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Submission No. 030
11.1.13

CITY OF GOLDCOAST.

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

Dear Sir/ Madam

Planning and Development (Planning for Prosperity) Bill 2015
Thank you for the opportunity to provide comment on the Planning and Development (Planning for Prosperity) Bill 2015 (Bill).

Officers of the City of Gold Coast have identified the following priority issues relevant to the proposed Bill and recommend that these are addressed prior to the Bill being progressed. In addition a more detailed list of Council officer's comments is attached in the document titled *'Planning and Development (Planning for Prosperity) Bill 2015 – City of Gold Coast Council Officer Comments'*.

Compensation Provisions
The Bill, as drafted, maintains compensation provisions relevant to planning scheme changes addressing environmental risks and/or hazards that continue to allow costly merit challenges through the courts, arising from issues upon which reasonable minds (and experts) have varied opinions (i.e. whether the hazard could have been substantially reduced by development conditions).

Officers suggest a better approach would be to include provisions in the Bill that deny access to compensation with respect to planning scheme changes addressing an environmental risk and/or hazard provided the changes are made by the local government:-

1. In good faith;
2. Having regard to an appropriately qualified expert's report, which contains a risk assessment based on 'the best available information'; and
3. With a purpose to reduce the risk to persons or property from natural processes.

In doing so, the resulting issues are reduced and become less complex. Local government would be able to act with certainty in addressing the level of risk their communities are willing to tolerate; and avoid the site-by-site consideration of environmental risks where individuals are able to challenge the adopted policy of the Council.

Infrastructure Agreements
With the introduction of the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014 (SPICOLA) it is no longer possible to condition the preparation of infrastructure agreements. Whilst the State's reasoning for this change is clear, it has caused an adverse impact on local government and industry, particularly where involving the application and

assessment of large scale development proposals that require the detailed resolution of considerable trunk infrastructure.

Imposing legislation that prevents the conditioning of infrastructure agreements has brought forward the detailed resolution of trunk infrastructure in the development assessment process where there is an increased level of uncertainty as to whether the proposal as designed is agreeable. Consequently:-

- Applicants are often hesitant and rightfully so to undertake detailed design work associated with the provision of development infrastructure that is costly and challenging without knowing that their proposal will be supported; and
- Local government is unlikely to approve development where there is a high financial risk to the community due to a lack of detailed understanding of the infrastructure needed to support the proposed development, especially where it provides for an alternative to that identified in its Local Government Infrastructure Plan.

To address this issue, it is recommended the Bill be amended to provide local government, through mutual agreement with applicants, an ability to grant the approval of development subject to the resolution of detailed infrastructure issues at a later date. This could include local government, in giving its approval, conditioning a head-of-power providing for the resolution of detailed infrastructure issues prior to enabling construction to commence.

Conversion of Non-Trunk Infrastructure to Trunk Infrastructure

Converting non-trunk infrastructure to trunk infrastructure in accordance with the provisions introduced under SPICOLA and carried forward under the Bill is a process officers do not support.

Notwithstanding officers' issue with not being able to condition infrastructure agreements, the broader development assessment process, in the main, enables the resolution of development infrastructure issues during the application and assessment stage and/or after-the-fact by allowing applicants to seek an amendment to the conditions imposed on their development during the negotiated decision notice stage of the process. The process as introduced under SPICOLA is considered to add an unnecessary and duplicative layer of red-tape, and level of complexity to resolving issues associated with development infrastructure.

Further to the above, the conversion of non-trunk infrastructure to trunk infrastructure could result in local government being forced to offset the costs of land or works that it has not budgeted for, which can be further exacerbated should the cost differences between what a developer provides and the cost of what would otherwise be considered an acceptable solution are significant. Such adverse impacts go toward reducing the financial sustainably of local government.

It is recommended the conversion application process, implemented under SPICOLA, be removed from the Bill and discontinued. Notwithstanding that this represents the preferred position of officers from the City of Gold Coast, should it be decided the conversion process is to remain it is suggested that in addition to the existing provisions of the Bill, which limits the timeframe for when applicants are able to lodge conversion applications, that a 1-year time limit also be imposed on applicants for the lodgement of conversion applications, starting from the time a development approval takes effect, at a minimum.

