunity for planning reform. Simplifying a complex act (*Sustainable Planning Act 2009*) by moving the details out of the Act into the regulations and guidelines and other planning instruments, is not changing the complexity, it is merely taking much of the complex system away from Parliamentary scrutiny and placing it in subordinate instruments.

The planning system as it stands (and largely remains with the new Bill) is complex and only understood by specialist statutory planners and those well experienced in development assessment already. The majority of people will continue to find the system too complex and complicated resulting in the non-achievement of the first, second and third objectives of the Bill. Planning will become less contentious when the community on the whole understand what is happening and are able to contribute to the outcomes. Even the responsible Executive Director for the reform process was heard in a number of forums stating that the Bill needed to be interpreted by statutory planners and that he did not expect the average person to understand its complexity. This surely is not where we want planning to reside.

In October 2015, SEQ Catchments submitted its thoughts to the Department on the consultation draft of the bill (attached) and many of the issues raised in that submission remain current. We note the Bill has addressed some of the comments



and clarified the overall planning framework around the purpose which adds clarity. Little else has changed between the consultation draft bill and the Bill.

SEQ Catchments applauds the efforts made by the government to consult with the community on planning reforms and has noted the Consultation Report released in November 2015. We also note the objectives of this consultation according to the report is to inform and assist understanding (Page 2) rather than open the nature and intent of the Bill to debate. Given the timeframes and other issues surrounding the Bill, we appreciate the difficulty in undertaking meaningful debate on the Bill.

As a result, we understand the contents of the Bill were not open for major change and that its contents are largely set by its authors. Our comments are therefore offered knowing the planning system has not changed in reality. We are concerned that the changes provide more discretions and more emphasis on facilitating development than under previous planning acts.

### **ECONOMIC REALITY**

Our economy has and continues to rely in the main on export income generated through agricultural production, interstate and overseas tourism, resource exploitation, and arguably education services. It is this income that is used to create secondary economic activity associated with land development, infrastructure provision and the health and aging contribution to our GDP. The importance of the planning system properly facilitating and accounting for agricultural production, tourism, resource exploitation cannot be understated, and yet, in the current approach to land use planning, it receives little emphasis.

For example, in coastal areas which enjoy favourable conditions for agricultural production, little emphasis is given to agricultural production in comparison to land developed for housing. Tourism continues to be a growth industry and brings new income into our economy with record numbers of tourists from China and other emerging economies. In South East Queensland for example, the majority of tourists come to enjoy our beaches, our mountains and rivers and our landscapes. They do not come here to see housing estates. Yet, the planning system continues to facilitate the decline in these natural features that tourists wish to see as well as the loss of agricultural lands.

We are concerned that the planning system under the Bill as proposed will continue this trend resulting in the continuing erosion of our natural assets which underpin our export (and therefore our overall) economy and way of life. We argue that a substantial proportion of our economy is built on our natural assets and that these need to be protected through the planning system as a matter of economic necessity and public interest.

### **PLANNING APPROACH**

The Bill adopts a conventional land use planning approach where land use is regulated through designation of areas for development and protection and managed through the application of performance criteria which is code or impact assessable or self assessable in some cases. The performance criteria are determined from State, regional and local scale policies and interests.

This approach keeps the focus of the planning system on the process rather than the community expectations or outcomes. These outcomes and expectations relate



directly to the creation of certainty for proponents and community. We would argue that this certainty lies around:

- negotiating a clear visions for an area
- minimising land use conflicts
- having adequate and well scheduled infrastructure
- clear links between economic outcomes and the planning which facilitates it for both efficiency and effectiveness
- understandable processes and clear accountabilities and meaningful and constructive involvement, and
- clear and unambiguous protection of areas for environmental and agricultural outcomes (ecosystem services) and social outcomes (greenspace, community safety etc), as well as for development and growth.

