



Southern Downs
REGIONAL COUNCIL

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IPNRC

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Dear Sir/Madam

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

The Planning and Development Department of the Southern Downs Regional Council makes the following comments in regards to the Planning and Development (Planning for Prosperity) Bill 2015.

Categories of development and assessment

It is impractical and unnecessary to change the terminology for categories of development and assessment. Section 39 of the Bill proposes three categories of development, namely prohibited, assessable and accepted development. Section 40 proposes two categories of assessment, namely standard and merit assessment. There are no substantial reasons to change the terminology of "exempt development" to "accepted development", "code assessment" to "standard assessment", or "impact assessment" to "merit assessment". Practitioners and the public are familiar with the current terminology, and changing it would only create unnecessary confusion.

Exemption certificates

Section 41(3) of the Bill allows exemption certificates to be used such that development approval is not required for assessable development. A similar process should be available to allow for a reduction in the level of assessment from merit to standard, or to waive the requirement for public notification.

Section 41(7)(a) of the Bill requires development conducted under an exemption certificate to be started, but not completed, within 2 years. Very little progress is required for a development to be considered "started", meaning it could be many years before the development is completed, if at all. Development conducted under an exemption certificate should be required to be completed within 2 years, not just started.

Properly made applications

Section 46 of the Bill requires amendment to ensure the Assessment Manager has discretion to accept an application that does not meet all requirements as being "properly made".

Owner's consent

Under section 46 "evidence of the consent of the owner" is required for applications for material change of use (MCU) and reconfiguring a lot (ROL) to be considered properly made. However, section 58 states that an approval cannot be given unless owner's consent is given, and section 61 states that deemed approval cannot apply to an application for which owner's consent has not been given. These sections imply that an application can be accepted and processed up to and including the decision stage without owner's consent. Owner's consent should be required for any application for MCU and ROL to be considered properly made. The Bill should be amended to clarify that owner's consent is required for MCU and ROL applications to be properly made.

Public notification requirements

Section 48 of the Bill requires the notification of an application for merit assessment or variation request only if a categorising instrument requires the notification of the application.

Currently under the *Sustainable Planning Act (SPA)* impact assessment and section 242 applications require public notification.

Uncoupling merit assessment and public notification will create unnecessary confusion. If a proposed development warrants assessment against the whole of the planning scheme (i.e. merit assessment), it warrants public notification. The Bill should be amended to ensure that all development applications for merit assessment are subject to public notification.

It may be intended that subordinate legislation will require variation requests to be publicly notified. The notification of variation requests is considered necessary. A variation request seeks to vary the effect of a local planning instrument. As a planning scheme is subject to public notification, any proposal to vary the effect of a planning scheme warrants public notification. The Bill should be amended (or subordinate legislation prepared) to ensure variation requests are subject to notification.

Request for change to approval during appeal period

A timeframe should be stipulated for deciding change representations.

Section 72 of the Bill allows applicants to make representations during the appeal period. However, once one (often vague) representation is made, the appeal period is suspended until a decision on the request is made. This leads to applicants being able to make several representations and requesting time to make further submissions (still within the appeal period). This drags out the negotiated decision stage, and delays the submitter's appeal period and the commencement of the approval. This section of the Bill should be amended to make it clear that applicants may make one submission only, unless the Assessment Manager requests further information and if such a request is made, the further information is provided within a set timeframe.

Changes after appeal period


A "change application" should only be allowed for a "minor change". Any change that is not a "minor change" is likely to be of a scale or intensity such that it is a material change of use and therefore should be subject to a new application. The Bill should be amended to ensure that only a "minor change" can be a

change application, and any change that is not a "minor change" requires a new application.

Section 78(3) of the Bill states that an application for a minor change must be assessed against the matters that applied when the development application was made. This is not considered appropriate or practical. Any application for a minor change should be assessed against the matters that apply when the change application is made, as this reflects latest planning policy. As the development application could have been made decades ago, it is impractical to require assessment against planning instruments which have long since been superseded and in some case copies of which may not be available.

If any further information is required regarding the matters raised in this submission, please contact me on 1300 697 372.

Yours faithfully



Annette Doherty
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