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Mr Ted Malone MP
Chair
State Development, Infrastructure and Planning Committee
Via email: sdiic@parliament.qld.gov.au.

Dear Mr Malone

Brisbane City Council is pleased to provide a submission on the *Economic Development Bill 2012* and wishes to highlight that due to the extremely tight timeframes to review this legislation, Council has not been able to comprehensively consider all aspects of this diverse legislation.

Key strategic issues raised in Council's submission include:

- Adequate and appropriate consultation needs to be undertaken by the Minister for Economic Development Queensland (MEDQ) with the relevant local government before making key decisions such as declarations of provisional priority development areas and priority development areas and charging of special rates and charges.
- The MEDQ needs to consider the relevant local government planning schemes and instruments before making any key decisions.
- Council broadly supports amendments to undertake the development assessment functions for the South Bank area. To effectively manage future planning for the area, Council requests the ability to make a new planning scheme and to amend the Approved Development Scheme.
- Council has a strong interest in ensuring that the area currently defined as parkland under the *South Bank Corporation Act 1989* is retained as parkland. As such, the parkland area should be clearly defined within the Act as it currently is, rather than referencing the Approved Development Plan. To effectively manage the Parkland, Council also requests the ability to make and amend by-laws within the area.

Should you require any further information about Council's submission, please contact Ms Erica Gould, Council's Regional Planning Coordinator on 3178 1363 or email erica.gould@brisbane.qld.gov.au.

Yours sincerely

Cr Graham Quirk
LORD MAYOR

Brisbane City Council's submission on the *Economic Development Bill 2012*

Council offers the following strategic comments on the *Economic Development Bill 2012* (the Bill), which focuses on the critical provisions for Council related to the Urban Land Development Authority (ULDA) and the Minister for Economic Development Queensland (MEDQ), the amendments to the *South Bank Corporation Act 1989* and the *Disaster Management Act 2003*.

Council wishes to highlight to the Queensland Parliament's State Development, Infrastructure and Industry Committee, that due to extremely tight timeframes for the provision of comments on this diverse legislation, not all aspects of the legislation have been able to be comprehensively considered.

Comments related to the ULDA and the MEDQ:

It is acknowledged that the majority of sections of the *ULDA Act 2007* have been carried over to the *Economic Development Bill 2012* without change; however, Council is recommending changes to some of the former *ULDA Act 2007* sections.

- Section 37 (Declaration of a priority development area (PDA)):
 - This section provides for the declaration of PDAs.
 - There is no requirement for the MEDQ to consult with the local government or to consider the relevant local government planning scheme when declaring a PDA.
 - Council recommends that the MEDQ be required to consult with the relevant local government, and/or consider the relevant local government planning scheme/instrument before declaring a PDA.

- Section 42 (Revocation or reduction of priority development area)
 - This section outlines actions to be taken at the time of proposed revocation of a PDA.
 - Council considers that prior to revocation there needs to be agreement reached between the MEDQ and the local government regarding the responsibility and liability for the provision of infrastructure associated with the PDA.
 - Council recommends that Section 42 be amended to include provision for an agreement to be reached and for a dispute resolution process to be identified should mutual agreement not be reached.

- Section 57 (Content of development scheme):
 - This section outlines that development schemes must include a land use plan, infrastructure plan and implementation strategy.
 - Council recommends that for land use plans, the MEDQ must ensure that the land use plans are consistent with the relevant local government planning instrument OR that the MEDQ may consider the relevant local government planning instrument in the preparation of the land use plan for a PDA.

- Section 66 (Power to amend) :
 - This section allows the MEDQ to amend a PDA Development Scheme without consulting the relevant Local Government.
 - Council recommends an amendment to Section 66 to require the MEDQ to consult with the relevant local governments before making substantive amendments.

- Section 87(1)(b) (Matters to be considered in making decision):
 - This section provides for “any relevant state interest” to be considered in making a decision for PDA development applications. It also contains a definition of “state interest”; however it refers to “in the MEDQ’s opinion”.
 - This would create ambiguity in the context of a delegated development assessment process, as there is no indication or guidance provided as to what the MEDQ’s opinion may be.
 - Council recommends clarification as to how assessment of the relevant State Interest would operate under a fully delegated development assessment process, having regard to draft “Proposed State Interests” State Planning Policy dated November 2012.