We suggest that these matters can be spatially related thanks to GIS, satellite systems, remotely sensed technologies and increased information resources and computing power,

### **A Regional Approach**

Given the Bill and underlying philosophy is not likely to be significantly altered through this process, we believe that community expectations and outcomes need to be dealt with through the regional planning provisions.

We strongly urge the Committee to consider giving the regional planning provisions greater emphasis and higher standing through the Bill. Experience demonstrates that many outcomes desired from a best practice planning system go beyond local government boundaries, local plans or single interests.

### **SPATIAL TECHNOLOGY AND KNOWLEDGE**

Queensland has more than enough spatially related knowledge to plan and organise our landscapes and optimise economic outcomes. This knowledge can readily be organised to facilitate state interests down to the local and property scale. This would ensure measurable and defensible certainty for the community and may remove land speculation in inappropriate areas given unmanaged speculation occurs at the medium and long term expense of our economy and our natural assets.

The Bill proposes categories of development assessment which would facilitate the organisation of landscapes if used intelligently. The categories, while not changed in a material sense from the previous categories, need to be used to implement State interests at the detailed level and be evidenced based and backed by real compliance. Compliance has not been evident to the degree necessary to be certain that the planning system is achieving its objectives and outcomes. For example, a recent Healthy Waterways audit of building site water quality guidelines compliance, reported 5% compliance. That is 95% of sites were not complying with the accepted standard for water quality in South East Queensland.

We are convinced that we know enough now to plan properly to fit the extra 2.5 million people projected into the region in South East Queensland without substantial impact on the natural assets which underpin our economy. The costs in putting this into place would be minimal in comparison to dealing with the suboptimal outcomes which continue to come out of the current inefficient and adversarial planning system.



There are many collaborative governance models and approaches in Australia and overseas where the potential land use conflicts associated with knowledge and evidence driven planning are resolved in favour of the community aspirations. We would be happy to supply references and case studies to back this statement.

## **A WAY FORWARD**

We understand the opportunity for planning reform we have urged for above is limited in the current circumstances. However we urge the government to consider using the **regional planning provisions** to meet community expectations and take advantage of advances in planning models, knowledge and technology.

There is more than enough knowledge about Queensland's landscapes and natural assets, transport activities and movements, emergency response requirements, climate adaption parameters and so on, to develop regional plans and resultant planning schemes which balance community needs with political intention.

A well-constructed regional planning process can provide a stepping stone toward a more practical outcome for all involved provided the process has legislative power. 2016 makes the 25<sup>th</sup> year of attempts at collaborative regional planning and there are extensive lessons to be learned from this period of planning history.

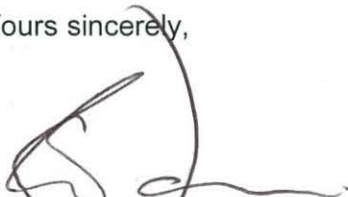
## **CONCLUSION**

Since Europeans first stepped onto Australian shores, we have relied on our natural assets for our economic and social well-being. This continues today and will continue for the foreseeable future. We need an innovative planning system to ensure these natural assets continue to support our economic wellbeing and way of life. We have access to enough information systems and data to ensure this now; however, the adversarial model for planning does not facilitate an optimal approach. We believe there is an opportunity to use the regional planning provisions to achieve the desired outcomes at the regional and local scale over the next few years.

SEQ Catchments would be happy to work with State and local governments to ensure we optimise the mix of development, utilisation and protection of our natural assets to the benefit of our State by using the regional planning provision of the Bill.

Thank you for the opportunity to contribute to the Committee process and we congratulate the government on its desire to inform the community on its planning aspirations. Should you have any questions or wish to follow up on our offer to provide case examples, please let me know.

Yours sincerely,



**Simon Warner**  
**Chief Executive Officer**

**ATTACHMENT  
TO  
SUBMISSION NO. 086**



**October 2015**

**SEQ CATCHMENTS LTD.**

**Submission on: *Queensland Planning***

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## Introduction

This submission outlines SEQ Catchments' position on the Queensland Planning Bill 2015 (the Bill) particularly as it relates to South East Queensland's natural assets and the South East Queensland Natural Resource Management Plan. SEQ Catchments is recognised as the Regional Natural Resource Management Body for South East Queensland by both the Queensland and Australian Governments.

