Planning Institute Australia

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Submission No. 033
11.1.13

13 July 2015

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

Via email: ipnrc@parliament.qld.gov.au

Dear Sir/Madam,

Planning and Development (Planning for Prosperity) Bill 2015

Thank you for the opportunity to comment on the Planning and Development (Planning for Prosperity) Bill 2015 the Planning and Development (Planning for Prosperity – Consequential Amendments) and Other Legislation Amendment Bill 2015 and the Planning and Development (Planning Court) Bill 2015 ('the Bills'). As the peak body representing the planning profession, the Planning Institute of Australia (PIA) supports legislative and administrative reform that assists planners, governments, the development industry and local communities achieve good planning and development outcomes.

We note that the Bill is largely consistent with the Planning and Development Bill and related bills introduced into Parliament in 2014 ('2014 bills'). PIA provided a submission on the draft Planning and Development Bill in September 2014; a copy of that submission and specific comments on various aspects of the 2014 bills are **attached** for the Committee's reference and our comments therein remain relevant to the Bills. We also note that the Government currently is consulting on the 'Better Planning for Queensland – Next Steps in Planning Reform Directions Paper.

We reiterate our support for legislative change where it makes the planning and development system substantively better. The desire to improve/reform the planning system is laudable but we note there is a substantive cost to change; changing systems and processes will cause significant costs to local government and significant time and resources in training and the like.

While PIA supports the general direction of the reforms, in some instances it is unclear what the 'problem' is that a change seeks to address. This is complicated by the fact that the Bills seek to move much of the detailed plan-making and development assessment provisions into regulations and guidelines. It is not possible to comment on these matters at this stage. Draft Regulations and other statutory instruments need to be available for us to truly consider the full package and implications.

Improving culture is a key priority for PIA and we look forward to working with the Department in rolling out the Planning Matters strategy aimed at improving the culture and effectiveness of planning practitioners while minimising the risk of unintended consequences such as creating a more complex and cumbersome planning and development framework.

PIA maintains its commitment to working with Government in delivering planning reform that assists all participants in the planning system to deliver balanced planning outcomes that improve the quality of life for all Queenslanders and therefore contribute to a more prosperous Queensland. PIA is well placed to assist the State, given that its member representatives are frequent and experienced users of the planning system, having broad and wide ranging experience in both plan-making and plan implementation.

We would welcome the opportunity to attend a hearing once the committee has resolved the inquiry timeline. In the meantime, if you require any further information regarding this submission, please do not hesitate to contact me.

Y ours faithfully,

Kate Isles MPIA
Queensland President

Planning Institute Australia

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Leading effective planning for people and places

26 September 2014

Department of State Development, Infrastructure and Planning
Act Review Team
PO Box 15009
City East QLD 4002

Dear Sir/Madam,

Draft Planning and Development Bill 2014 and Draft Planning and Environment Court Bill 2014

Thank you for the opportunity to comment on the draft Planning and Development Bill 2014 and draft Planning and Environment Court Bill 2014. As the peak body representing the planning profession, the Planning Institute of Australia (PIA) supports legislative and administrative reform that assists planners, governments, the development industry and local communities achieve good planning and development outcomes.

We commend the significant consultation that the Department of State Development, Infrastructure and Planning (DSDIP) has conducted with key stakeholders and industry groups over the past 18 months. We note that many members of PIA have been actively engaged with the focus groups and in doing so have helped shape the current direction of planning reform in Queensland. PIA provided comments on the confidential draft Planning for Prosperity Bill and we note that many suggestions in that submission have been considered and reflected in the revised Bill, or are yet to be revealed in the details of the supporting regulations.

PIA supports legislative change where it makes the planning and development system substantively better. The Government's aim to have the best planning system in Australia is laudable. It must also be recognised that there is a substantive cost to change; for example changing systems and process will cause significant costs to local government and require significant time and resources in training and the like. Change should not be made for the sake of change. Change should add substantive value. In that context, PIA supports the general direction of the reforms. However, in some instances it is unclear what the 'problem' is that a change seeks to address (for example the change to require local authorities to notify an applicant that an approval will lapse).

