



18 January 2016

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 – Parliamentary committee inquiry into the Planning Bills and
Planning for Development (Planning for Prosperity) Bills**

Thank you for the opportunity to provide a submission to the inquiry into the six Planning Bills.

Council supports the Government's intent to undertake reform to deliver a better planning system that enables responsible development and delivers prosperity, sustainability and liveability for now and into the future.

Notwithstanding the above, it remains Council's position that 'wholesale' reform is not needed to deliver a better planning system and that the same results could have been achieved through amendments to parts of the *Sustainable Planning Act 2009* (SPA). Introducing new planning legislation in Queensland is a significant change and will cause disruption; this disruption is only justified if it results in positive changes and outcomes.

In Council's opinion there has been an improved understanding of planning within the past decade in regards to planning terminology and processes. This understanding stems from consistency in terminology and it is unfortunate that the changes proposed within the draft Bill are a departure from this basis of understanding. The use of new terminology such as Accepted development, Change representations and Variation approvals will not assist to maintain the understanding of planning by the broader community. This planning reform provides a real opportunity to make meaningful changes to the planning system to improve efficiencies, without losing the broader understanding of planning by parties involved.

Council has reviewed the *Planning Bill 2015*, the *Planning and Environment Court Bill 2015*, the *Planning (Consequential) and Other Legislation Amendment Bill 2015*, the *Planning and Development (Planning for Prosperity) Bill 2015*, the *Planning and Development (Planning Court) Bill 2015*, the *Planning and Development (Planning for Prosperity – Consequential Amendments) and Other Legislation Amendment Bill 2015*. Council considers the Planning Bill 2015 and accompanying bills to the culmination of the evolving and ongoing reform to the planning system, as such a detailed submission on the *Planning Bill 2015* is attached.

Cairns Regional Council is significantly advanced in the preparation of its new draft Cairns Region Planning Scheme and is close to adoption. This scheme has been prepared under the provisions of the *Sustainable Planning Act*. This draft Scheme has been prepared from a risk tolerant approach which has sought to make as much development as possible self-assessable. This Legislative reform should under no circumstances delay Local Government draft planning schemes that are with the State Government for Ministerial approval. These Schemes have undergone extensive public consultation and provide a benefit to the local community which far exceeds the legislative reform proposed.

Following the outcomes of this review and the implementation of any planning reform, Council requests that a period of regulatory stability ensues. It takes time to develop a planning scheme, progress it to implementation, for it to be utilised in development assessment, and then for developments to be realised on the ground. There are not many SPA planning schemes currently in effect, which means that there has not been sufficient time to realise the outcomes of the current planning scheme requirements. There needs to be a period of regulatory stability in order to allow for a comprehensive evaluation of the process and effect of legislative reform before commencing further reform.

Should you have any further enquiries or require additional information, please contact Lauren Stiles from Council's Strategic Planning team on the above phone number.

Yours sincerely



Kelly Reaston
General Manager, Planning & Environment

Attached – Detailed Submission

Attachment 1 – Detailed Submission

General comments:

Council is appreciative of the opportunity to review and provide comment on the draft Planning Bill 2015 and supporting instruments. Council supports the Government's intent to undertake reform to deliver a better planning system that enables responsible development and delivers prosperity, sustainability and liveability for now and into the future.

Notwithstanding the above, it remains Council's position that 'wholesale' reform is not needed to deliver a better planning system and that the same results could have been achieved through amendments to parts of the *Sustainable Planning Act 2009* (SPA). Introducing new planning legislation in Queensland is a significant change and will cause disruption; this disruption is only justified if it results in positive changes and outcomes.

It is noted that all elements of the proposed reform have not been available for review, for example the rules mentioned within Chapter 2, Part 4. This has to a degree limited Council's ability to provide comprehensive comments. The ability to review and make comment on the missing elements would be greatly appreciated.

It appears as though there has been a deliberate decision in drafting the Bill and supporting instruments to reduce the length of the Bill, and to create a new suite of terminology that departs from that within the existing SPA. The reduction in the size of the Bill has resulted in core and aligned information and processes being split and located across multiple documents. The splitting of information and process does not appear to have been consistently applied, in some circumstances process is contained within the Bill and in others it is contained within a supporting instrument. Practically this results in significant referring back and forth between multiple documents to deal with one process, for example planning scheme making and development assessment. Council would support a larger document which contained all core and aligned information and processes within a single document and considers that this will reduce the complexity and improve the useability of the document for all users, in particular the community.

In regards to terminology changes, it is noted that the majority of terms within the SPA have been changed within the draft Bill, although most of the meanings and processes they relate to remain unchanged. There has been no substantiation or rationale provided that demonstrates a

benefit to any or all users of the document in making wholesale changes to the terminology. Furthermore, the drafting of the Bill has resulted in notably different drafting styles, with inconsistent use of defined terms and language.

Specifically, it requested that the levels of assessment provided for under the SPA are retained. There is a significant amount of community and industry understanding around the current levels of assessment for development and this should be built upon. This includes the retention of self-assessment. Self-assessment is a very certain and risk tolerant approach to development, it is unclear as to why this has been removed. It is also important to note that accepted development, without criteria and appropriate enforcement provisions, will not be readily utilised by local governments and an unforeseen consequence of removing self-assessment may be increased assessable development.

The introduction of exemption certificates for some forms of assessable development is considered to be a positive addition to the planning system. Council does request some minor changes to this section to improve the flexibility and workability of these provisions.

Council also supports steps to simplify the currency provisions, specifically the removal of roll forward provisions. Again Council requests some changes to this section to improve the flexibility and workability of these provisions.

The introduction of a chosen assessment is a positive step. However, it should be wholly at a local government's discretion. Furthermore, their jurisdiction should be limited to the initial assessment and any subsequent request for a negotiated decision notice. All other steps, particularly those relating to extensions and enforcement should be administered by the local government.