Bill; however, it is suggested that further consideration is needed of the proposed transitional arrangements to enable local governments' sufficient time to prepare for commencement of the Act, including:-

1. Amending its local planning instruments to align with the legislation, particularly the proposed changes to the categories of assessment. The Bill, as drafted, will effectively render key elements of the City's recently prepared City Plan 2015 unworkable until such time the City and the Minister can agree on the levels of assessment for particular code assessable land-uses and/or development types.
2. Amending the various tools and systems used by local government to manage the lodgement and assessment of development applications.
3. The preparation of new Local Government Infrastructure Plans.

Also the transitional provisions of the Bill with regard to the levying of infrastructure charges for development the subject of a change application are considered unworkable in some circumstances and as such, should be modified to remove any unnecessary complication.

The Bill, as drafted, requires local government to be able to apply multiple charge regimes for development approvals the subject of change requests where the original charge was levied under an old regime. This approach, at times, is considered overly complex, particularly where the original charge may have been calculated based on 'planning scheme demand' and the extent of additional demand or identifying that part of the development that has changed in the change application is unclear.

It is recommended the Bill be amended to reflect that irrespective of when a change application for a development approval is lodged and processed, any change to the charges that are to be levied should be calculated using the charge regime that was in place at the time the original development application was approved.

To address instances where the applicant would be severely disadvantaged by the above approach, it is recommended the Bill also be amended to provide a head of power to enable the applicant and the relevant local government to mutually enter into an infrastructure agreement for the payment of any levied charges. The intent of these infrastructure agreements would be to only facilitate the calculation, levying and payment of any applicable charges for that part of the development where they have not already become payable pursuant to the provisions identified in the Bill.

State Planning Regulatory Provisions

The Bill seeks to provide a greater level of independence and flexibility for State and local government with regard to plan making and development assessment by removing certain process requirements from the legislation and suggesting that these are included in the regulation and/or other subsidiary instruments or guidance.

Whilst greater independence and flexibility with regard to plan making and development assessment is supported, the full extent of change to the overall planning framework and how it is intended to be implemented is not yet defined. As such, a comprehensive list of key issues and potential implications relating to implementation of the proposed legislation are not able to be identified/ assessed at this time.

Capped Infrastructure Charges vs. Real Establishment Costs

The maximum adopted charges have been left unchanged since their introduction in 2011 (e.g. $28,000 for a detached dwelling) meaning infrastructure charges have dropped in value by over 10% in real terms since 2011 due to indexation not being applied – this being despite a 3.5% annual indexation of State's fees and charges.

Leaving the maximum capped charges unchanged over time essentially prohibits the maximum charges from reflecting any increases to building and construction costs associated with providing trunk infrastructure, further transferring higher proportional costs from new development to the existing community to cater for new trunk infrastructure.

Local governments already subsidise the cost of providing trunk infrastructure, with recent research undertaken by the Local Government Association of Queensland (LGAQ) indicating that the current maximum charges only provide on average for 69.9% of the cost of trunk infrastructure.

Sharing the costs of providing trunk infrastructure equitably is further brought into question by the approach implemented under SPICOLA and carried forward under the Bill for the calculation of offsets. Despite local government being able to only levy an infrastructure charge up to the maximum cap, local government are also required to offset/ refund the full (real) costs of trunk infrastructure against the infrastructure charge to the developer. This approach heavily benefits the developer and shifts their costs to local government and the community, which is considered to represent a significant financial risk and unjust liability to the long-term financial sustainability of local government.

Also the removal of the price signal for local "trunk" infrastructure through the introduction of capped charging has undermined the efficient utilisation of networks by removing the comparative cost of servicing from the commercial assessment of development sites whilst increasing the financial imposts from the provision of trunk infrastructure on local government.

It is recommended State either allow for charges to be reflective of the 'planned cost' of infrastructure in applicable Local Government infrastructure Plans or allow for maximum charges to be increased to better reflect the 'actual cost' of infrastructure and indexed annually in accordance with the State's indexation of its own fees and charges.

Lapsing Provisions

Officers support the proposed lapsing provisions identified in the Bill, as they represent a simplification of the overly complex lapsing provisions of the Sustainable Planning Act 2009 (SPA). Adoption of the proposed lapsing provisions, as drafted in the Bill, will enable local government and industry to better ensure development occurs as approved within a timely manner. However, it is the opinion of officers that the Bill could also be further improved with regard to this matter.

Officers suggest the State modify the Bill to provide assessment managers with an ability to revive lapsed approvals without the involvement of the Planning and Environment Court. This could be achieved by delegating powers directly to local government for reviving lapsed approvals and/or by creating a process where approvals can be revived via the Bill's proposed Development Tribunal.

