

Our Ref.: BNE:SR:hb

Submission No. 004

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SENT BY EMAIL TO: ipnrc@parliament.qld.gov.au

13 July 2015

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

Dear Sir / Madam

**RE Planning and Development (Planning for Prosperity) Bill 2015
Planning and Development (Planning for Prosperity - Consequential Amendments) and
Other Legislation Amendment Bill 2015
Planning and Development (Planning Court) Bill 2015**

I refer to the call for submissions on the new Planning and Development (Planning for Prosperity) Bill 2015 and other related legislation.

Isaac regional Council acknowledges that comments are limited to the Act as the Regulations are not out for comments/viewing, but this is where the information for Development Assessment Rules will be located in the Regulations, which will have the greatest impact on Council.

Whilst it is acknowledged the assessment rules are not concluded, Council wishes to raise this issue to further assist development of the integrated legislation. These rules are the following, in terms of the proposed bill:

Development Assessment Rules

(1) The Minister must make rules (**the development assessment rules**) for the development assessment process, including—

(a) how notification is to be carried out for applications for which public notification is required; and
(b) the consideration of properly made submissions; and
(c) the effect on the development assessment process of the assessment manager taking action under the Native Title Act 1993 (Cwlth), part 2, division 3.

(2) Also, the development assessment rules may provide for—
(a) circumstances under which a development application is taken to be properly made for section 46(6); or

(b) the effect on an application of the expiry of a time limit under, or because of a contravention of, the rules, including, for example, the lapsing of the application; or
(c) the revival of lapsed applications; or
(d) the standard conditions for a deemed approval; or
(e) any matter under part 6, divisions 2 to 4.

Examples—

- the effect, for section 47, of different types of change on a development application
- the period for making referral agency responses, including when the responses may be made late
- matters to be considered when deciding whether or not a development application, or a change to a development application, would potentially result in a substantially different development which may require a consideration or recommencement
- matters to be considered when deciding if an action is a material change of use
- the periods for taking actions under the process
- the effect of not taking the actions within the periods
- provisions for information requests, and when and how the information can be sought.

(3) The development assessment rules do not have effect unless applied by regulation.

(4) However, the development assessment rules are not subordinate legislation.

Therefore Council is very interested to have the above matters considered in the for comments on the Regulations phase of the legislation changes as this will have the largest impact on Council

PLANNING AND DEVELOPMENT (PLANNING FOR PROSPERITY) BILL 2015

Council raises the following concerns with planning and development bill.

- **Section 46(5)** The assessment manager no longer has the ability to make an application properly made if not all the mandatory requirements are provided.
- **Section 48(4)** “The notification must be given in the way set out in the development assessment rules.” The development assessment rules will be located in the regulations as stated in Section 65(3) and therefore limited comment can be made at present.

These provisions require greater clarity to avoid confusion and create certainty in the process.

DISCUSSION MAY BE REQUIRED ABOUT CLAUSE 70 OF THE BILL:

70 Attachment to the premises:

(1) While a development approval is in effect, the approval—

(a) attaches to premises, even if—

(i) a later development (including reconfiguring a lot) is approved for the premises; or

(ii) the premises are reconfigured; and

(b) binds the owner, the owner’s successors in title and any occupier of the land.

Council raises concern with the provisions of clause 70 as this appears to have serious legal consequences for Council should a development approval be approved on a lot where previous (other) approvals were also made in the past on the same land.

This places considerable onus on Council to have a rigorous control system in place for (checking purposes), otherwise Council could be open to serious legal cases against Council for compensation – where the development cannot proceed because of other previous approvals. This

may be workable in Councils not amalgamated however in the instance of Isaac Regional Council this is a considerable burden as past approvals and historical information is not well captured.

PLANNING AND DEVELOPMENT (PLANNING FOR PROSPERITY—CONSEQUENTIAL AMENDMENTS) AND OTHER LEGISLATION AMENDMENT BILL 2015:

Council raises no comments for this bill as it is to amend relevant legislation that the new act will bring into effect.

PLANNING AND DEVELOPMENT (PLANNING COURT) BILL 2015:

Council raises no concerns in this area.

Council thanks you for the opportunity to provide comments on the anticipated legislation amendments and changes.

Should you have any further queries please contact Scott Riley Executive Director Planning, Environment & Community Services [REDACTED]

Yours faithfully



GRAHAM WEBB
Acting Chief Executive Officer