We are a community-based, not-for-profit organisation helping to build a prosperous and sustainable community that cares for and values the natural assets of South East Queensland. The importance of these assets to a region's economy and social stability is well documented and increasingly understood<sup>1</sup>.

We applaud the Government's focus on sustainable economic prosperity. The main drivers of Queensland's economy now and into the future is food and fibre production, tourism and resource extraction. While there is a desire to move to other sectors for future economic output, experience over the past 20 years along with projections into the next 20 years continue to point toward these three sectors continuing to be the mainstay of our economy.

While population growth and the resultant construction and infrastructure sectors are important to our economy, these sectors must either rely on borrowed money, external investment, or internal consumer spending; all of which require the economy to continue to receive export income from the three main sectors to underpin the growth and meet the interest bills and investment and spending needs.

Given the economic realities and the Government's intention to fit 5.5 million people into SEQ within the planning horizon, SEQ Catchments believes the planning system is absolutely critical to the success of Queensland. If designed and used well, the planning systems can accommodate its desired growth while ensuring food and fibre production, tourism in all its forms, and resource extraction are optimised.

Crucially, all these economic pursuits are completely dependent on the condition, extent and trends associated with our natural assets. Sadly, in South East Queensland, we continue to measure a declining trend on the nature and extent of our natural assets which continues to be facilitated by the current approach to development through the planning system; although it is heartening that this trend is slowing.

SEQ catchments strongly believes we now know enough scientifically, spatially, environmentally and socially to set up a region such as SEQ to deliver the anticipated growth while ensuring the condition, extent and trend of our natural assets and their resultant economic services (let alone the other ecosystem services provided to health, wellbeing and environment) is managed. We

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<sup>1</sup> Marsden Jacob and Associates (April 2010), Managing what matters: The cost of environmental decline in South East Queensland, Brisbane



suggest the most current expression of this knowledge lies in the recently updated SEQ NRM Plan (July 2015) and associated SEQ Atlas of Natural Assets.

### **Policy intent and overall comments**

Overall, the Queensland Planning Bill 2015 seems to focus on development approval. The planning system itself receives very little attention in the Bill. SEQ Catchments is of the view that the planning system does not belong to a particular sector or to any particular level of government. The Bill should embody the community's aspirations and should be designed to facilitate the community's vision and desires for their lands and their State. The objects may imply this aim; however, the rest of the Act does little to facilitate it. The assumption seems to be that the local planning instruments will deal with these matters without any need to look across local borders or administrative boundaries.

The importance of environmental and social outcomes which need to be sought through the Bill cannot be understated. Its implementation will be the litmus test for this balance and developers, landholders, environmentalists and community groups and others will judge it accordingly. It is currently silent on environmental and social matters apart from the proposal in the yellow boxes in Section 3.

The Bill provides some legislative opportunities to incorporate natural asset planning through the following provisions:

- Section 3.1(a) & 3.4, 3.6 (a) ii, iii, and iv, (c), (e), (f) & (g) provides potential heads of power for the key targets set out in the South East Queensland Natural Resource Management Plan.
- Section 3.3(b) & (c), Sec. 7.2(b) Section 13 provides potential heads of power for regional planning which can incorporate a NRM Plan.
- Section 15 contains the potential heads of power for local planning instruments to incorporate outcomes of the SEQ NRM Plan and Section 16 gives a potential head of power to make rules which incorporate NRM Plan outcomes.

We could comment on the detailed provisions in the Bill and outline its many deficiencies, we will instead focus on some of the positive aspects; some of the matters which should be considered in order to have a planning system for our future economic prosperity and wellbeing; as well as some suggestions for the Government to consider to ensure Queensland does move toward better practice planning over time.