Further, it is noted that some changes are promoted as advancing improvements in 'culture', for example the alternate assessment manager role and the opting out of information requests. PIA acknowledges that 'culture' is the most influential matter in improving the efficiency and effectiveness of a planning and development system. However, embedding initiatives within the legislation without a full consideration of change management implications, risks unintended consequences including creating a more complex and cumbersome planning and development framework. Improving culture is a key priority for PIA and we look forward to working with the

Department in rolling out the Planning Matters strategy aimed at improving the culture and effectiveness of planning practitioners.

Please find **attached** comments on various aspects of the Bills. The key comments include:

1. **Purpose** – the purpose of the Bill is broadly supported in that it provides for the balance of economic, social and environmental considerations, however the use of qualifying terms in 3 (1) & (2) such as 'including' and 'mainly' act to create unhelpful uncertainty.
2. **Assessment categories** – the revised assessment categories are generally supported in principle although these matters cannot be fully understood until the details in the regulations are known.
3. **Compensation** – changes to the compensation provisions of the Bill are supported to help planning authorities make planning decisions in the long term best interests of communities, including protecting people from natural hazards and the effects of climate change.
4. **Exemption certificates** – are generally supported to address manifest errors in planning instruments, however, more consideration is required regarding a number of matters including the parameters for 'minor' and 'inconsequential' matters.
5. **Third party assessment manager** – this concept requires further consideration regarding whether it is necessary and what role the third party will have regarding other matters (appeals etc).
6. **Lapsing** – the revised timeframes for the lapsing are supported but the requirement for the assessment manager to issue a notice for an application to lapse is not supported.
7. **Definitions** – changes to well-known definitions such as 'material change of use' are not supported, and the definitions for 'planning' and 'infrastructure' require review.
8. **Dispute resolution** – it is noted that the powers of the Committee and the ADR powers have been expanded; however, question whether dispute resolution could be fundamentally reviewed to provide more options to resolve matters outside of the court process.

We note that much of the detail is yet to be provided in the regulations. Until this detail is known we cannot fully understand or sensibly comment on some key aspects of the Bill, such as the categories of development or the development assessment rules. It is important that there is significant consultation on the associated regulations when they are available.

PIA maintains its commitment to assisting the Government in delivering planning reform that assists all participants in the planning system to deliver balanced planning outcomes that improve the quality of life for all Queenslanders and therefore contribute to a more prosperous Queensland. PIA is well placed to assist the State, given that its member representatives are frequent and experienced users of the planning system, having broad and wide ranging experience in both plan-making and plan implementation.

We look forward to the opportunity to continue to work with the Department of State Development Infrastructure and Planning to help refine the draft Bill.

If you would like any further information or wish to discuss any part of this submission in more detail, please do not hesitate to contact me.

Yours sincerely,

Kate Isles MPIA
Queensland President
Planning Institute of Australia

PLANNING AND DEVELOPMENT BILL 2014

SECTION	COMMENT	PROPOSED ACTION
Purpose		
3	The purpose is clear and concise.	
General		
Overall	The Bill is well structured, which makes it easy to navigate.	
Preliminary		
3 (1)	The purpose of the Bill is supported in that it provides for the balance of economic, social and environmental considerations. However, the inclusion of the term 'including' acts to reduce clarity as to the other unstated elements that may facilitate Queensland's prosperity. It is understood that the intent is to provide policy in the State Planning Policy rather than in the act. In that context, the SPP should provide that matters removed from the purpose, including sustainability and climate change, are incorporated into state interests.	Delete the word 'including'. Progress matters of policy, including sustainability and climate change, in the SPP.
3(2)	This clause appears to have too many adjectives. The inclusion of the term 'mainly' acts to reduce certainty about how the purpose will be achieved.	Rationalise Delete the word 'mainly'.
3	Section 4 of SPA,' Advancing Act's purpose' places an onus on entities administering the Act to advance the act's purpose. The bill does not include these provisions which are considered important in achieving the act's purpose through the actions and decisions making of entities.	Review
Planning		
Chapter title	This chapter may more accurately be described a 'plan making'. It is about making planning instruments.	Amend chapter title to 'plan making'
6	This section says that Part 2 is about "making, amending, suspending or repealing State planning instruments". Section 8(1), which is the first section in Part 2, says that Part 2 sets out the process for "making, amending or repealing a State planning instrument". There is no mention of "suspending" a State planning instrument, yet this may be the purpose of a temporary State planning policy under section 11(2).	Clarify

