



27th January 2016,

The Chair
Infrastructure, Planning and Natural Resources Committee
Parliament House Queensland
George Street
Brisbane 4000

Dear Chair,

DRAFT DEVELOPMENT ASSESSMENT RULES

I recently attended an event on the Sunshine Coast where speakers from the Department of Infrastructure, Local Government and Planning and the Environment Defenders Office, made presentations on the above subject. I have a strong interest in planning and for many years managed the delivery of major capital works programs for the NSW Government, ranging across regional development, education and housing.

There were several matters concerning the draft Development Assessment Rules I found very concerning. In particular, the proposed rules surrounding the community Notification process I believe will totally undermine any promises the Government has made concerning the introduction of "effective and genuine participation" in the planning process.

The attached submission demonstrates the flaws in the proposed rules and suggests a solution which I believe will deliver the promised community participation outcomes the Government is stated to be seeking.

I understand your Committee has an ongoing responsibility in regard to these matters and consequently the attached submission is provided for your earnest consideration.

Yours sincerely

A handwritten signature in black ink, appearing to read "P. Burke".

Peter Burke

BETTER PLANNING FOR QUEENSLAND

SUBMISSION CONCERNING DEVELOPMENT ASSESSMENT RULES (Submitted by Peter Burke – A landholder and resident of the Noosa Shire – 27th January 2016)

1.0 INTRODUCTION

My wife and I have been working to establish and maintain a wildlife refuge under the provisions of a Voluntary Conservation Agreement (V.C.A) over our property in the Noosa Hinterland. As is well known, Noosa and its Hinterland have been subject to many development pressures over the years. This has led to the ongoing destruction of wildlife habitat and ecosystems. Given the desirability of the lifestyle afforded by Noosa and the surrounding areas this pressure will almost certainly continue.

The VCA arrangement with Council and the local Planning Scheme gives us some comfort that the biodiversity we are restoring on our property will be protected for future generations. However, the actions of the previous Newman Government indicated to us how quickly environmental protections can soon disappear, without consultation or concern.

The role of development in supporting our communities is not questioned and like any service delivery activity, the associated processes should be made equally efficient and effective for both the community and the developer. However, it is the responsibility of all levels of government to ensure that community interests are not overwhelmed by development ambitions that may not be in the best interests of the community.

Undoubtedly, in recent years the balance between developer interest and community interest significantly shifted in favour of the developer at the expense of community interests. Consequently, it is pleasing to see the present Government is appearing to act to restore a proper balance between both interests. In particular identifying "effective and genuine public participation in the planning process" and "Ecological Sustainability" as key elements in the new approach to planning, is most welcome.

It is therefore concerning in the extreme that as the proposed implementation details of the Development Assessment Rules are gradually being revealed, the promise of effective and genuine public participation is quickly fading. Similarly the aim of ecologically sustainable development is seriously eroded by the proposed changes.

The reasons supporting this claim are outlined below.

2.0 "EFFECTIVE AND GENUINE PUBLIC PARTICIPATION IN THE PLANNING PROCESS"

2.1 The Need to be Made Aware – Public Notification

By any test of logic or rationality, for the community to be able to participate in an effective and genuine way in planning their communities, the very least that should happen, is that those who are likely to be affected by a proposed development, should be made aware of the proposal and its specifics.

The current and proposed requirements for giving public notice of a proposed development, are woefully inadequate and fail to meet this very basic aim, thus destroying any claim of "effective and genuine participation".

The assumption that the main means of giving acceptable notice to all those likely to be effected is by attaching a notice to a tree somewhere on the proposed site, is a totally ineffectual proposal. It completely ignores the communication opportunities offered by modern technology and seems to hark back to colonial days when "Wanted Posters" were displayed in Police Stations and nailed to trees.

The chances of someone who will be affected by a DA proposal walking past, stopping to notice the sign, taking the time to read it and understanding its implications for their own circumstances is, to say the least, extremely remote. Even if this miraculous event were to occur it is likely that most if not all of the limited response time will have elapsed.

The other proposed mechanism for ensuring that all those likely to be affected by a proposed development are made aware of the proposal and its specifics, is to give notice to "adjoining land owners". It is understood "adjoining land owners" are limited to those owners where property boundaries are shared.

Again, to make the assumption that the effects of any proposed development are to be constrained to adjoining properties, flies in the face of known realities concerning the connectedness of our surrounding environments and the flow-on effects of any change to that environment.