Council considers the removal of de-coupling of public notification from a specified level of assessment and appeal rights as a missed opportunity for real improvement. De-coupled notification could allow for increased opportunities for public comment, the ability to assess development against an unbounded set of criteria whilst not triggering appeal rights. This was seen as a positive change which would enable greater flexibility within the planning system.

Council does not support the removal of the requirement to establish sufficient grounds when approving a development conflicting with a planning instrument. This requirement ensures there is transparency and consistency in decision making where a proposal significantly departs from the planning policy position of Council and that of the State is approved.

Council does not support the introduction of *other changes* that are not minor changes to a development approval. The process contained within the draft Bill appears to be the process that would be required for a new development application, except there are some loopholes that would facilitate inappropriate changes to development approvals and reduce community appeal rights. Council's opinion is that a change to a development approval is either minor or it requires the lodgement of a new application and requests these provision be deleted.

Council does not support significantly broadened powers of the Minister which will have adverse impacts on operations of local government. Furthermore, the containing of core information and processes within supporting instruments, for example guidelines or rules prepared by the Minister, allows for swift and potentially unconsulted amendments to the day to day operational processes of Council. Council sees this as an unreasonable burden on the administrative functions of local government which does not allow for suitable consultation and a reasonable timeframe for implementation.

Council supports the reinstatement of designation processes for local government infrastructure and seeks amendments required to these sections and supporting instruments to ensure that only public infrastructure is afforded this process and that development can be conditioned, by a local government, to comply with certain standards and or requirements, including a Local Government Infrastructure Plan.

In Council's opinion there has been an improved understanding within the past decade in regards to planning concepts and processes. This understanding stems from consistency and it is unfortunate that that the changes proposed within the draft Bill are a departure from this basis of understanding. This planning reform provides a real opportunity to make meaningful changes to the planning system to improve efficiencies, without losing the broader understanding of planning by parties involved.

Cairns Regional Council is significantly advanced in the preparation of its new draft Cairns Region Planning Scheme. This scheme has been prepared under the provisions of the *Sustainable Planning Act*. This draft Scheme has been prepared from a risk tolerant approach which has sought to make as much development as possible self-assessable. This Legislative reform should under no circumstances delay Local Government draft planning schemes that are with the State Government for Ministerial approval. These Schemes have undergone extensive public consultation and provide a benefit to the local community which far exceeds the legislative reform proposed.

The implementation of any change, particularly those proposed within the draft Bill and supporting instruments will require significant review of Councils systems and processes, which is considered to be a significant administrative burden, particularly considering the unnecessary nature of some of the amendments proposed (for example terminology changes).

Following the outcomes of this review and the implementation of any planning reform, Council requests that a period of regulatory stability ensues. It takes time to develop a planning scheme, progress it to implementation, for it to be utilised in development assessment, and then for developments to be realised on the ground. There are not many SPA planning schemes currently in effect, which means that there has not been sufficient time to realise the outcomes of the current planning scheme requirements. There needs to be a period of regulatory stability in order to allow for a comprehensive evaluation of the process and effect of legislative reform before commencing further reform.

Specific comments:

Draft Planning Bill 2015

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
1.	Chapter 1, Section 3 (1), page 16	The term <i>land use planning (planning)</i> is not defined. It is unclear what is encompassed within this term considering that development assessment is separately defined.	It is noted that Chapter 2 is entitled <i>Planning</i> and an assumption could be made that this chapter alone, specifically contains the matters relating to <i>land use planning (planning)</i> . Council disagrees with the inference that, for example: infrastructure is not considered to be land use planning (planning).	It is suggested that the term <i>land use planning (planning)</i> is defined or not used in such a specific way within the draft Bill.	
2.	Chapter 1, Section 3 (3)(a)(i), page 16	It is not clear what life supporting capacities relates to in the context of the protection of ecological processes and natural systems. It would be difficult for a development, no matter how offensive, to result in a loss of life-supporting air, ecosystems, soil and water.	Does this relate to life of all species of fauna and flora, or specific to certain species (for example, those on a site)?	Without further clarification, this section should be reviewed and amended so that it's fit for purpose.	
3.	Chapter 1, Section 3 (3)(c), page 17	It is unclear why some elements of community wellbeing have been given specific weight by being specifically mentioned in these sections. It is noted that for example climate change, public areas, cultural and historic places	Further clarification is required to determine whether these matters have intentionally been given more weight. Other matters, such as planning for hazards, may contribute to the wellbeing of communities but has not been	Provide greater clarification or amend to ensure this section is not unnecessarily limited.	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
		have been specifically mentioned. Although important, there are many other elements which contribute to community well-being that have not been mentioned.	specifically mentioned. It this intentional?		
4.	Chapter 1, Section 4, page 17	The use of the term <i>system</i> within this section does not relate to a system but rather systems, processes and types of instruments.	N/A	The term <i>system</i> should not be used in this way, refer to suggested amendment above in comment no. 2.	
5.	Chapter 1, Section 4, pages 17-19	Planning instruments listed in this section are referenced inconsistently from other sections within the Act.	It is also noted that planning schemes are referred to as both local planning instruments and categorising instruments. It is considered that this does not add any value, only confusion.	Instruments listed within this section should be grouped in accordance with later sections (e.g. all state planning instruments grouped together). Remove unnecessary terminology that nominates multiple terms to one instrument.	
6.	Chapter 1, Section 4, pages 17-19	<i>Planning and development assessment policies</i> , is not a defined term or a term which mentioned anywhere else within the Act.	Without further clarification or definition, it is unclear what this means in the context the draft Bill.	Further clarification is required if this term is to be used in this way. Consider defining this term to give it more meaning.	
7.	Chapter 1, Section 4 (c), page 17	This section states that a planning scheme applies to all land within a local government area; however this is not always the case. A	The definition of a planning scheme within SPA related to the local governments planning scheme area rather than all land.	Amend the definition of a Planning scheme to apply to a local government's planning scheme area,	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
		planning scheme may not apply to all land within a local government area, for example strategic port land.	This would be more appropriate and would account for circumstances such as strategic port land.	rather than all of a local government area.	
8.	Chapter 1, Section 4 (e)(ii), page 18	It is not clear why a planning scheme policy would include information about and/or support an action taken by a local government in relation to making or amending a local planning instrument.	It appears that matters relating to the process for making and amending a planning scheme will be contained within the Minister's rules and not within a planning scheme policy. Further clarification is required on the purpose of this section.	Unless further clarification is provided, this should be removed.	
9.	Chapter 1, Section 4 (f), Page 18	It is not clear what the <i>development assessment system</i> is. This term is not defined, nor is it used elsewhere within the draft Bill.	Is this the provisions and associated rules, guidelines and regulations provided for within Chapter 3 of the draft Bill? The provisions in SPA with regard to IDAS are much clearer.	Consider reinstating the IDAS provisions within SPA to the extent relevant. Particularly the establishment of a clear term and chapter relating to the process.	
10.	Chapter 1, Section 4 (f)(i) and (ii), page 18	(i) and (ii) within this section state that the development assessment system categorises development and categorises types of assessment for particular development. This appears to conflict with Chapter 3, Section 43 of the draft Bill which states that this is the role of a categorising instrument.	This section conflicts with the instruments defined as categorising instruments within section 41. Section 43 does not provide for the development assessment system to categorise development.	Amend this section to remove the conflict.	
11.	Chapter 1, Section 4 (g),	It is not clear what this section is referring to as the term <i>key</i>	Further clarification is required as to what this section relates to.	This section should be amended to reference a	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
	page 18	<i>infrastructure</i> is not defined, nor has it been used elsewhere within the draft Bill.		specific matter, process of defined term. Reference to a specific section will also assist with the interpretation of this section.	
12.	Chapter 1, Section 4 (h), pages 18-19	Both planning schemes and Infrastructure charging have been mentioned separately within this section; however Local government infrastructure plans are part of a planning scheme.	Further clarification is required on why infrastructure charging has been separately listed from planning schemes.	Without further clarification, this section should be amended to ensure a LGIPs place within a planning scheme is reflected.	
13.	Chapter 1, Section 4 (h)(ii), pages 18-19	It is noted that a requirement for infrastructure to be provided within an orderly and sequenced manner is not specifically provided.	Whist this may be assumed through the need to ensure infrastructure is provided in a cost effective manner, the requirement for orderly and sequenced infrastructure should be specifically mentioned.	This section should be amended to include reference to infrastructure provision in an orderly and sequenced manner.	
14.	Chapter 1, Section 4 (k), pages 18-19	It is not clear what is meant by the use of the term <i>administrative decisions</i> as this term is not defined and not used elsewhere within the draft Bill.	Further clarification is required as the meaning of the term <i>administrative decisions</i> .	This section should be amended to reference a defined term.	
15.	Chapter 1, Section 5 (2)(a)(iii), page 19	The use of the term <i>seek</i> suggests that the provision of equity between present and future generations is not necessary, so long as the decision making process seeks to provide equity.	The inference is that good intentions are sufficient, even if they fail to deliver. The decision making process should provide for equity, not just seek to provide equity.	Amend the section to remove the reference to the term <i>seek</i> .	
16.	Chapter 2,	The words <i>applies instead of</i> has	Where an inconsistency is found	Replace the word <i>applies</i>	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
	Section 8 (4), page 21	been used in the context of the hierarchical relationship between documents.	a planning instrument does not cease to apply, it is merely prevailed over by a higher order instrument to the extent of the inconsistency. The use of the word applies is incorrect.	<i>instead of with the word prevails.</i> These amendments should be made across all relevant sections of the draft Bill.	
17.	Chapter 2, Section 9 (3), page 22	This section refers to situations where this chapter requires that a public notice is published. However, there does not appear to be a situation where a public notice would not be required by this chapter.	This section does not appear to need to refer to “if this chapter requires notice of the instrument to be published” as a notice appears to always be required. Alternatively, if there are circumstances where a notice is not required, there are no effective day provisions.	This section should be amended to reflect the requirement or lack of requirement to publish a notice.	
18.	Chapter 2, Section 9 (4), page 24	Council supports the provisions relating to the effective day of a TLPI being the day a local government, at a public meeting, resolves to give the TLPI to the minister for approval.	N/A	This comment is provided in support.	
19.	Chapter 2, Section 10 (7), page 24	It is not clear why section 10 describes the lengthy requirements for making and amending a State planning instrument, as sub-section (7) only requires the publication of a public notice and public consultation in order to substantially comply with section 10.	Further clarification is required, as to what circumstances would make it appropriate to not comply with the whole of the requirements established within s10 and only those require in sub-section (7). It appears as though, apart from sub-section (7), the remaining requirements in	Review and consider the need for either the contents of section 10 or sub-section (7).	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
			section 9 are redundant.		
20.	Chapter 2, Section 10 (7)(a), page 24	This section refers to restricting the public's opportunity to make properly made submissions. The term <i>Public</i> is not defined. Is this term meant to include or exclude local government?	Further clarification is required to determine whether local government is included or excluded in the term <i>Public</i> . As a stakeholder, Council does not support being restricting from an opportunity to provide properly made submission on the making or amending of a State planning instrument.	The term <i>public</i> should be replaced with the term <i>person</i> , as this includes local government.	
21.	Chapter 2, Section 11 (3), page 25	Council supports the definition of a <i>minor amendment</i> in that it does not include mapping amendments that are made to reflect new or improved data relating the State Planning Policy.	Council supports the requirement for these changes to undergo public consultation.	This comment is provided in support.	
22.	Chapter 2, Section 12 (4), page 26	This section does not require a public notice to describe whether and how the temporary State planning policy suspends or otherwise affects the operation of another State planning policy.	This is critical information that should be contained within the notice.	This section should be amended to require the public notice to at a minimum state whether the temporary State planning policy suspends or whether it otherwise affects the operation of another State planning policy.	
23.	Chapter 2, Section 16 (1), page 28	The content of a Planning scheme should align with the requirements of s.43 for categorising instruments.	This section does not make reference to all the matters covered in section 43, being the categorising of development.	Amend the section to align with the requirements of the balance of the draft Bill.	For example, a Planning scheme should include provisions for