7	Section 7(4)(d) says that a TLPI applies instead of a planning scheme policy to the extent of any inconsistency. Section 20(3) says that a TLPI may suspend or otherwise affect the operation of a local planning instrument. A local planning instrument is defined in section 7(3) to include a planning scheme, a TLPI or a planning scheme policy. A number of matters arise: • The hierarchy in section 7(4) does not deal with the relationship between a planning scheme and a TLPI, it only deals with the relationship between a planning scheme policy and a TLPI; and • Is it intended that a TLPI might suspend or otherwise affect the operation of another TLPI? The hierarchy of planning instruments needs to be clarified with regard to TLPIs and their relationship to planning schemes and other TLPIs.	Clarify hierarchy
8(2)	This does not reflect that a state planning instrument can be suspended by a temporary state planning policy.	Clarify
13	The need for sections 13(2) – 13(4) is queried. If these sections are to remain, consider whether there is also a need to include further provisions about changes in the membership of the committee and disbanding the committee.	Review
14	Section 6(3) states that Part 3 is about "making, amending, suspending or repealing" local planning instruments. Section 14, which is the first section in Part 3, states that Part 3 sets out a process "for making, amending or repealing a local planning instrument". There is no reference to "suspending".	Review
14	This does not reflect that a local planning instruments can be suspended by a temporary local planning instrument	Clarify
15(1)	Will there be "required contents" prescribed in a regulation for planning schemes, TLPIs and local planning policies or will this provision only apply for planning schemes?	Clarify
15(2)	This provision has the potential to be problematic in its application and interpretation. It would require a user of every local planning instrument to read, not only the local planning instrument, but also the required contents and make a determination if the local planning instrument is inconsistent with the required contents. If a local planning instrument and the required contents are inconsistent, this should be a matter that is capable of being addressed through a Ministerial direction. The	Review

	provision is directly contradictory to the purpose of the legislation to have an effective and efficient system of planning. Furthermore, the chief executive's involvement in plan making should alleviate this concern.	
20(6)(c)	If a TLPI takes effect from a date prior to it being approved by the Minister, a person who undertakes development contrary to that TLPI in the period between the local government resolution and the Ministerial approval may be liable to prosecution for a development offence. The fact that the retrospectivity dates back to the date on which the local government at a public meeting resolves to give the TLPI or amendment to the Minister for approval does not ameliorate this concern. Making a TLPI retrospective may have unintended and unjust consequences for members of the public, who cannot be expected to read all minutes of every local government meeting prior to undertaking development.	Review
24 (2)	Suggest including TLPI applicable before planning scheme was amended. Where TLPIs are used to address urgent planning matters (e.g. flooding or environmental controls) current superseded planning scheme process provides an avenue around the TLPI or exposes planning authorities to significant risks of compensation. It is unclear why it is necessary to refer to a planning scheme policy being "replaced". There does not appear to be a process for this to occur elsewhere in the legislation.	Review
24(3)	This section should also refer to planning scheme policies.	Review
24(4)(b)	Replace "superseded scheme" with "superseded planning scheme" (which is the defined term).	Review
24(9)(b)	A step in the process appears to be missing. There needs to be a provision which states that a decision to grant a request under section 24(4)(b) constitutes a development approval for the purpose of sections 90 and 91. There is no point in extending appeal rights to this decision under section 24(9)(b) if there is no right to make an extension request.	Review
25	It is unclear why there is a reference to the "replacement" of a local planning instrument.	Review
25(3)	It would be helpful to have a definition of "public purpose".	Review
25 (4)	The alternative provision for natural hazards is supported with amendment to align more closely with the SPP to read	Review