Transitional Provisions

Council officers support the inclusion of appropriate transitional legislation in the Bill to manage the reforms. The Bill addresses many of the transitional issues associated with implementation of the

It is recommended should the Bill be enacted, any revised regulation and other subsidiary instruments or guidance be provided to local government as soon as possible (well in advance of the Act commencing) to ensure industry and local government officers can be trained, and systems and processes amended to ensure implementation of the new legislation is undertaken correctly.

The City of Gold Coast looks forward to working with the State and helping them deliver the right reforms to Queensland's planning system.

Should you have any questions or would like to discuss these issues further do not hesitate to make contact [redacted]

Yours faithfully

Dyan Currie
Director, Planning and Environment
For the Chief Executive Officer
Council of the City of Gold Coast

Enclosed *'Planning and Development (Planning for Prosperity) Bill 2015 – City of Gold Coast Council Officer Comments'*

Planning & Development (Planning for Prosperity) Bill 2015 (Bill) – City of Gold Coast Council Officer Comments

Subject/ Issue	Comment
Hierarchy of Planning Instruments	The Bill, as drafted, appears to create an inconsistency with State's intent for... *"regional plans to direct the way in which the State planning policy (SPP) applies to particular parts of the State"* (pg.7 of the State Planning Policy). Section 7 clause (4) (a) of the Bill states that "a SPP applies instead of a regional plan or local planning instrument" albeit that the current SPP is drafted to address issues at a high-level and in a broad context, which has resulted in some State issues conflicting with one another (i.e. good quality agricultural land vs. extractive industry) in certain circumstances. The existing regional plans have to date resolved these conflicts and to a certain degree overridden the SPP by default. However, should the provisions of the Bill remain as drafted there is a risk that the provisions of adopted planning instruments can be manipulated to suit different circumstances and fetter undesirable planning outcomes based on the level of drafting used in what are currently considered higher order planning instruments. Given the State must essentially adopt all planning instruments and any subsequent amendments to these, including the SPP, regional plans and local planning instruments, it is recommended the State's intent, as identified in the SPP, regarding the resolution of any inconsistencies between instruments should be applied to the overall hierarchy (i.e. as a greater level of detail is established with the adoption of each planning instrument, the instrument with the greater level of detail should override the relevant higher order instruments – regional plans would override the SPP; and local planning instruments would override regional plans and the SPP).
Compensation Provisions	Section 24 (4) (e) of the Bill relates to Exemptions from Compensation (i.e. injurious affection). These proposed provisions effectively mirror those adopted under the Sustainable Planning Act 2009 (SPA), section 70 6(1) (l) (i) and (ii). The Sustainable Planning Bill 2009, Explanatory Memorandum (pg. 330) explained the State's intent of this provision was aimed towards ensuring that the costs of developing in vulnerable areas remained with the private property owner, and not the wider community. However, implementation of the existing provisions are problematic in practise The existing provisions of the SPA leaves open the possible necessity of local governments having to run significant merit based defences to compensation claims, arising from a justiciable issue upon which reasonable minds (and experts) may vary. This issue is whether or not the significant risk to person or property from natural events (such as flooding, landslide or erosion) arising before the change in the planning scheme, could have been "*significantly reduced by development conditions*". Officers suggest alternate provisions that present less scope for a merits challenge through the Courts should be adopted to replace those currently included in the Bill. It is recommended that these proposed alternative provisions require decisions regarding changes to planning schemes to be made: (a) In good faith; (b) Having regard to an appropriately qualified expert's report, which contains a risk assessment based on "the best available

