



To: Research Director Infrastructure, Planning and Natural Resources Committee	From: Robert Davies
Attention: Research Director	Ph: 3200 9751
To E-mail: ipnrc@parliament.qld.gov.au	Re: QLD GOVERNMENT INQUIRY into CHANGES TO THE PLANNING ACT & OTHER ASPECTS OF THE DEVELOPMENT PROCESS IN QLD
Date sent: 18 / Jan / 2016	
Pages sent: 1 / 7	Your Ref. No. Nil Building Application No. Nil

The Planning Bills

The committee is inquiring into six Planning Bills. On 4 June 2015, the Member for Clayfield, Mr Tim Nicholls MP, introduced three Private Member's Bills. The Bills were referred to the committee for examination.

The committee's inquiries were suspended by the Parliament to enable concurrent consideration with the Government's Planning Bills due to be introduced later in the year.

On 12 November 2015, the Deputy Premier, Minister for Transport, Minister for Infrastructure, Local Government and Planning and Minister for Trade, Hon Jackie Trad MP, introduced three Government Planning Bills. The Bills were referred to the committee for examination.

On the same day, the Parliament reopened the committee's inquiries into the private members' Bills.

The committee is required to consider all of the Planning Bills and report to Parliament by **21 March 2016**.

The Government's Bills

The Government's Bills are available on the following links:

1. [Planning Bill 2015 – Explanatory Notes](#)
2. [Planning and Environment Court Bill 2015 – Explanatory Notes](#)
3. [Planning \(Consequential\) and Other Legislation Amendment Bill 2015 – Explanatory Notes](#)

The Private Member's Bills

The Private Member's Bills are available on the following links:

1. [Planning and Development \(Planning for Prosperity\) Bill 2015 – Explanatory Notes](#)
2. [Planning and Development \(Planning Court\) Bill 2015 – Explanatory Notes](#)
3. [Planning and Development \(Planning for Prosperity—Consequential Amendments\) and Other Legislation Amendment Bill 2015 – Explanatory Notes](#)

Departmental consultation

The Department of Infrastructure, Local Government and Planning has conducted extensive consultation in relation to the Government's Bills prior to their introduction. The Department's consultation is separate to the committee's consultation.

The Department plans to seek feedback on the planning instruments to be developed to support the planning system.

The instruments will be open for consultation from Monday 23 November to Friday 5 February 2016 (at 6.00pm). The instruments include the:

- development assessment rules
- plan making rules
- infrastructure designation guidelines
- planning regulation.

The Department's website can be found [here](#). Further information about the Department's processes can be requested via email to bestplanning@dilgp.qld.gov.au.

Call for submissions

The committee is calling for submissions on all six Bills. Stakeholders who were engaged in the committee's earlier inquiry into the Private Member's Bills are invited to make a submission on the Government's Bills.

Submissions close **4.00pm Monday 18 January 2016**. Guidelines for making a submission can be found [here](#).

Submissions should be sent to:

Email: ipnrc@parliament.qld.gov.au

Post:

Infrastructure,
Parliament
George
Brisbane Qld 4000

Planning

Research
and

Natural

Resources

Director
Committee
House
Street

Inquiry Timeline

Monday 30 November 2015 (11.30am - 1.00pm) - Parliamentary Annexe

Public briefing: A copy of the transcript is available [here](#)

Submissions: Close at 4:00pm Monday 18 January 2016

PRELIMINARY

Dear Sir or Madam,

Please see my submission in regard to the Qld Govt's request for submissions on up-coming changes to the development process in Qld.

I intend to restrict my comments to matters concerning the operation of the IDAS system & its working relationship with other matters that affect Building Certification functions in Qld.

I have read the Governments' Bills, attending several meetings on these topics & made submissions to previous inquiries. I refer to my recent comments in the Wallace Report submissions re changes / improvements to the Building Certification in this state.