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
					categorising development and benchmarks for the assessment of development.
24.	Chapter 2, Section 16 (1)(c), page 28	This section states that a planning scheme must coordinate and integrate “matters dealt with by the planning scheme”.	This term is not defined and not used anywhere else within the Act. Given this is not defined; it is not clear where the requirement for the <i>matters dealt with by the planning scheme</i> are located within the draft Bill.	Amend to clearly articulate the intent of this section.	
25.	Chapter 2, Section 16(3), page 28	This section does not allow for a planning scheme, once approved, to prevail over the required contents prescribed in a regulation.	This does not allow for any opportunity for a local government to propose a variation to the prescribed required contents where it may be needed to address a locally relevant issue or circumstance. Council does not support the restrictive nature of this section. Notwithstanding this, Council would support an amendment to this section so that it only applied when a change to the required contents is made and the local government is directed to reflect the change by the Minister within a reasonable timeframe. However, until such as time an approved planning scheme	Amend this section to allow a local planning instrument to prevail over the required contents stated within a regulation, unless the required contents is substantially amended and the approved planning scheme no longer appropriately reflects the required content and the Minister directs the local government to amend their planning scheme to reflect the required content.	Where a local government has proposed a variation to the purpose of a zone for a locally relevant circumstance and this variation has been approved by a Minister. In this circumstance the approved planning scheme should prevail.