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	information", (c) With a purpose to reduce the risk to persons or property from natural processes. The justiciable issues here are arguably not as numerous or complex as arguments surrounding the possibie appiication of, scope and efficacy of development conditions in reducing risk, (and therefore also what is an acceptable level of risk). Instead, there will be questions of fact as to whether: (a) Was the change made with the purpose of reducing the relevant risk? (b) Is there a report with a risk assessment demonstrating a "significant risk" without the pianning scheme change, from an appropriately qualified expert?; and (c) A discretionary argument on what is the "best available information"? Presumabiy the Courts will, at some point, determine this question with general application (e.g. figures provided by the CSiRO, IPCC or other appropriate government agency). It seems on this basis, that these aiternative provisions would be more likeiy to achieve the aim of the section, and thereby reduce imposts on the public purse associated with the planning scheme change process. As such, it is considered that this alternative is preferable to the existing provisions included within the Bill, which maintains the status quo of the SPA.
Infrastructure Agreements	With the introduction of the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014 (SPICOLA) it is no longer possible to condition the preparation of infrastructure agreements. Whilst the State's reasoning for this change is clear, it has caused an adverse impact on local government and industry, particularly where involving the application and assessment of large scale development proposals that require the detailed resolution of considerable trunk infrastructure. Imposing iegislation that prevents the conditioning of infrastructure agreements has brought forward the detailed resolution of trunk infrastructure in the development assessment process where there is an increased level of uncertainty as to whether the proposal as designed is agreeable. Consequently:- • Appiicants are often hesitant and rightfully so to undertake detailed design work associated with the provision of development infrastructure that is costly and challenging without knowing that their proposal will be supported; and • Local government is uniikely to approve development where there is a high financiai risk to the community due to a lack of detailed understanding of the infrastructure needed to support the proposed deveiopment, especialiy where it provides for an alternative to that identified in its Local Government Infrastructure Plan. To address this issue, it is recommended the Bill be amended to provide local government and applicants, through mutuai agreement, an ability to place the decision stage of the development application process on hold to enable the resolution of detailed infrastructure issues prior to making a final decision on the application and/or provide a mechanism that enables local government to grant the approval of development applications subject to the resolution of detailed trunk infrastructure issues through timely negotiation with the applicant after a development permit is granted.
Trunk Infrastructure Conditions	The City of Gold Coast's Water and Sewerage Network Services (Netserv) Plan was adopted in September 2014 and is considered to be the most current plan for the provision of infrastructure for these networks. Council's Priority Infrastructure Plan/ Local

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	Government Infrastructure Plan (LGIP) was adopted in 2007. The SEQ Water Act and the SPA set up two separate charging and conditioning regimes for trunk infrastructure. Under the SEQ Water Act a distributor retailer may levy charges and impose trunk infrastructure conditions by reference to a Netserv Plan. SPA allows local government to levy charges and impose trunk infrastructure conditions by reference to a LGIP and a charges resolution. The City is not a distributor retailer under the SEQ Water Act. Accordingly, its only power to impose a necessary infrastructure condition for water and sewerage trunk infrastructure and an additional payment condition under the Bill is therefore by reference to trunk infrastructure identified in an LGIP, not a Netserv Plan. As a result, the City is currently unable to refer to its most recent infrastructure planning for these networks as undertaken in the Netserv Plan. It is recommended the Bill be amended to allow the City to "deem" trunk infrastructure and other matters identified in its Netserv Plan to be trunk infrastructure and have the equivalent status under the LGIP.
Conversion Applications	Converting non-trunk infrastructure to trunk infrastructure in accordance with the provisions introduced under SPICOLA and carried forward under the Bill is a process officers do not support. Notwithstanding officers' issue with not being able to condition infrastructure agreements, the broader development assessment process, in the main, enables the resolution of development infrastructure issues during the application and assessment stage and/or after-the-fact by allowing applicants to seek an amendment to the conditions imposed on their development during the negotiated decision notice stage of the process. The process as introduced under SPICOLA is considered to add an unnecessary and duplicative layer of red-tape, and level of complexity to resolving issues associated with development infrastructure. Further to the above, the conversion of non-trunk infrastructure to trunk infrastructure could result in local government being forced to offset the costs of land or works that it has not budgeted for, which can be further exacerbated should the cost differences between what a developer provides and the cost of what would otherwise be considered an acceptable solution are significant. Such adverse impacts go toward reducing the financial sustainably of local government. It is recommended the conversion application process, implemented under SPICOLA, be removed from the Bill and discontinued. Notwithstanding that this represents the preferred position of officers from the City of Gold Coast, should it be decided the conversion process is to remain it is suggested that in addition to the existing provisions of the Bill, which limits the timeframe for when applicants are able to lodge conversion applications, that a 1-year time limit also be imposed on applicants for the lodgement of conversion applications, starting from the time a development approval takes effect, at a minimum.
Levying of Infrastructure Charges	The maximum adopted charges have been left unchanged since their introduction in 2011 (e.g. $28,000 for a detached dwelling) meaning infrastructure charges have dropped in value by over 10% in real terms since 2011 due to indexation not being applied – this being despite a 3.5% annual indexation of State's fees and charges. Leaving the maximum capped charges unchanged over time essentially prohibits the maximum charges from reflecting any increases to building and construction costs associated with providing trunk infrastructure, further transferring higher proportional costs from new development to the existing community to cater for new trunk infrastructure. Local governments already subsidise the cost of providing trunk infrastructure, with recent research undertaken by the Local Government Association of Queensland (LGAQ) indicating that the current maximum charges only provide on average for 69.9% of

