NOOSA COUNCIL

Officer Name: Rowena Skinner
Officer Email: mail@noosa.qld.gov.au
Phone No: 07 5329 6212
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Submission No. 003
11.1.13

9 July 2015

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

Dear Sir/Madam

Re: Submission on Planning and Development (Planning for Prosperity) Bill 2015, Planning and Development (Planning Court) Bill 2015 and Planning and Development (Planning for Prosperity - Consequential Amendments) and Other Legislation Amendment Bill 2015

Noosa Council at its meeting of 2 July 2015 resolved to make the following submission in relation to three Private Member's Bills introduced on 4 June by the Shadow Minister for Infrastructure, Planning, Small Business, Employment and Trade, Mr Tim Nicholls MP, proposing a new legislative framework for planning in Queensland.

A. The Planning & Development (Planning for Prosperity) Bill and associated Regulations are not clear in the decision rules, particularly for those applications which conflict with the planning scheme. It is considered that where an application conflicts with the planning scheme, the onus of proof should be on the applicant to prove the merits of the proposal and justify any inconsistencies;

B. The Planning & Development (Planning for Prosperity) Bill includes a clause that allows the chief executive to keep a list of persons who are appropriately qualified to be an assessment manager for a development application (other than local governments). It is unclear whether this will result in an additional class of private entities being identified as assessment managers in place of councils for particular applications. This is of significant concern as experience has demonstrated that private building certification has not always been successful in implementing planning scheme requirements. This is particularly important for any operational works applications that include works which are to become a public asset and be maintained at ratepayers expense;

C. The Planning and Development (Planning Court) Bill maintains the specific criteria for making a costs order introduced with the Sustainable Planning and other Legislation Amendment Bill 2012. These rules do not serve the public interest of enabling the community, submitters, local governments and developers to dispute planning decisions due to the risk and uncertainty of the Court awarding costs against them. The previous Court powers to award costs in circumstances where cases were frivolous or vexatious or instituted primarily to delay or obstruct are considered sufficient protections from abuse of the system;

D. Particularly inappropriate is the power to order costs against someone who has an interest in the proceeding but is not a party to the proceeding (such as a submitter). This would effectively mute a community concerned about a development proposal.

E. The definition of material change of use should not be limited to only increases in scale and density of the premises, as there are circumstances where reducing the scale of the development does materially change the site's use. This is particularly relevant for developments which include an important community use or the like. For example removing the nursing home component from a retirement village may have a significant social impact on an area;

F. The Planning & Development (Planning for Prosperity) Bill maintains and extends the time frame for applicants to be able to revive a development application where it lapses. This ability is not consistent with the principles for the DA Rules of being an applicant driven process, and is likely to create administrative problems for Councils and lead to significant confusion for the community, particularly submitters.

G. As Noosa Council values community engagement in its planning and development decisions, we have concerns regarding changes that may serve to inhibit, obstruct or minimise resident input. Reductions in public notification periods and removal of existing requirements for notices to be placed in local newspapers are thus not supported and there should be a minimum notification period for applications of 20 business days. We also have concerns about the proposal that an applicant may choose to publicly notify a development application as early as 5 days after the development application is properly made. We believe submitters are better served under the current arrangement where public notification is able to occur following the information request period;

H. Noosa Council has long enjoyed a locally popular planning scheme that is in part premised on studies and deliberations concerning the ideal carrying capacity for our shire. We have concerns that these bills elevate the power of the State and the Minister and may herald arbitrary enlargements of the Urban Footprints within the Noosa Shire area;

I. Noosa Council does not support proposed changes relating to Community Infrastructure designation that wili remove local government powers to designate infrastructure. Nor do we support the proposal for the State Planning Minister to be the sole designating Minister for Infrastructure Designation in Queensland and to thus choose what developments can proceed, be they public or private infrastructure, and have them exempt from planning scheme requirements and from infrastructure charges; and

J. The maximum infrastructure charges prescribed by legislation remain unchanged since being introduced in 2011. Infrastructure charges have dropped in real terms due to indexation not being applied. This prohibits councils from making charges that reflect the actual current costs of building infrastructure. Thus the proportional costs of public infrastructure related to new development are being met by the community. Meanwhile the State Government adds 3.5% annual indexation to its own fees and charges. Noosa Council thus requests that annual automatic indexation of the current maximum capped charges be introduced to reflect increasing costs of providing infrastructure.

Yours faithfully

Brett de Chastel
Chief Executive Officer