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
			should prevail.		
26.	Chapter 2, Section 16 (a), page 30	The guidelines mentioned in this section should be rules and should not be subject to consideration on a case by case basis by the Minister. The Minister should be consistent with the rules rather than simply considering them.	Rules would ensure consistency in the notice provided to local governments about the process for making and amending planning schemes. Merely considering a set of guidelines does not give consistency or certainty for local government as the cost and timing of the process.	Amend this section to change the guidelines to rules which must be applied. Refer to comment No. 32 below.	
27.	Chapter 2, Section 17 (1), page 28	This section does not require that the minister make an instrument that contains rules setting out the process for making a planning scheme.	It appears that the process for making a planning scheme is provided to the local government in a notice from the Minister. Council does not believe that this process is equitable as the Minister may provide a varied process for each local government. Furthermore, this is not transparent or clear to any person who wishes to know the process for making or amending a planning scheme as the notice may not be made publicly available. It is also noted that the Minister can issue an amended notice at any stage, this does not give local government enough certainty with regard to the cost and timing of the process.	This section should require that the minister make an instrument that contains rules setting out the process for making and amending a planning scheme as it currently in place in the form of a statutory guideline.	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
28.	Chapter 2, Section 18 (3), page 29	This section refers to “after consulting with the local government”. It is not clear what extent of consultation will occur or under what circumstances an amended notice may be provided.	Concern is raised with the vague nature of this section. Clarification should be provided on the intended extent of consultation and under what circumstances an amended notice may be provided. It is considered that lengthy, or in fact any consultation, may not be required if the process for making an amending planning schemes was included within an instrument as rules (readily available at any time), as opposed to guidelines for the Ministers consideration.	Provide clarification and amend the section accordingly.	
29.	Chapter 2, Section 18 (5), page 30	It is unclear whether this section relates to public consultation or not, although it is assumed that it does. If it does relate to public consultation, it considered that greater benefit to the public would be achieved by the requirement to publish a notice in a locally circulating newspaper rather than in the Gazette as required by sub-section (5) (b)(i)&(ii).	The Gazette is not considered an appropriate medium to circulate information to the community.	Amend this section to ensure public notices are at a minimum published in a locally circulating newspaper.	
30.	Chapter 2, Section 18 (5)(d), page 30	It is considered that including the requirements for a communications strategy within the notice from the Minister does not give sufficient certainty to a	The mandatory components for a communications strategy should be included within an instrument containing a set of rules which can be readily available to any	Amend the section accordingly.	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
		local government for the communication requirements of the making or amending planning schemes process.	person at any time.		
31.	Chapter 2, Section 18 (7), Page 31	The Minister should be required to approve an instrument if it appropriately integrates all the matters listed within this section.	The use of the word <i>may</i> does not provide certainty to a local government and should be replaced with the word <i>must</i> . The draft Bill must be clear on the minimum standards for planning schemes and the outcomes of complying with these standards.	Amend this section to replace the word <i>may</i> with the word <i>must</i> .	
32.	Chapter 2, Section 20 (3), page 32	This section appears to relate more to the content of the rules and would more appropriately be located in Section 16 which relates to the ministers rules and guidelines.	N/A	Relocate this section to be included within section 16.	
33.	Chapter 2, Section 23 (1)(b), page 33	This section only allows for making a TLPI where the delay involved in making or amending a local planning instrument would increase a risk to local government. This section should also refer to when the delay may create or unnecessarily prolong a risk.	There are situations where the level of risk may stay the same however the delay in making or amending a planning scheme may unnecessarily prolong the period that a local government area is exposed to that risk. It is also noted that the delay may create a risk that was not otherwise there.	Amend this section to include reference to creating or unnecessarily prolonging a risk.	
34.	Chapter 2, Section 25 (2)(b), page 35	This section appears to introduce the requirements for a public notice to be published in an <i>approved form</i> . This has not been	Clarify whether there is an approved form for all public notices or just those relating to reviewing planning schemes.	Clarify and amend accordingly.	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
		a requirement for other public notices.			
35.	Chapter 2, Section 25 (2)(c), page 35	This section appears to introduce the requirement for a public notices to be kept on display in a conspicuous places in the local governments public office for a set period of time. This has not been a requirement for other public notices.	Clarify whether this is a requirement for all public notices or just those relating to reviewing planning schemes.	Clarify and amend accordingly.	
36.	Chapter 2, Section 26 (6), page 37	This section should require the Minister to state the reasons for directing the local government to take action within the notice.	This requirement is in 26(3)(b) and 27(2)(b) and should be required in this section too. Local government should be made aware of the reasons why a Minister directs an action to be taken by the local government.	Amend this section to include a requirement for the reasons for the action to be included in the notice.	
37.	Chapter 2, Section 27 (2), page 37	This section should require the Minister to state when the action will be taken within the notice.	It is critical that where the Minister takes an action, local government is made aware of when this action will be occurring.	Amend this section to require the notice to include when the action will be taken by the Minister.	
38.	Chapter 2, Section 30 (4)(e)(ii), page 41	It is not clear whether this section relates to the Minister's rules established under s16 or other rules.	There are a number of references to rules and there are a number of sets of rules as part of this reform. It should be easy to determine which rules are being referred to in each section.	Clarify and amend accordingly. Consider the naming convention for rules to ensure they are easily distinguished.	
39.	Chapter 2, Part 5, page 47 onwards	The regulation does not limit the designation of infrastructure to publicly owned infrastructure.	The provisions relating to the designation of infrastructure should be limited to the provision	Amend the section accordingly.	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
			of publicly owned infrastructure.		
40.	Chapter 2, Part 5, page 47 onwards	The provisions (whether within the draft Bill, Regulation or supporting Instruments) should provide for a local government to have a statutory role in the infrastructure designation process to allow for the imposition of appropriate conditions.	The designation of infrastructure could have significant cost and resource implications for local governments or broader cumulative impacts. It is appropriate for local governments to be provided the opportunity to impose appropriate conditions upon infrastructure within their area.	Amend this section to allow for the imposition of conditions upon infrastructure.	
41.	Chapter 3, Section 43 (1), page 54	This section is not consistent with the content of Section 3. Refer to comment no. 5 for further details.	This section conflicts with the role of a planning scheme stated within section 3.	Amend this section to ensure consistency across the draft Bill.	
42.	Chapter 3, Section 43 (1) (a) & (b), page 54	It appears that (a) and (b) within this section is duplication and both relate to the levels of assessment for development.	N/A	Amend the section to remove duplication.	
43.	Chapter 3, Section 43 (3), page 54	The term <i>applies</i> has been used in the context of the hierarchical relationship between documents.	Where an inconsistency is found a planning instrument does not cease to apply, it is merely prevailed over by a higher order instrument to the extent of the inconsistency. The use of the word <i>applies</i> is incorrect.	Replace the word <i>applies</i> with the word <i>prevails</i> . These amendments should be made across all relevant sections of the draft Bill.	
44.	Chapter 3, Section 43 (3), page 54	This section does not allow for a planning scheme, once approved, to prevail over the required contents prescribed in a regulation.	This does not allow for any opportunity for a local government to propose a variation to the prescribed required contents where it may be needed to address a locally	Amend this section to allow a local planning instrument to prevail over the required contents stated within a regulation.	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
			relevant issue or circumstance. Council does not support the restrictive nature of this section.		
45.	Chapter 3, Section 44 (4), page 56	It is unclear how or if Assessment benchmarks will apply to Accepted development.	The transitional provisions provide for assessment benchmarks to self-assessable development. It is unclear within the draft Bill how this will occur, and whether it is expected to occur within drafting of new planning schemes. If assessment benchmarks do not apply to accepted development, the unfortunate consequence will be that not many forms of development will be accepted.	Amend the section to provide greater clarity around the assessment benchmarks applicable to accepted development. If there are no assessment benchmarks for accepted development, consider re-instating self-assessment to allow a middle way between accepted and assessable.	
46.	Chapter 3, Section 45 (1), page 56	Council supports the retention of the terms <i>Code</i> and <i>Impact</i> as the levels of assessable development.	Council is in the process of seeking approval for the adoption of its new draft planning scheme. This is the culmination of a significant body of work over the past 4 years and this document uses <i>Code</i> and <i>Impact</i> as the levels of assessment for development. The local community, industry and community groups are familiar with these terms and what they mean. Furthermore there is no substantiated rationale that	Retain <i>Code</i> and <i>Impact</i> as the categories of assessable development.	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
			demonstrates a benefit is achieved from changing the terminology. Council believes that it would be more beneficial to retain the current <i>code</i> and <i>impact</i> terms and build upon the existing understanding in the community.		
47.	Chapter 3, Section 46 (5) (b), page 57	The use of the <i>any other relevant matter</i> does not provide certainty for all parties in the assessment of impact assessable developments.	In the absence of any further clarification via a guideline this can be quite subjective and may not be applied consistently across the state.	Prepare a guideline to give clarity to what are any other relevant matters.	For example, what is deemed to be a planning need?
48.	Chapter 3, Section 46, page 57	The introduction of exemption certificates for some assessable development is supported and is considered to be a positive change.	N/A	This comment is provided in support.	
49.	Chapter 3, Section 46, page 57	The section should include provisions that provide for the imposition of minor conditions on exemption certificates.	Council considers that imposition of some conditions is appropriate to ensure the exempted development is carried out in the way described to obtain the exemption.	Amend to include provisions that provide for the imposition of conditions.	For example, the ability to condition a plan of development that the exemption specifically relates to, or condition for development to be in compliance with facts and circumstances submitted in conjunction with the request for exemption.