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	the cost of trunk infrastructure. Sharing the costs of providing trunk infrastructure equitably is further brought into question by the approach implemented under SPiCOLA and carried forward under the Bill for the calculation of offsets. Despite local government being able to only levy an infrastructure charge up to the maximum cap, local government are also required to offset/ refund the full (real) costs of trunk infrastructure against the infrastructure charge to the developer. This approach heavily benefits the developer and shifts their costs to local government and the community, which is considered to represent a significant financial risk and unjust liability to the long-term financial sustainability of local government. it is recommended State either allow for charges to be reflective of the 'planned cost' of infrastructure in applicable Local Government Infrastructure Plans or allow for maximum charges to be increased to better reflect the 'actual cost' of infrastructure and indexed annually in accordance with the State's indexation of its own fees and charges.
Payment of Infrastructure Charges	The Bill identifies the timing for the payment of infrastructure charges as being 'at the same time' as some other action occurring (i.e. when the change happens for a material change of use). This is considered to be problematic in practise, as it requires auditing the commencement of development to ensure that all outstanding charges are paid. In a local government area that experiences a high rate of development activity this can sometimes take an extended period of time leaving unpaid infrastructure charges outstanding even though uses may no longer be in operation. This issue is further exacerbated when the owner of the subject site is not the applicant. The Bill states in section 114 clause (12) (b) that levied charges are payable by the applicant; however, section 141 clause 1 states that for the purposes of recovery, the charge is taken to be rates, and hence, ultimately payable by the owner of the property. This potential conflict between provisions of the Bill could pose a risk for local government when charges are identified as outstanding. Local government could be left in an untenable position should an owner argue that the applicant was ultimately responsible for payment of the levied charge and not themselves despite being the owner of the property. It is recommended the Bill be amended to include a reference to all levied charges being payable 'prior to' some other action occurring, which enables local government to better manage the payment of infrastructure charges and provide for the timely commencement of new development. It is also recommended that section 114 (12) (b) be amended to align with the requirements of section 141.
Lapsing Provisions	Officers support the proposed lapsing provisions identified in the Bill, as they represent a simplification of the overly complex lapsing provisions of the Sustainable Planning Act 2009 (SPA). Adoption of the proposed lapsing provisions, as drafted in the Bill, will enable local government and Industry to better ensure development occurs as approved within a timely manner. However, it is the opinion of officers that the Bill could also be further improved with regard to this matter. Officers suggest the State modify the Bill to provide assessment managers with an ability to revive lapsed approvals without the involvement of the Planning and Environment Court. This could be achieved by delegating powers directly to local government for reviving lapsed approvals and/or by creating a process where approvals can be revived via the Bill's proposed Development Tribunal.

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Transitional Provisions – Categories of Assessment	Transitional provisions under section 245 of the Bill convert the SPA levels of assessment into new equivalent levels of assessment under the Bill. The City of Gold Coast Council, along with other Queensland Local Governments, has invested a lot of time and money preparing new planning schemes compliant with the Queensland Planning Provisions under SPA. During the development of our draft City Plan 2015, the City of Gold Coast Council made an effort to reduce levels of assessment from Impact to Code and from Code to Self-Assessment based on a careful risk management process. Lowering of the levels of assessment was based on a number of principles including: • Higher impacting uses (typically impact assessable uses in the 2003 Planning Scheme) could be lowered with improved development codes/zones codes to address the perceived adverse effects. • Development that was code assessable could still be carefully assessed and be refused if necessary. • Self-assessment uses could be elevated to code assessment when the use didn't comply with the detail in the codes. Simply converting code assessable development to standard assessment without carefully preparing criteria to assess this development may therefore lead to a number of risks/impacts to Council and the community (i.e. the inability to refuse adverse development as a result of not having appropriate assessment criteria; reduced timeframes for Council to assess development etc.). Adopting the proposed transitional provisions in the Bill will require immediate significant re-writes of planning schemes, which is considered an inefficient use of local government resources and revenue. In addition, section 249 of the Bill requires Ministerial approval to raise existing code assessment development (under SPA) to merit assessment. The transitional provisions do not define the process and timing for this new requirement (e.g. will the process follow a plan change process and need to be publicly notified?). To address these concerns it is recommended that flexibility be provided to local governments to allow them to determine the level of assessment during the transitional period, without the required Ministerial approval. This initial flexibility will allow Council's to apply: • The appropriate assessment criteria/codes to the development. • The appropriate assessment timeframes (standard or merit) to complex development types.
Transitional Provisions – Calculation of Infrastructure Charges	The Bill, as drafted, requires local government to be able to apply multiple charge regimes for development approvals the subject of change requests where the original charge was levied under an old regime. This approach, at times, is considered overly complex, particularly where the original charge may have been calculated based on 'planning scheme demand' and the extent of additional demand or identifying that part of the development that has changed in the change application is unclear. It is recommended the Bill be amended to reflect that irrespective of when a change application for a development approval is lodged and processed, any change to the charges that are to be levied should be calculated using the charge regime that was in place at the time the original development application was approved. To address instances where the applicant would be severely disadvantaged by the above approach, it is recommended the Bill also