I am a QBCC licensed Building Certifier, with Building approval experience that dates back to 1999, working with the original Qld Integrated Planning Act (IPA), the Qld Planning Regulations & all its iterations & name changes & government changes, up until the present day. My comments will reflect some of the difficulties we (as licensed Building Certifiers), confront every working day in our chosen occupation, including the ugly reality of working in the development industry in Qld.

Given that there are only approximately 400 QBCC licensed Building Certifiers who operate in Qld, the Committee might think that we are such a small group, that our ideas & opinions do not matter. After all, don't buildings just build themselves because absolutely everyone inside & outside the construction industry in Qld, knows what it takes to comply with the Town Planning & Building Regulations, since "Google" came along, right?

This view of our occupation appears prevalent in all Government departments Federal, State & Local Governments in addition to the paranoia of the media, who look for a scalp to boost ratings or a government authority endorsement for either promotion, revenge or re-election at our expense, who act like a group playing "pin the tail on the donkey" when a problem that cannot be resolved occurs. Apparently it is easier to find us as the culprit, than look for a solution to a problem.

While we try to be respectful of the current development arrangements & definitions, we are confronted with all types of concepts, structures, locations & legislation that can be manipulated by all kinds of owners & groups groups who routinely find loop-holes in various legislation. Yet, we are continually promised that all loop-holes will be fixed in the next version of a Planning or Building Act, Regulation, scheme or policy. This is the 6th or 7th since IPA & are hoping that these are not just words to keep us quiet until the next review comes along.

ASPECTS THAT NEED TO RESOLVED

Defintions –

- Too many mis-matched descriptions of the same thing, but different in different Acts, Regs & L/A Planning schemes

Complicated Planning schemes

- Confuses everyone who uses them, so need to be simple

Lengthy Acts & Regulations & Planning Schemes

- Need to be concise

IDAS Application Forms

– waste of paper & should be 2 pages for IDAS Form 1 + 2 pages for IDAS Form 2

- Confusing, no room for the site address on the form

- Owner – does not have to sign the form

Loop-holes

- There are many

Regards,

Robert Davies

Building Certifier QBCC A 74261

BONAFIDE BUILDING APPROVALS

DEFINITIONS

Different Acts & Regulations in current use, term the same aspects we deal with, as different things in separate Acts.

This confusion is carried forward into Local Government Planning Schemes & this causes many problems, arguments & much lost time.

In a court it could mean anything, but guaranteed an on-going lawyers picnic & needs to be fixed.

Assessment Manager

Question

At what point does the Council Town Planner NOT be the Assessment Manager after the building goes under construction?

Sustainable Planning Act 2009

Schedule

assessing authority means— (a) for development under a development permit other than development to which paragraph (c) applies—the assessment manager giving the permit or any concurrence agency for the application, each for the matters within their respective jurisdictions; or (b) for assessable development not covered by a development permit—an entity that would have been the assessment manager or a concurrence agency for the permit if a development application had been made, each for the matters that would have been within their respective jurisdictions; or (c) for assessable development for which a private certifier (class A) is, under the Building Act, chapter 6, engaged to perform private certifying functions under that Act—the private certifier or the local government; or (d) for self-assessable development other than building or plumbing work—the local government or the entity responsible for administering the code for the development; or (e) for building or plumbing work carried out by or for a public sector entity—the chief executive, however described, of the entity; or (f) for an aspect of development to which a State planning regulatory provision applies— (i) if the provision was jointly made by an eligible Minister and the Minister—the chief executive of the department administered by the Minister with responsibility for the matter to which the State planning regulatory provision applies; or (ii) otherwise—the chief executive; or (g) for development under a compliance permit— (i) if the compliance assessor giving the permit for the development is a local government or a public sector entity—the compliance assessor; or (ii) if the compliance assessor giving the permit for the development is a nominated entity of a local government—the local government; or (iii) if the compliance assessor giving the permit for the development is a nominated entity of a public sector entity—the public sector entity; or (h) for development requiring compliance assessment for which there is no compliance permit— (i) if the entity that would have been the compliance assessor is a local government or a public sector entity—the local government or public sector entity; or (ii) if the entity that would have been the compliance assessor is a nominated entity of a local government—the local government; or (iii) if the entity that would have been the compliance assessor is a nominated entity of a public sector entity—the public sector entity; or (i) for a document or work to which a compliance certificate applies— (i) if the compliance assessor giving the certificate is a local government or a public sector entity—the compliance assessor; or (ii) if the compliance assessor giving the certificate is a nominated entity of a local government—the local government; or (iii) if the compliance assessor giving the certificate is a nominated entity of a public sector entity—the public sector entity; or (j) for a document or work requiring compliance assessment for which there is no compliance certificate— (i) if the entity that would have been the compliance assessor is a local government or a public sector entity—the local government or public sector entity; or (ii) if the entity that would have been the compliance assessor is a nominated entity of a local government—the local government; or (iii) if the entity that would have been the compliance assessor is a nominated entity of a public sector entity—the public sector entity; or (k) for development under a development approval for which the chief executive is the assessment manager or a referral agency and has, under section 255D, nominated an entity to be the assessing authority for the development for the administration and enforcement of a matter relating to a condition of the development approval—the entity; or (l) for any other matter—the local government.