	"(i) to reduce the *current and future risks* to people, property and the environment from *natural hazards* including, flooding, bushfire landslide and coastal hazards; and (ii) in good faith, having regard to ………the relevant natural *hazard* on the best available information. The planning framework should support planning authorities in making planning decisions in the long term best interests of communities, including protecting people for natural hazards and the projected effects of climate change.	
26	It is not clear whether the affected owner needs to hold an interest in the premises at the time of the adverse planning change or public purpose change.	Clarify
28	This section does not deal with the amount of compensation payable for a public purpose change.	Review
29(3)	As development under a designation will be accepted development (other than building work), consideration needs to be given to whether the requirements to be imposed should be broader than the items stated. Perhaps this list could be inclusive, rather than identifying the types of requirements. Recommend expanding section 29(3) to include an additional (d) which reads: "avoiding or mitigating the current and future risks of natural hazards"	Review
30 (b)	Include a new reference in 30 (b) to including provision about adequate risk assessment of natural hazards. While this section includes reference to environment assessment, a risk or natural hazard assessment is very different to an environmental assessment and the act should be clear about this.	Review
34	If a designation is repealed by the Minister, what is the effect of the repeal on development started, but not completed, under the designation? The repeal of a designation may have adverse consequences on affected persons. There should be a process for the notification of affected persons about the proposed repeal, the ability for affected persons to make a submission about the proposed repeal and the consideration of those submissions prior to the decision being made to repeal the designation.	Clarify and review
35(2)(d)	The requirement to include the provisions or requirements under section 29(3) in a note in a planning scheme may be onerous, particularly if those provisions or requirements	Review

	are lengthy. An alternative should be provided e.g., a link to the Department's designations database.	
General	The removal of the right to request a hardship acquisition is not supported.	Review
37(7)	It would appear that the benefits of section 37(7) will apply to development under an existing community infrastructure designation. If so, it is noted that, having been given under a different regime, these designations are unlikely to have comprehensive provisions and requirements. By way of example, premises may be designated as a CID for education purposes. The premises may contain a structure listed on the State heritage register. Under the SPA, the CID would not have avoided the need to obtain a development permit for a development on the State heritage place. If all development under a designation is exempt, and the development on the State heritage place is for education purposes, the State heritage place could be developed for education premises, with no approval other than a building approval under the Building Act.	Review
Development Assessment		
40	Exemption certificates are generally supported, however, there are a number of matters to be considered. First, will the exemption certificate run with the land and benefit successors in title or will it be personal to the owner to whom it is given? This needs to be clarified. It would be preferable for the exemption certificate to run with the land. Second, is there any limit on the number of times an exemption certificate may be issued for the same development? If there is to be a limit, this should be stated. Third, the concept of "completed" in section 40(4) is not appropriate for development that is a material change of use. The concept of "started" is not appropriate for a reconfiguration. The concept of started is appropriate for building work and operational work, but query why the works do not need to have substantially started? Fourth, it will be important that copies of exemption certificates be provided as part of a standard or full planning and development certificate. Fifth, local governments and the chief executive should be required, under the access rules, to maintain registers of exemption certificates.	Review