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	be amended to provide a head of power to enable the applicant and the relevant local government to mutually enter into an infrastructure agreement for the payment of any levied charges. The intent of these infrastructure agreements would be to only facilitate the calculation, levying and payment of any applicable charges for that part of the development where they have not already become payable pursuant to the provisions Identified in the Bill.
Definitions – Tidal Area	The definition provided for "*tidal area*" in the Bill does not align with the provisions of the Local Government Regulation 2012 section 6, which includes all internal watercourses within the local government area, including that part below the high water mark (see below): ***"Local Government Regulation*** ***s6 Boundaries of local government areas and any divisions*** *(1) The boundaries of each local government area, and any divisions of the area, are shown on its area map mentioned in schedule 1, column 3.* *(2) To remove any doubt, it is declared that any part of a watercourse, including the land below the high-water mark of the watercourse, that is within the boundary of a local government area is part of the local government area"* The words "*next to the area*" in the definition provided in the Bill excludes local government's jurisdiction for all waterways except for those which form part of the local government's external boundary. Whilst part (a) addresses those few instances where the boundary of the local government area map is defined as the waterway, Council's internal waterways, (of which there are many on the Gold Coast) need to be addressed. Part (b) of the proposed definition is considered to apply clearly to oceanfront jurisdiction, but is too unclear, strained and legally uncertain to encompass internal waterways of the local government area. It is considered the definition of *tidal area* as proposed in the Bill will likely pose an adverse risk to local government. If the Council continues to exercise a prescribed tidal works jurisdiction for internal waterways, possible challenges to significant infrastructure approvals for prescribed tidal works approvals could be lodged with the Planning and Environment Court on technical grounds. It is recommended the Bill be amended to include a new part to the definition for *tidal area* to read in full as follows: "***Tidal area*** *for a non-port local government area or strategic port land (*each ***the area***), *means:* *(a) any area subject to tidal water within the local government area; and* *(b) where the tidal waters form part of a tidal river, estuarine delta, canal or other artificial waterway that forms the boundary of the local government area under the Local Government Act 2009, the parts of the tidal waters between the high-water mark and the middle of the river, delta, canal or other artificial waterway next to the area; and* *(c) to the extent the boundary of a local government area is high-water mark or is seaward of the high-water mark, the area that is seaward of that boundary and is within 50m of the high-water mark;*

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	The definition of *'Tidal water'* means the sea and any part of a harbour, watercourse or artificial waterway ordinarily within the ebb and flow of the tide at spring tides.
Regulatory Provisions	The Bill seeks to provide a greater level of independence and flexibility for State and local government with regard to plan making and development assessment by removing certain process requirements from the legislation and suggesting that these are included in the regulation and/or other subsidiary instruments or guidance. Whilst greater independence and flexibility with regard to plan making and development assessment is supported, the full extent of change to the overall planning framework and how it is intended to be implemented is not yet defined. As such, a comprehensive list of key issues and potential implications relating to implementation of the proposed legislation are not able to be identified/ assessed at this time. It is recommended should the Bill be enacted, any revised regulation and other subsidiary instruments or guidance be provided to local government as soon as possible (well in advance of the Act commencing) to ensure industry and local government officers can be trained, and systems and processes amended to ensure implementation of the new legislation is undertaken correctly.