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
50.	Chapter 3, Section 46 (3)(b)(i), page 58	It is unclear what is meant by the use of the terms <i>minor</i> and <i>inconsequential</i> .	Further clarity should be provided around how these terms are meant to be interpreted and what examples of development may fall within these terms. Furthermore, if these terms must remain within this section, they should read as <i>minor and inconsequential</i> rather than <i>minor or inconsequential</i> .	Amend the section accordingly. Consider providing examples or preparing a guideline to assist in the determination and consistent use of this provision. Without further guidance this section might be quite subjective and used inconsistently across the state.	For example, further clarification is required around the specific circumstances where a Reconfiguring a lot proposal could seek an exemption certificate as is referenced in Section 46 (7)(c).
51.	Chapter 3, Section 46 (4) (a), page 58	The requirement to provide a copy of the exemption certification should only be required to be provided to each person who made the request.	Council considers that the requirement to provide a copy of the exemption certificate should only be to the person who made the request. The requirement to provide a copy to each owner of an interest in the premises may be onerous.	Amend the section accordingly.	
52.	Chapter 3, Section 48 (1)(a) & (b), page 59	It appears as though (a) and (b) have the same meaning as it is considered that assessing and deciding an application is part of administering a properly made application.	It is difficult to understand how an assessment manager could be responsible for the administering part without also being responsible for the assessing and deciding part and vice versa.	Review and amend the section to provide greater clarity and remove conflicts.	
53.	Chapter 3, Section 48 (3)(b), page 60	Council supports the introduction of the ability to choose an assessment manager. However, this should be limited to the initial	Particular concern is raised with the administering of powers post the approval of a development if these powers are not held by	Amend the draft Bill accordingly.	For example, there are no provisions relating to the death or incapacitation of a

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
		assessment of a development application and any associated negotiated decision notice, with all other powers resting with the local government.	local government.		chosen assessment manager or chosen assessment manager may make a decision to extend an approval is contravention of new policy under development by a local government.
54.	Chapter 3, Part 2	Council would prefer the retention of the core development assessment process being contained within the draft Bill.	It is considered necessary that all information relevant to a single process is contained within a single document. There would be a significant ease of use realised by the reintroduction of the development assessment rules within the relevant section of the draft Bill to reduce flicking between documents.	Amend the draft Bill accordingly.	
55.	Chapter 3, Section 53, page 64	Earlier versions of planning reform proposed de-coupling of public notification and appeal rights from specified levels of assessment.	It is considered that there is an opportunity to improve the flexibility and useability of the development assessment by de-coupling notification.	Council supports the de-coupling of public notification and suggest this is included within the reform.	A development application could go through an impact assessable process of being assessed against all relevant assessment criteria but not undergoing public consultation. Alternatively, a code assessable