Division 4 Assessment managers and referral agencies

Subdivision 1

Assessment managers

246 Who is the assessment manager ?

- (1) The assessment manager for an application is the entity prescribed under a regulation as the assessment manager for the application.
- (2) Without limiting subsection (1), the regulation may state that the assessment manager for an application is the entity decided by the Minister.
- (3) If, under the regulation, the assessment manager is to be decided by the Minister, the Minister may instead require the application to be split into 2 or more applications.

Building Act 1975

Chapter 1 Preliminary

Part 2 Interpretation

11 Who is the assessment manager for a building development application ?

- (1) Generally, the assessment manager for a building development application is the assessment manager for the application under the Planning Act, section 246(1).
- (2) However, if under section 48 a private certifier (class A) is performing functions for the application, the certifier is the assessment manager for the application.

48 Functions of private certifier (class A)

- (1) A private certifier (class A) may— (a) receive and assess a building development application; and (b) decide the application and grant or refuse the building development approval applied for as if the certifier were the person, who, under the Planning Act, section 246(1), is the assessment manager; and (c) decide whether enforcement action under this Act or the Planning Act ought to be taken for a building development approval granted by— (i) the private certifier (class A);

Sustainable Planning Act 2009

Chapter 6 Integrated development assessment system (IDAS)

Part 1 Preliminary

Division 4

Assessment managers and referral agencies

Subdivision 1

Assessment managers

246 Who is the assessment manager ?

- (1) The assessment manager for an application is the entity prescribed under a regulation as the assessment manager for the application.
- (2) Without limiting subsection (1), the regulation may state that the assessment manager for an application is the entity decided by the Minister.
- (3) If, under the regulation, the assessment manager is to be decided by the Minister, the Minister may instead require the application to be split into 2 or more applications.

247 Role of assessment manager

The assessment manager for an application administers and decides the application, but may not always assess all aspects of development for the application.

Floor area

This causes many problems, arguments & much lost time.

In a court it could mean anything, but guaranteed an on-going lawyers picnic & needs to be fixed.

75 Councils have various interpretations

Some Councils are broken into different regions & the regions differ from each other in the same Council area ie Moreton Regional

Building Act 1975

Schedule 2

Floor Area

floor area, for a building, means the gross area of all floors in the building measured over the enclosing walls other than the area of a verandah, roofed terrace, patio, garage or carport in or attached to the building.

or (e) any site work (including the construction of retaining of a building or structure, sole-occupancy unit or storey, means its floor area as defined under the BCA.