	Sixth, exemption certificates should only be withdrawn on notice. The criteria regarding ‘the effects of the development are minor or inconsequential’ could create a quasi-application process where proponents seek to argue ‘inconsequential’ effects. This may cause inconsistency through varied applications of the ‘minor’ or ‘inconsequential’ tests. The changed ‘circumstances’ and ‘error’ provisions, it seems, should lead to changing the relevant planning scheme. The exemption certificate should be subject to a reasonable time frame for decision e.g. as for a request to change.	
42(3)	Is the third party assessment manager the assessment manager only for assessing the development application or is it also the assessment manager for all subsequent actions e.g. appeals, declarations, change applications, extension applications etc?	Review
43(7)	It is unclear why this section has been included. It is likely to be problematic. A preliminary approval is, by its very nature, less detailed than a development permit. There is no reason for it to automatically prevail over a development permit.	Review
45 (5)	It is unclear what ‘problem’ this is intended to address. This may result in unintended consequences/complications.	Review
46	There needs to be a governance regime established around chosen assessment managers in terms of retention of documents, access to documents etc	Further consider
47(2)	The intent of this section is unclear. Is it the case that even if an applicant changes, the previous applicant can continue to be the applicant, with the consent of the new applicant? Why is this required?	Clarify
51	The reference to section 42(3) should be a reference to section 42(2)(b)(ii).	Review
52(1)	The reference to section 42(3) should be a reference to section 42(2)(b)(ii).	Review
51 (2)	It is unclear whether there will remain a distinction between ‘concurrence’ and ‘advice’ agencies.	Clarify and review
52(4)	The use of the term "decided" is not appropriate with respect to a referral agency.	Review
53(1)	This section provides for a referral agency to decide to direct an assessment manager to do a number of things, including to give a development approval. Is this intended?	Clarify and review
53(5)	It is unclear why the term "requires" is used. It appears from sections 53(1) and 53(2) that where the referral agency identifies an action, it "directs" that action be taken.	Clarify and review

59	The simplified rules for assessing applications are supported, subject to further detail in the regulations	
60	The simplified rules for deciding applications are supported, subject to further detail in the regulations.	
61	The definition of a "variation request" is "a development application to vary the effect of a local planning instrument". This is broader than varying the effect of a planning scheme, and potentially allows an applicant to vary a planning scheme policy or TLPI. Is this intended? There does not appear to be any section in the legislation that describes what a variation request is meant to do; only how it is to be assessed (under section 61) and the decision (under section 62). Is this intended?	Clarify and review
65(1)(c)	If the decision notice is given to principal submitters, it is unclear how the appeal provisions will work if the applicant then seeks a negotiated decision. The split notification that exists under the SPA should be continued.	Review
Owners consent		
66(1)(a)	This section does not provide an ability for an applicant who was required to, but did not provide consent or evidence of consent with the development approval, to provide that consent during the development application process. Section 66(1)(a) refers to the situation where the application is "accompanied" by the consent or evidence of consent. Instead, it should refer to consent being provided before a decision is made.	Review
66(1)(b)	This section says that if the owner's consent is required for the application, a decision notice can only be given if the decision is not to give any development approval. The section does not contemplate the situation where the applicant appeals this decision and the court on appeal decides to give a development approval.	Review
66(3)	Section 66(3) states that an assessment manager is not required to impose a condition mentioned in section 66(1)(c). On the contrary, where the consent, or evidence of the consent, of the owner of the land is required but not provided and the decision is to give a development approval, the assessment manager should be under a positive obligation to include a condition mentioned in section 66(1)(c).	Review
67(2)(b)	Note reference to a referral agency directing the assessment manager to approve in part.	See above comments