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
					application could go through a bounded assessment but undertake public consultation without appeal rights.
56.	Chapter 3, Section 53 (8), page 65	Council does not wish to be burdened with the responsibility of publicly notifying a development application on behalf of the applicant. This responsibility should remain that of the applicant.	Council considers this to be an unreasonable impost on local government and should remain the sole responsibility of the applicant.	Remove this provision.	
57.	Chapter 3, Part 3	The assessment benchmarks (preferably assessment criteria), including those for referral agencies should be contained within draft Bill.	It creates unnecessary confusion having these elements contained within the Regulations.	Amend the draft Bill accordingly.	
58.	Chapter 3, Section 54 (5), page 67	Council does not wish to be burdened with the responsibility of providing copies of a development application to referral agencies. This responsibility should remain that of the applicant.	Council considers this to be an unreasonable impost on local government and should remain the sole responsibility of the applicant.	Amend the section accordingly.	
59.	Chapter 3, Section 56 (1)(b), page 68	The powers of a referral agency should be limited to the extent of their jurisdiction. A referral agency should not be given the power to direct an assessment manager to give an approval for development. The use of "to give any approval..."	Given a referral agency has a limited jurisdiction, it is not appropriate that they can direct that an approval be given. This decision should be held only by the assessment manager.	Amend the section accordingly.	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
		is misleading.			
60.	Chapter 3, Section 60, page 71	Council preference is for the reinstatement of the principle of sufficient grounds as is required under SPA.	N/A	N/A	
61.	Chapter 3, Section 60, (2), page 71	It is considered that where a development application does not comply with any of the assessment benchmarks, there should be some justification as to why it should be approved. The absence of any requirement to demonstrate a positive benefit to the community will undermine a local government planning policy. Further weight should be given to planning schemes as local governments have invested significant time and money to deliver land use policy to direct development into the most appropriate locations.	We believe there would be circumstances where development does not comply with the assessment benchmarks but may still provide a benefit or positive development outcome. However in this circumstance there should be provisions clarifying the need for sufficient planning grounds to approve the development despite the non-compliance. Council queries the circumstances where a development that does not comply with all assessment benchmarks should be approved without demonstrating sufficient grounds. Providing sufficient grounds ensure the process is transparent and accountable.	Re-instate the requirements for sufficient grounds (this includes guidance on what are sufficient grounds).	
62.	Chapter 3, Section 63 (1)(e), page 74	The provisions do not appear to limit the issue of the decision notice to each principal submitter until after the applicants appeal period has ceased.	This may have the unforeseen consequence of resulting in pre-emptive submitter appeals.	Amend this section to requirement the issue of this notice prior to the time stated.	
63.	Chapter 3,	Any material required to be	For ease of use, the provisions	Amend the section	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
	Section 63 (3), page 75	included within a decision notice should be contained within this section, not the regulation.	should include the material required to be included, not refer to the regulation.	accordingly.	
64.	Chapter 3, Section 68, page 81 onwards	The development assessment rules should be contained within the draft Bill and the Minister should not be able to change the rules without a process of notification and information.	Concern is raised as to the amount of content, specifically process based, being contained in an instrument other than the draft Bill. This concern relates to the ease of the chief executive to amend these provisions, without notification and suitable timeframes for review and consultation. This may have been intended to reduce the length of the draft Bill, however Council would prefer a longer draft Bill that contains all the necessary information.	Amend the draft Bill accordingly.	
65.	Chapter 3, Section 73, page 85	The introduction of the term <i>premises</i> as opposed to the SPA reference to <i>land</i> may have unforeseen consequences, particularly where relevant to other legislation. The terms also appear to have been used interchangeably.	This relates to other sections within the draft Bill. It is suggested that the terminology used with the SPA be reinstated.	Amend the draft Bill to retain the SPA term.	
66.	Chapter 3, Division 2	This section provides as examples of the introduction of a new term, for example <i>change representation</i> , replaces a well understood term under the SPA,	The SPA terms are well understood and there has been no rationale including a demonstrable benefit in changing the terminology.	Amend the draft Bill to retain SPA terminology, unless there is a demonstrable benefit to changing the	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
		<i>request for a negotiated decision and change application replaces permissible change.</i>		terminology.	
67.	Chapter 3, Section 78 (3)(c), page 89	The change application should be made to the prescribed assessment manager, not the chosen assessment manager.	Any application could be made a significant period of time post the original application and as such it may not be appropriate or possible to make the application to the original assessment manager.	Amend the section accordingly.	For example, the change may be an “ <i>other change</i> ” and may introduce public notification or a use that is not devolved to a chosen assessment manager.
68.	Chapter 3, Section 82, page 92	This section should be deleted.	Council considers that either a minor change is proposed to an application or a new application should be made. The ability to dramatically change an application is not appropriate. The intended purpose of this section is unclear.	Amend the draft Bill to delete the provisions that relate to an “ <i>other change</i> ”.	
69.	Chapter 3, Section 83 (1), page 94	The decision notice should be required to be provided to the same entities / individuals as a decision notice is required to be provided to within section 63.	Despite section 82 providing for public consultation to be undertaken, section 83 does not provide for a copy of the decision notice to be provided to each principal submitter. This should be mandated.	Amend the section accordingly.	
70.	Chapter 3, Section 83, page 95	It is unclear whether the issuing of a decision notice for a changed application will restart the currency period for the development.	Further clarification is required.	Clarify and amend to ensure the provisions around currency periods are clear.	
71.	Chapter 3,	Monetary security may be required	It should not be necessarily a	Amend the section	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
	Section 85 (2), page 99	to rectify works that have been partially completed.	requirement to release monetary security if that monetary security is required in accordance with a relevant condition.	accordingly.	
72.	Chapter 3, Section 86 (2)(a), page 99	The application should be made to the prescribed assessment manager, not the chosen assessment manager.	The relevant matters associated with assessing the application may have changed in the intervening time period and it may no longer be appropriate for the chosen assessment manager to undertake the assessing and deciding of the application for extension.	Amend the section accordingly.	
73.	Chapter 3, Section 87 (1), page 100	It is unclear as to what any relevant matter may be in the assessing of an extension application.	Greater guidance needs to be provided on the identification of relevant matters for the assessment of applications.	Amend the provisions of the draft Bill to provide greater clarity around <i>any relevant matter</i> .	
74.	Chapter 3, Section 88, Page 102	It is unclear how this section relates to section 86. Section 88 (1) make specific references to periods contained within development conditions, but no reference to the periods contained with section 86.	The lapsing of a development that is started but not yet completed should not be contingent upon the inclusion of a time period within a condition. Development should lapse in accordance with the provisions of section 86, unless an extension has been provided.	Amend the section accordingly.	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
75.	Chapter 3, Section 89, page 102	These provisions do not apply to assessment managers other than a local government.	<p>The provisions should be extended to if another entity, for example, the Minister, approves a development that is in conflict with the planning scheme.</p> <p>It is assumed that a chosen assessment manager will not be capable of approving an application that is in <i>substantially inconsistent</i> with the planning scheme.</p>	Review and amend accordingly.	
76.	Chapter 3, Section 89 (1)(a), page 102	It is unclear as to what constitutes a development approval that is <i>substantially inconsistent</i> with the planning scheme.	Further clarification is required around this term.	Clarify and amend accordingly.	
77.	Chapter 3, Section 89 (1)(c), page 102	It is unclear why an agreement to a superseded planning scheme request needs to be noted against the planning scheme.	This appears to be unnecessary.	Without justification this requirement should be deleted.	
78.	Chapter 4	The provisions of the draft Bill should provide for the automatic indexation of maximum adopted charges and fair value charges.	The automatic annual indexation to the maximum adopted charges and fair value charges should occur to reasonably reflect increasing infrastructure costs.	Introduce an automatic annual indexation to the maximum adopted charges and fair value charges.	
79.	Chapter 4, Part 2, Section 118 (12) (c), page 123	Attaching levied charges to the 'premises'.	<p>The Local Government Act 2009 states a rate is a charge against the land, not a premises.</p> <p>Attaching levied charges to the 'premises' creates an</p>	Retain the current provision attaching levied charge to the 'land'.	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
			inconsistency with Local Government Act 2009 and will impact Council's ability to recover charges.		
80.	Chapter 4, part 2, Section 120 (1)(f), page 125	Chapter 4, Part 2, Section 120 (1) (f) states that an infrastructure charges notice must state whether an offset or refund under this part applies when the cost of infrastructure is not fully known.	<p>Generally it may not be possible or practical for a Council to determine the precise value of any offset, as the actual costs of infrastructure is not known at the decision making stage.</p> <p>The particulars (including cost) of infrastructure are determined are generally determined in the preparation of an Infrastructure Agreement between Council and a proponent. Following confirmation of the particulars, refund and offset arrangements are also established in the Infrastructure Agreement.</p>	Chapter 4, Part 2, Section 120 (1) (f) should be deleted.	
81.	Chapter 4, Part 2, Section 127, page 129	The ability to impose a development condition requiring infrastructure to be provided where the infrastructure is located on, but not required to service, the subject premises.	The change is supported. The change supports Council's implementation of trunk infrastructure plans and reduces conflict between proponents where infrastructure is to be located on, but not required to service, the subject premises.	N/A	
82.	Chapter 4, Part 2, Section 128	Identifying the timing of a refund for infrastructure provided in	The change is not supported.	Retain existing refund and offset provisions.	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
	(3)	accordance with the LGIP to be no later than the construction date for the infrastructure stated in the LGIP.	<p>Statutory guideline 03/14 Local government infrastructure plans states that construction dates for infrastructure stated in the LGIP are estimated timings that can be expressed in terms of specific years or time periods (e.g. 2011–2016).</p> <p>The proposed amendment may place unanticipated financial obligations upon Council, where the timeframes are estimations.</p> <p>It will also be difficult to determine the timing of a refund where dates are specified as a time period.</p> <p>Refund and offset arrangements are generally determined in an Infrastructure Agreement between Council and a proponent and SPA states that they are negotiated in good faith.</p> <p>Council generally adheres to the timeframes detailed in the LGIP but there may be circumstances whereby refunds are not achievable in the timeframes</p>		