#### **THE GOOD:**

- The purpose, and its achievement and suggestions for advancing the Act's purpose in the boxes are positive and supported (Section 3.6 (a-g))
- The planning system elements which are created (continued) by the Bill are supported

- The planning instruments (continued) created by the Bill are supported
- Splitting the old Sustainable Planning Act into the component parts and their associated major processes makes sense
- The desire to simplify the implementation and processes is very much supported and the efficiency aims are positive

#### THE NOT SO GOOD:

- The Bill devotes very little to establishing the planning system and elements, and concentrates on the development approval system
- The Bill contains little to no guidance on processes and detail to achieve the purposes of the act.
- The Bill makes it clear that the default for every parcel of land in Queensland under the development approval system is “development will be approved unless.....” which relies on the competence of the individual decision-makers in SARA and in local governments
- The Bill contains exemptions and discretions throughout the development approvals system which indicates any and all elements in the planning system are discretionary, leading to uncertainty and increased chances of partisan decision-making
- The Bill in effect, seems to facilitate applicants to get an approval to ensure the application does not need to be assessed (by pushing to receive the “Accepted Development” category)
- The Act has been substantially shortened, mainly because the bulk of the framework has been moved to the regulations or other instruments and rules. It is concerning that much of the crucial components of the planning system will remain at Cabinet level or lower rather than at Parliament level. This may erode community trust in the planning system
- The success of the development approvals system along with all the discretions and exceptions contained in the Bill depends on the competence (and motives) of the SARA unit and local government decision-makers
- Putting compensation provisions favouring one sector over another into a planning statute provides a very dangerous and completely unwarranted precedent. Common law provides remedies and suitable processes. Creating compensation for one sector over all others is very concerning.

#### SUGGESTIONS:

- Remove the many exemption clauses to get some certainty and transparency – the planning system elements should contain all that is needed to sort out special circumstances if needed. Also, the State has many other legislative instruments to cut holes in the planning system when and where it is needed
- Bolster the elements, importance and detail to clearly establish the role of regional planning within the planning system
- Give SARA a process (and technical) backup through allowing advice/referral agency involvement early in application process. Experience of SARA decision-making in the past two years indicates uneven decision-making according to some of the advice agencies



- Make the application of the “Prohibited” category clear in the Act and be ruthless in policing it. If the planning system is to continue to default to approval of development unless it is assessed, then ensuring the natural assets are managed and organised for economic, social and environmental outcomes is the first and foremost objective of the planning system (as opposed to a development approval system).
- Make the hierarchy of instruments clear within the planning system
- Get rid of the compensation provisions – a planning statute should be about community needs and aspirations and not be fettered with common law provisions which favour one sector of the community in statute.

## Conclusion

As we have said, we believe this Bill does not represent best practice planning and is really a Bill designed to make development approvals happen quickly and efficiently – a worthy aim as long as the rest of the planning system is properly established. While it has too many shortcomings to list without writing a tome, SEQ Catchments also appreciates the circumstances surrounding the development, and approval path for this Bill in the current Parliament. We have therefore focussed on a high level commentary and have suggested some elements which we believe must be addressed to receive any backing from our community overall.

We believe most of the shortcomings of the Bill can be rectified using a well-constructed regional planning framework and process as long as the Bill makes strong provisions for this level of planning. We emphasise that the *Regional Planning Interests Act 2014* does not and will not deliver strong regional planning and experience from many sectors involved in the use of this Act can offer many examples which demonstrate the inadequacies of this Act.

We do know enough to deliver growth and still have jobs and a strong economy while ensuring the State’s natural assets remain in good condition for future generations. The real challenge for the State Government and the planning system is dealing with inappropriate land speculation and the associated issues and processes created by this relatively small section of the development community.

SEQ Catchments thanks the Government for the opportunity to provide comment on the Bill and looks forward to assisting the State Government with its implementation at the regional and practical level should the opportunity arise.

Yours sincerely

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A/Chief Executive Officer.