

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

Dear Sir/Madam

### **Planning Bills 2015**

Thank you for the opportunity to provide comment on the Planning Bill 2015, the Planning and Environment Court Bill 2015 and the Planning (Consequential) and Other Legislation Amendment Bill 2015 (the Planning Bills); and the Planning and Development (Planning for Prosperity) Bill 2015, the Planning and Development (Planning Court) Bill 2015, and the Planning and Development (Planning for Prosperity – Consequential Amendments) and Other Legislation Amendment Bill 2015 (the Private Member's Bills).

The City of Gold Coast welcomes the opportunity to work with the State to help deliver the right reforms to Queensland's planning system. Overall, the development of the proposed planning framework throughout the last 2-3 years has been an iterative and progressive process with officers of the City of Gold Coast providing submissions on earlier drafts of these Bills to the Department of Infrastructure, Local Government and Planning (the Department) and/or the Infrastructure, Planning and Natural Resources Committee (the Committee).

Officers of the City of Gold Coast support adoption of the Planning Bills in preference to the Private Member's Bills, as it is considered the Planning Bills provide, in the main, a better outcome for advancing the planning framework for Queensland. Most notable legislative improvements in the Planning Bills include:

- Amendment of the Act's purposes to "facilitating ecological sustainability" to address the conflict between the narrow definition of "development" and the common broader meaning of "ecologically sustainable development".
- Proposed streamlining of the categories of development from five to three (Accepted, Assessable and Prohibited) and amendment to the categories of assessment to retain code and impact assessment categories and delete compliance assessment.
- Maintaining public notification requirements for impact assessable development.
- Streamlining of lapsed approval provisions.
- Introduction of automatic indexation of maximum charges although officers suggest some further refinement of the Planning Bills is required with regard to this matter.

- Potential improvement to compensation provisions for managing risks associated with natural hazards.
- Allowing the Planning and Environment Court to make an order for costs where a proceeding has started or continued for an improper purpose.

Notwithstanding these above improvements, there remain some outstanding issues with the Planning Bills, which officers of the City of Gold Coast recommend the State address prior to adopting the Planning Bills. These include:

- The uncertainty about the regulation of tidal works within a local government area. The definition of "tidal area" in the Planning Bill 2015 doesn't apply to tidal waters located "within a" local government area, but only waters "next to" a local government area. Also, given the location of the definition in section 19 of the Planning Bill it is unclear whether it is applicable in other parts of the proposed planning framework, specifically the draft Planning Regulation 2016, which identifies the triggers for prescribed tidal works. It is recommended this issue be resolved by moving the definition of "tidal area" to the Dictionary in Schedule 2 of the Planning Bill and amending the definition to include the words "or within" after the words "next to" in sub-paragraph (a)(ii) of the definition of tidal area.
- The adoption of provisions, specifically those that do not allow local government to condition the preparation of an infrastructure agreement. First implemented through the Sustainable Planning (infrastructure charges) and Other Legislation Amendment Act 2014 (SPICOLA), if carried forward in the Planning Bills, will continue to cause increased uncertainty and lead to decisions regarding development being delayed, particularly for preliminary approvals associated with large and/or complex greenfield developments.
- A lack of clarity in the Planning Bills as to whether local government is obligated or not to provide all trunk infrastructure identified in their local government infrastructure plan (LGIP). The existing *Sustainable Planning Act 2009* (s 78) explicitly identifies local government is not bound to provide trunk infrastructure identified in their LGIP or to the stated desired standard of service. Whilst it is generally assumed local government is not obligated, it is recommended the Planning Bills explicitly state this to remove any ambiguity for all stakeholders. Inclusion of such a statement is likely to limit opportunity for conflict where identified trunk infrastructure is no longer feasible or considered the most cost efficient to meet the needs of the community.
- A need for the creation of simpler indexation requirements in the Planning Bills to ensure infrastructure charges are easily and equitably administered by local government. It is considered likely the provisions as proposed will require local government to amend their charges resolution on a quarterly basis to align with indexation, particularly if it is desired that an adopted infrastructure charge remain at the prescribed maximum amount. This in turn will add a level of unnecessary complexity to applying and calculating charges correctly under constantly changing charging regimes. It is recommended the Planning Bills are amended to allow for the annual indexation of the prescribed charges.
- The uncertainty about whether the amount of an offset or a refund needs to be specified on an Infrastructure Charges Notice (ICN) and if so, whether local government is obligated to pay the specified amount. The City of Gold Coast has typically specified the amount on all relevant ICNs in the past; however, it has also been clearly identified that the specified offset or refund is an estimate only and subject to final determination once it becomes payable. However, experience demonstrates, despite this, it can cause a point of conflict between Council and the applicant. It is recommended the Planning Bills explicitly state an

offset or refund identified on an ICN is an estimate only and subject to final determination once it becomes payable giving greater clarity over this matter.

- The lack of transitional provisions in the Planning Bills to enable local government to transition their planning schemes, IT systems and day-to-day operational processes to align with the new planning framework. Whilst it is noted in the Department's consultation report there is an intent the Planning Bills will commence one year from when they are assented to, there remains a high-degree of uncertainty as to what will be required of local government to ensure regulatory and operational alignment across the new planning framework. Much of the necessary detail (ie. processes to follow and outcomes to be achieved) with regard to this matter is yet to be finalised in the proposed supporting instruments to the Planning Bills. Accordingly it is difficult to confirm whether local government will be able to complete what might be required within the one year timeframe. By way of example if local government is required to undertake a major amendment to its planning scheme to ensure it is aligned with the new planning framework, as the current supporting instrument suggests, the average lead time for this including public notification is 18 months.

Officers from the City of Gold Coast strongly support the creation of a planning framework that is simplified and easy to use by all stakeholders; and creates a better Queensland. It is important the adopted framework not only delivers better development outcomes but also provides for enhancing the cultural, economic, physical and social wellbeing of people and communities of Queensland.

It is important the Planning Bills focus on planning outcomes instead of planning process; and which establishes a framework that enables the better management (holistically) of the state's resources and environment.

Should you have any questions or would like to discuss further the comments identified in this letter do not hesitate to make contact.

Yours faithfully



Dyan Currie  
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*For the Chief Executive Officer*  
Council of the City of Gold Coast