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
			specified. The current process provides for the development of mutually acceptable refund and offset arrangements.		
83.	Chapter 5, Section 161 (a), page 148	Development approval for prohibited development may have been approved other than under for a superseded planning scheme application.	A valid development approval, issued under the current planning scheme (at the time) is not an approval given for a superseded planning scheme application and it is foreseeable that this circumstance might arise.	Review and amend the section accordingly.	For example, amendments are made to a regulation that results in additional prohibited development, and prior to these amendments a development approval was issued. This approval was not given for a superseded planning scheme application.
84.	Chapter 5	Enforcement should not be the responsibility of a chosen assessment manager.	In order to ensure consistent enforcement, it should be the responsibility of the prescribe assessment manager, not any chosen assessment manager.	Review and amend the draft Bill accordingly.	For example, a chosen assessment managers may no longer be in business or contactable at the time of enforcement commencing.
85.	Chapter 5, Section 165 (6), page 151	The provisions of this section should also apply to a person who, in an emergency is carrying out any other necessary activity.	N/A	Amend the section accordingly.	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
86.	Chapter 7, Section 263, page 219	It is unclear as to whether this section requires the person who's website it is (a local government) or the person who is downloading the information to decide the form that the document is available in.	It is assumed that it is the person whose website is being downloaded from that determines the form it may be downloaded in. However, this section requires clarification.	Clarify and amend the section accordingly.	
87.	Chapter 6, Section 276, page 230	Under this section, the definition of affected premises refers to land. However, the definition of premises includes buildings and structures.	These definitions appear to be at odds with each other.	Review and amend accordingly.	
88.	Chapter 7, Section 276 (2), page 230	It is unclear what is meant by this section.	The sentence appears incomplete.	Amend accordingly.	
89.	Chapter 7, Section 276 (5), page 231	The definition of a party house includes land uses which are considered to be otherwise defined uses.	The introduction of party house as a defined land uses creates confusion. A party house is not a land use included under the current QPP. The definition provided the draft Bill includes land uses which are otherwise defined with QPP.	Reconsider the need for party house as a land use definition. Council's preference is that the QPP land use are retained unchanged to the greatest extent possible.	For example, a venue that regularly hosts wedding receptions is defined as a function facility under the regulations and the QPP but is also included within the definition of a party house.
90.	Chapter 7, Section 276 (5), page 231	The definition of party houses contains elements of ambiguity.	Specifically, it relies on guests <i>regularly</i> using the premises for a party. It is unclear what is meant by <i>regularly</i> . It also must be for a period of 10 days or less. It may be that that period of stay is 14 days and the party occurs on one	Council considers that this definition needs more consideration to ensure it captures the intended form of development. For example, the	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
			of those days. Does this mean it would not be considered a party house? Where a premises is made up of multiple dwellings or a dwelling house with a secondary dwelling, the owner may occupy one of the dwellings whilst providing party house accommodation in another. This scenario would not fall within the definition.	requirement for the owner to not occupy the premises means that many actual party houses may not be captured.	
91.	Chapter 7, Section 276 (5), page 231	The introduction of the term <i>residence</i> confuses the existing term <i>dwelling</i> . It is unclear how these two terms will differ.	This appears to be an unnecessary duplication of terms.	Consider removing this term or consolidating the two terms.	
92.	Chapter 7, Section 279, page 234	<i>The applicant</i> has been inconsistently described within column 2 of the table.	Within one section the applicant has been described as <i>the person who applied for the approval or any person in whom the benefit of the approval vests</i> . It is suggested that <i>or any person in whom the benefit of the approval vests</i> is added to each reference to the applicant in column 2 of this table.	Amend the section accordingly.	
93.	Chapter 7, Section 283 (2)(a), page 238	It is unclear what a minor change of use is that is not considered a material change of use.	The provision provides for the regulation to prescribe what is a minor change of use that is not a material change of use, however the corresponding provision has not been included within the	Clarify and amend the section accordingly.	

No.	Section reference	Issue	Officer comment	Suggested amendment	Example
			draft Regulations. Further clarification is sought. Consultation on what may be defined as a minor change of use should be undertaken.		
94.	Chapter 8, Section 285 (7), page 241	The section provides an example of inconsistent use of language across the drafting of the document.	Instead of the use of 'for example' this section refers to examples by the use of the term 'like'.	Amend the draft Bill to provide consistency of language and terminology.	
95.	Chapter 8, Section 286, Page 242	The provisions contained within this section, particularly s286(3) appear to conflict with s5 of the draft Regulations, as this section provides for the application of the draft Bill to statutory instruments (planning schemes) made under SPA (where the draft Bill comes into effect during the process) as if the statutory instrument had been made under the draft Bill.	The concern with this conflict is that required contents of a planning scheme, as prescribed by the draft regulation, will apply and prevail, despite what s5 of the draft Regulations states. It is Council's preference that required contents do not apply or prevail until such a point in time as the local government prepares a new planning scheme under the draft Bill.	Review and amend accordingly to remove this conflict.	