Without a rational, clearly defined, comprehensive and enforced process for ensuring all who might be affected by a development are properly notified and made aware, then there can be no effective and genuine community participation. The current and proposed methods of Public Notification destroy any chance of such participation occurring and one can only wonder at what the true motivation behind these measures might be.

2.2 Suggested Process for Achieving Proper, Comprehensive Public Notification of Proposed Developments.

The following is suggested in the spirit that there is a real desire for effective and genuine community participation in planning and informing those likely to be affected:-

It is suggested that the best chance for proper and full notification rests with the Local Government Council involved. Firstly, they have a responsibility to act in the best interests of their community. Secondly, they have the best knowledge of their communities, their aspirations and concerns. Thirdly, they have the best expertise to judge and measure the likely scale and impact of a proposed development on the community and the environment. Finally, they have best data to enable Notification contact with those likely to be affected.

It is suggested that given Council expertise in defining various overlays as part of their normal planning activities, they would be perfectly capable of defining the boundaries of the likely development impacts of a proposal. At the same time Council data sources would be invaluable in identifying the contact details of those residents falling within the impact boundaries.

Again it is suggested that the local government Council involved would have expertise in pursuing public consultation and would define the minimum steps that the developer must take in an effort to notify all those likely to be affected by his/her proposal.

While Council would act to inform the developer of its notification requirements and would provide data relevant to this purpose, the developer would retain responsibility for implementing the Public Notification process.

It is recommended that:

The current and proposed provisions concerning Public Notification of development proposals be deleted and replaced by the suggested provisions outlined above directed to achieving effective, comprehensive Public Notification of Proposed Developments.

2.3 THE NEED FOR A REASONABLE TIME FRAME to PREPARE COMMUNITY RESPONSES TO DEVELOPMENT APPLICATION PROPOSALS

If the Government really wishes to introduce effective and genuine community participation into the planning process, the community needs to be given "effective and genuine" response time frames. Time frames should be provided enabling the community to reasonably determine, understand and make an informed contributions to that process. To do otherwise would not only diminish the quality of the final decisions but would further undermine the government's claim to be pursuing effective and genuine community participation.

Even in the extremely unlikely situation that the community were to be fully informed of a development proposal on the first day of the Notification Period, there is no way that they would be able to understand, consider, prepare and submit a response within the 15 days and 30 days (depending on the nature of the D.A. proposal) allowed for under the draft proposals,).

While the Developer is free at any time to seek an extension of any time requirement under the process and to "stop the clock" as many times and whenever, he/she wishes it, such scope and flexibility is denied to the community, in undertaking its participation opportunities.

Clearly, these timing provisions are inadequate, inflexible and unfairly penalise the community, while favouring the developer.

Consequently it is recommended that:

- (1) The proposed time frames for the notification period be increased to 30 days in the case of DAs requiring impact assessment and 60 days for DAs seeking to vary a planning scheme,**
- (2) The time period to respond should commence from the date the Assessment Manager confirms that comprehensive Notification processes have been completed by the developer.**
- (3) The Assessment Manager be given power to extend the Notification Period should he/she determine that the Notification Process has denied the community an effective and genuine opportunity to participate in the planning process.**

3.0 ECOLOGICAL SUSTAINABILITY

As mentioned earlier it is pleasing to see the Government place due value on achieving ecological sustainability through the planning process. However, the proposed planning provisions remove the concurrence power of specialist agencies to recommend either mandatory conditions on development or a refusal. Such action if implemented strengthens the potential opportunities for developers to undertake environmentally destructive developments at the same time eroding the community's ability to resist such developments.

It is recommended that:

Agency concurrence powers be restored enabling agencies to recommend either mandatory conditions on development or a refusal.

4.0 CONCLUDING COMMENTS

4.1 In May 2015, Queensland Deputy Premier Jackie Trad, when introducing the Government's program "Better Planning For Queensland", commented:-

"We believe that planning reform can deliver a more efficient system that supports investment and jobs but don't believe this must come at the expense of community participation or the role of local government."

While the ability of the proposed planning changes to deliver a more efficient system that supports investment and jobs is yet to be proven, it is already clear from the draft proposals that success in that area will definitely be at the expense of community participation. In the interest of our communities the Government should not encourage or allow this to happen.

4.2 While the benefits of newly generated construction employment are welcomed by the community, such benefits are relatively short term. For those residents unfortunate to be suffering the impacts of poorly conceived, hastily approved and implemented developments, the detrimental effects seem to go on forever.

Peter Burke