67(2)(c)	A definition of "building development application" needs to be included.	Review
67(6)	The reference should be to 10 business days. Ten days seems a short period of time, particularly if in the Easter or Christmas periods.	Review
68	There is no equivalent to section 345(2) of the SPA. Why has this provision been removed?	Clarify
70(1) & (2)	These sections are a welcome innovation, however, the ability to have inconsistent conditions is still too limited. That is, the provision is limited by reference to "the development" – the earlier and later conditions must relate to the same development. The section would have greater utility if it were possible for a development condition of a later development approval to be inconsistent with a condition of an earlier development approval in effect for the "land" or "premises". This would deal with the situation where, for example, a shopping centre is approved with a condition requiring the provision of a certain number of car parking spaces. A later development application is made to erect a fast food outlet in the car park, reducing the number of car parking spaces. In these circumstances, it would still be necessary to make a change application for the earlier approval to reduce the number of car parking spaces.	Review
72	Section 72(2)(c) refers to "any matter under Part 6, divisions 4 to 6"; there is no division 6.	Review
73(2)(a)	Replace "by on " with "on".	Review
76(3)	This section says that development may start when any development condition of the permits relating to the start of development have been complied with. It may be better to say that "development may start when any development condition of the permit required to be complied with prior to the start of development has been complied with".	Review
77(2)(b)	This section is unnecessary and should be deleted.	Delete
79(4)(c)	This section should read "the day the applicant receives a notice that the assessment manager does not agree with any of the representations". A similar change needs to be made to sections 80(2) and 80(3).	Review
80(3)	There is no consistency of expression between section 80(3)(b) and section 65(1)(c). Also, if the assessment manager is the chosen assessment manager, the negotiated decision notice needs to be given to the prescribed assessment manager.	Review

80(4)(b)	The reference to section 65 should be reference to sections 65(2) and 65(3). It is unclear why the negotiated decision notice must comply with section 107.	Clarify and review
80(7)	Should the reference to "approval" be a reference to "decision notice"?	Clarify and review
81	Should the words "after the applicant's appeal period ends" be "after the approval takes effect".	Clarify and review
82(1)(a)	Why is this subsection required? If this is a limitation, it should say "only a person …".	Clarify and review
83(1)(b)(iii)	Owner's consent should not be required if the original development application did not require owner's consent or if no owner's consent would be required if the development application were remade including the change.	Review
83(2)(d)(ii)	The subsection does not appear to be complete.	Review
84(2)(b)	The triggers need to be linked to the change. That is, it should say "if a development application for the development, including the change, were made when the change application is made, the change would not cause any of the following …".	Review
85(5)	This section suffers from the same difficulties as section 66(1).	Review
86	The ability to change an application other than for a minor change is welcome, however, there is no clarity about the type of change that can be the subject of this type of application as opposed to needing a new development application. This is likely to be productive of litigation.	Clarify and review
88(2)(b)	The consent of the owner should only be required if the owner's consent was required for the development application.	Review
89 (1)	The revised and extended timeframes for when approvals lapse are supported	
89 (2)-(4)	The requirement for an assessment manager to give notice that an approval will lapse is an unnecessary burden on the assessment manager, will lead to administrative difficulties in providing systems to support this and in and contacting applicants, and is inconsistent with the philosophy of providing an applicant led system.	Delete 89 (2)–(4)
90(3)(b)	The same as above. Section 90(4) only refers to some of the exceptions. For example, it does not deal with section 45(3)(a) where the State is the owner or the development is not caught by section 45(2).	Review
91(4)(b)	What happens if the Court, on appeal, decides to approve the application?	Clarify and review
93(1)(a)	This section re-introduces the concept of inconsistency which does not exist elsewhere in the legislation.	Review
104(1)	If the development application is the subject of an appeal, the call in notice should also be given to the Court.	Review

