

13 July 2015

Research Director
Infrastructure, Planning and Natural Resources Committee
Parliament House
George Street
Brisbane Qld 4000.
Email: ipnrc@parliament.qld.gov.au

Dear Sir/Madam

QPA Submission on the Planning and Development (Planning for Prosperity) Bill 2015

I am pleased to provide the Queensland Ports Association (QPA) submission on the *Planning and Development (Planning for Prosperity) Bill* ('the Bill') on behalf of all Queensland ports.

The QPA is the peak industry body representing all Queensland Port Authorities, being: Brisbane, Gladstone, North Queensland Bulk Ports, Townsville and Ports North. Ports are critical to maintain and grow the Queensland economy, enabling the export of our agricultural and mineral commodities and imports such as fuel, cars and household goods that support Queensland communities.

The current review of Queensland's planning legislation is of great importance to Queensland's Port Authorities, as both facilitators and regulators of development. Queensland's Port Authorities are Government Owned Corporations and are prescribed as assessment manager for development applications on Strategic Port Land and Strategic Port Land Tidal Areas, as per the *Sustainable Planning Regulation 2009*. The Port of Brisbane is the exception to this, having been privatised in 2010, the assessment manager role now lies with the Chief Executive for the Act.

At an overarching level, QPA supports the overall intent of 'planning for the prosperity of Queensland' through a triple bottom line approach to development. We also support any efforts to reduce the complexity of the system and create approvals streamlining.

We have a number of comments on the Bill and any Regulations that are to be produced to support the legislation, which are detailed below.

Assessment Manager Role

Our interpretation of Clause 43 (2) is that there will still be the ability for the Regulations to prescribe that Port Authorities are the assessment manager for all development on Strategic Port Land. We appreciate that the supporting Regulations are yet to be developed, however we take the opportunity to stress the importance of Port Authorities continuing to be the assessment manager for development applications on Strategic Port Land, given ports have a unique planning setting with multiple users and complex infrastructure developments. QPA would value further participation in discussing with you our role in planning and assessing development at Queensland Ports and the value we add to what is a complex planning environment.

Referral Agency Role

The QPA group strongly advocates for Port Authorities to continue to be included as a referral agency under the associated Regulations as they currently exist under the *Sustainable Planning Regulations 2009*. It is considered that the existing referral agency triggers can be reviewed for improved relevance and some suggested changes have been identified in Table 1 below.

Table 1: Review of Referral Agency Powers and Required Assessment Triggers

Existing Referral Agency Trigger	Responsible Agency	Commentary	Proposed Referral Agency Trigger
<p>16 Development on land below high-water mark and within the limits of a port under the Transport Infrastructure Act if the development is—</p> <p>(a) within 200m of a shipping channel or an entry and exit shipping corridor for the port; or</p> <p>(b) within 100m of a swing basin, a commercial shipping wharf, a mooring, anchorage or spoil grounds; or</p> <p>(c) within 1000m of a planned port facility identified in a land use plan.</p>	<p>The chief executive of the port authority for the land—as a concurrence agency</p>	<p>The distances identified within the existing referral agency trigger can be increased to take account of the deletion of Item 17 below and to better reflect the immense scale of marine infrastructure.</p> <p>Item 17(c) has also been updated as the terminology of 'planned port facility' has caused confusion in the past.</p> <p>Responsible Agency should still be the Port Authority.</p>	<p>16 Development on land below high-water mark and within the limits of a port under the Transport Infrastructure Act if the development is—</p> <p>(a) within 500m, 200m of a shipping channel or an entry and exit shipping corridor for the port; or</p> <p>(b) within 500m100m of a swing basin, a commercial shipping wharf, a mooring, anchorage or spoil grounds; or</p> <p>(c) within 1000m of land designated for a port use in a land use plan of a planned port facility identified in a land use plan.</p>
<p>17 Development on land below high-water mark and within the limits of a port under the Transport Infrastructure Act, other than development in an area mentioned in item 16.</p>	<p>The chief executive of the port authority for the land—as an advice agency</p>	<p>The Port Limits in some instances are very large. This trigger has resulted in a large number of minor works, such as personal pontoons or Local Government foreshore works being triggered for advice agency review. The extent of Port Limits is relevant from a Maritime Safety view, however it is considered that the Ports interests are protected through the triggers in item 16 (as amended).</p>	<p>Trigger can be deleted.</p>

Material Change of Use Applications - Level of Assessment and Ministerial Referrals

Material Change of Use applications for development on Strategic Port Land are currently Code Assessable under the *Sustainable Planning Regulations 2009*. The QPA requests that an equivalent level of assessment is applied to Material Change of Use applications under the new Regulations, and public notification should not be triggered. The reason for this is that the Minister (presently the Ports Minister) is a referral agency for applications that are inconsistent with the approved Land Use Plan, and we consider that this is sufficient third party review of the application and we do not believe public scrutiny of piecemeal applications would add value. It should be noted that Material Change of Use applications are also infrequent, with the majority of Port Authorities reporting one or nil applications in the last few years.

Land Owners Consent

QPA has always held the view that there should be no requirement to obtain State Land Owners Consent (formerly Resource Entitlement) for development over lease areas granted to Port Authorities for 'port and transport related purposes'.

We strongly support the proposed provisions in the Bill under Section 46 (2) that do not require land owners consent to be submitted for applications for development over excluded premises, namely premises owned by the State.

Enforcement orders in Planning and Environment Court

Section 176 of the Bill refers to 'enforcement orders in the Planning and Environment Court'. This section allows 'any person' to start proceeding in the Planning and Environment Court for an enforcement order. We are concerned that the legislation does not take into account or include mechanisms to prevent vexatious litigates or parties trying to gain competitive advantage or hinder development on principle. We consider that Section 176 should only be tied to the assessment authority and not be open to any person as it currently permits. Accordingly we recommend that the Committee consider amending this section to only allow assessment authorities to bring enforcement orders to the Planning and Environment Court.

General Comment

Overall, QPA would like to note that the absence of Regulations, Guidelines, and other ancillary policy direction papers, makes it difficult for end users to fully comprehend the changes being proposed and provide commentary. When the previous *Planning and Development Bill 2014* was proposed, supporting documentation was provided that presented policy directions around matters such as Information Requests, specifically the ability for an applicant to nominate in the application forms that they do not wish to receive any requests for information. Without this information, it is difficult for QPA to provide a complete assessment of the proposed planning reform and its impact on planning and development for the State.

The QPA would like to thank you for the opportunity to provide feedback on the Bill. The QPA would value further participation in considering the unique nature of port development in finalising the Bill and specifically the associated Regulations. We are particularly interested in the implementation of the Bill and its integration with the proposed *Sustainable Port Development Act 2015*.

If you require any additional information, or wish to meet with the QPA Environment and Planning Committee, please do not hesitate to contact Sally Sala as per the details below.

Yours sincerely



for Paul Doyle
Chair – Queensland Ports Association (Environment and Planning Committee)