Planning Act

Floor area or Gross Floor Area

→ No definition in the Qld Planning Act or Regulations

BUILDING REGULATION 2006 - SCHEDULE 4

-- DICTIONARY

Floor area,

Queensland Building and Construction Commission Act 1991

Page 300 Current as at 16 December 2015

Authorised by the Parliamentary Counsel

Schedule 2 Dictionary

PLUMBING WORK Vs BUILDING WORK

QBCC are now telling us that plumbing work is not building work, even though there is a definition in the QBCC dictionary.

Building work - means

— (a) the erection or construction of a building; or (b) the renovation, alteration, extension, improvement or repair of a building; or (c) the provision of lighting, heating, ventilation, air conditioning, **water supply, sewerage or drainage in connection with a building;**

If part of a building project, we are required to wait for all approvals prior to a building approval, or penalties apply to us.

The problem we have now is that

There is no Plumbing approval required under the Form 4 process.

Therefore there is no building approval scrutiny, or building application

This is why Brisbane City (alone) has over 30,000 un-approved structures & climbing.

It is also the reason that there is not enough building applications to process, which is killing off Private Certification & is a constant problem for Councils & the buying consumers who have no idea if their plumbing complies, or not. Government should be worried they will not be sued by consumers in the future when things unravel.

ENGINEERS

Engineer - means

a person who is a registered professional engineer under the Professional Engineers Act 2002. excluded building work, for schedule 1B, see schedule 1B

Questions

Why is it a conflict of interest for Building Certifiers to own & certify our own projects when we are advised by the Board of Engineers it is not a conflict of Interest for them?

If a project needs a Building Approval, why is it OK for engineers to inspect un-approved works before an approval, when all other people are bound by the laws of Qld ?

Why is there no specific penalty in the Qld Building Act or Qld Planning Act, that addresses the main problem causing un-approved works across the state?

If they are not inspecting new slabs & footings, then there would be no building work going on after the concrete dries.

OWNER BUILDERS

Queensland Building and Construction Commission Act 1991

Part 3 Licensing, Division 8

Owner-builders 43D

— carry out, in relation to owner-builder work, means—

(a) carry out the work personally;

or

(b) do both of the following— (i) engage 1 or more licensed contractors to carry out building work; (ii) provide building work services that would usually be carried out by a licensed contractor in the course of the contractor's business; or (c) do a combination of (a) and (b).

Examples of an owner providing building work services— • directing licensed contractors how to perform building work • coordinating the scheduling of building work by licensed contractors • arranging for payment of subcontractors

Questions

How is it that you need a QBCC licence to install a tap & be a lic electrician to install a power point, yet as an Owner Builder, you can build a 3 storey house without a licence?!!

I think because there are so many these days, it ned to be restru=icted to ground level structures & additions only.

It is extraordinary that the value of works is almost always less than \$11,000 & not requiring an Owner / Builder permit from QBCC.

Q- LEAVE

We are the Gatekeepers of this fund, that collects billions of dollars every year.

We have no access to the fund for long-service leave.

Q-leave are supposed to provide training to the industry but we do not see any of this.

We face huge fines for not collecting enough money for them & need to keep a record for 7 years.

We are paid approx \$3 per time, if we decide claim, of which most do not.

This appears to be a **bargain ultravires** & seems to be run a lot like mafia stand over type tactics.

This authority has gone beyond the limits inferred on it & provides no fair remedy.

As rules have changed how the fund works, why are we not permitted to adjust the terms of how we interact with Q-leave & re-negotiate with a corporation that is semi-private, who would receive nothing unless we made owners pay the Q-leave levy to them. Most unfair to us as the "Gate-keepers".

As it costs the Building Certifier approx \$20 over the length of time to retain their file, the Q-leave owes us aprox \$17 per project building application, dating back about 10 years.

Could be a class action coming your way.

At least allow us to negotiate a fair "sighting fee" in any new legislation, given that the Premier just got a \$6,000 per week pay rise. We collect billions for them, they pay us \$3 is totally unfair.