108	This section allows the Minister to refer back to the assessment manager any part of a development application that the Minister does not decide. This section is likely to lead to administrative difficulties. For example, is the part of the application decided by the assessment manager subject to appeal; who is the responsible entity for a change application for this part of the application etc.? If the Minister calls in a development application, for the sake of administrative efficiency, the Minister should decide the entirety of the development application.	Clarify and review
110(5) & (6)	It is unclear whether the directions power relates only to sections 97 and 98, or whether the entirety of Division 2 is relevant. If the latter, then further interpretative provisions, as found in section 110(3) will be required.	Clarify and review
111(2)	The reference to a condition being changed or removed under part 6, division 4 does not appear to be correct.	Review
111(2)	This section also needs to deal with the possibility that a development approval may be cancelled under part 6, division 3.	Review
Infrastructure		
115(3)(a)	This section refers to giving or amending an infrastructure charges notice. Section 115(4), however, refers only to amending an infrastructure charges notice. It also needs to refer to giving an infrastructure charges notice.	Review
133(2)	The section refers to "either or both" being provided. The word "both" should be deleted. There is no reason why an applicant should provide both the identified (adequate) trunk infrastructure <u>and</u> different trunk infrastructure delivering the same desired standard of service.	Review
Offences and Enforcement		
167(1)	"Offence" at end of subsection should be "offences".	Review
170(2)	The reference to section 92(3) is not correct.	Review
178(2)	The reference to section 174(4)(a) should be a reference to section 174(5)(a).	Review
194(2)(c)	This section only deals with deemed refusals of development applications. It also needs to deal with deemed refusals of other applications under the legislation.	Review
194(4)	A right to seek relief from the Supreme Court on the grounds of jurisdictional error exists in the absence of this provision. Why, therefore, is it necessary for this provision to be included? Is it correct to describe the proceedings as an "appeal"?	Clarify and review

Miscellaneous		
223	This section provides local governments with the ability to take or purchase land. The provisions apply to the taking of land that would help to achieve the strategic outcomes stated in the planning scheme or, after a development approval starts to have effect the Council is satisfied the development would create a need to construct infrastructure on land or to carry drainage over land. Recommend expanding this section to enable Councils to also take land for coastal erosion purposes.	Review
231	Should the reference to "part 5, division 3" be a reference to "part 5, division 2"?	Clarify and review
232(2)	The reference to subsection (1)(a) should be a reference to subsection (1)(b).	Review
233(2)(a)	The reference to the applicant needs to reflect the ability to change the applicant under section 47(2).	Review
233(3)(b)	As above. Further, why is section 233(3)(b)(ii) limited to Chapter 4, which is about infrastructure; shouldn't it also apply to Chapter 3?	Clarify and review
237(2)	This section does not contain a complete list of the work to be done by the regulation made under the Act.	Review
Transitional		
General	The drafting technique adopted in this Part is difficult to understand and is likely to lead to disputes. It would be preferable for documents/instruments/applications to be individually transitioned rather than by descriptive class.	Review
246	If the intention is for the identified provision to continue, then please make this explicit rather than relying on the Acts Interpretation Act 1954.	Review
247	The meaning/utility of this provision is unclear.	Clarify and review
256(1)(c)	The words "adopted or" should be deleted.	Review
262	Is it intended that rezoning approvals become development approvals?	Clarify and review
Schedule 1		
Sch 1, Part 1, Table 1, Item 18	The rights of appeal with respect to infrastructure appear to have been altered, with appeal rights reduced.	Review
Sch 1, Part 1, Table 1, Item 6	This should read "A failure to impose a particular development condition on a development approval resulting from a variation request or merit assessment".	Review
Sch 1, Part 1, Table 1, Item 18	This item should refer to "the decision to give or amend an infrastructure changes notice".	Review

Sch 1, Part 1, Table 1, Item 18(b)	Change to read "an error relating to the application of the relevant adopted charge" not "an error relating to the application of the application of the relevant adopted charge".	Review
Schedule 2		
Dictionary	Why has the definition of "material change of use" been changed? The terms "intensity" and "scale" are not identical/interchangeable. Why has the definition of "operational work" been changed? The new definition of use will make it much easier for secondary uses to be undertaken as part of the primary use. Was this intended? The current definition contains a much more stringent test with respect to secondary uses.	Clarify and review
	Material change of use definition should remain unchanged – maintain material increase in intensity or 'scale' of the use of premises.	Review
	Planning definition states 'planning means planning the use of land'. Planning is a broader concept that includes more than the use of land including infrastructure etc.	Review

PLANNING AND ENVIRONMENT COURT BILL 2014

SECTION	COMMENT	PROPOSED ACTION
General	The increased jurisdiction of the Building and Development Committee, and the increased powers of the ADR Registrar, to resolve appeals is supported.	