- Part 6 Section 115 to 117 (Special rate and charges) :
 - This section provides for the MEDQ to make, levy and recover a special rate and charge from owners or occupiers of rateable land within a PDA.
 - Council has the same powers under the *City of Brisbane Act 2010*.
 - As Council is the primary body responsible for the making, levying and recovery of special rates or charges and rates generally, the MEDQ should have regard to the rates and charges currently levied by Council. There is a potential for double charges to be applied to owners and occupiers of rateable land.
 - Council recommends that Part 6, special rates and charges be amended to require the MEDQ to consult with the relevant local government prior to making or levying a special rate or charge.

- Part 7 Section 118 to 122 (Infrastructure agreements relating to land that is or was in a priority development area):
 - Sections 119 and 120 outline the circumstances where infrastructure agreements are not invalid and what happens where an infrastructure agreement is inconsistent with a PDA development approval (where the MEDQ has entered into an infrastructure agreement for land in a PDA).
 - Sections 121 and 122 relate to infrastructure agreements applying to land that was a PDA and also require that the MEDQ consult with public sector entities before entering into particular infrastructure agreements.
The term “*public sector entity*” is defined by the *Sustainable Planning Act 2009* (SPA) to mean:
 - a department or part of a department; or
 - an agency, authority, commission, corporation, instrumentality, office, or other entity, established under an Act for a public or State purpose; and
 - includes a government owned corporation and a distributor-retailer under the SEQ Water Act.

- It is noted that while a local government is “*an agency...established under an Act for a public or State purpose*”, the SPA makes a clear distinction between a “public sector entity” and a “local government”.
- Council recommends that Section 122 be amended to include after the words “public sector entities” insert “and the relevant local government”.
- The Bill does not include any guidance about the infrastructure charges which can be imposed by the MEDQ or how the MEDQ may set infrastructure charges.
- Council recommends that an amendment be made to provide the MEDQ with guidance on the charging and collection of infrastructure charges.
- Council recommends that at the time of creating infrastructure agreements by the MEDQ, that the MEDQ consults with the relevant public sector entity:
 - to identify potential impacts of a PDA development approval and proposed infrastructure agreement on the area surrounding the PDA and that infrastructure charges reflect potential impacts on areas outside the PDA;
 - on the spending of infrastructure charges collected; and
 - on matters such as standard of infrastructure to be installed under an infrastructure agreement.
- Section 123 (Application of local government entry powers for the MEDQ functions or powers):
 - This section permits the MEDQ to use the local government entry powers provisions as set out in the *City of Brisbane Act 2010 (Qld)* and the *Local Government Act 2009 (Qld)* in relation to land in/ or a structure on a PDA area or a lot that adjoins a PDA.
 - While Council notes that this section has been carried over from the Section 103 of the ULDA Act, Council recommends that the use of the local government entry powers by the MEDQ should be limited to:
 - land located within a current PDA where the MEDQ has issued a PDA development permit or approval; and
 - situations where the MEDQ is required to ensure compliance with a PDA development permit or approval.
- Section 127 (Direction to government entity or local government to accept transfer) :
 - This section provides that the MEDQ may direct a relevant local government to accept the transfer of stated land or a stated amount from the Fund.
 - Council recommends that in the case of “stated land in a priority development area owned by MEDQ”, section 127(2) or in the case of where the MEDQ proposes to provide written direction to provide or maintain infrastructure - section 128(1) that these sections be amended to provide that the MEDQ must consult with the relevant local government prior to providing the direction and consider submissions from the relevant local government in respect of compensation for land or infrastructure provision which has been subject to a PDA development approval and requires further works to conform with standards applicable to all other areas under the local government’s control.

- Section 128 (Direction to government entity or local government to provide or maintain infrastructure):
 - This section provides that the MEDQ may direct a relevant local government to provide or maintain stated infrastructure in or relating to a stated PDA.
 - Council recommends that section 128(2) be amended to provide the MEDQ to consult and obtain agreement with the relevant local government prior to providing the direction particularly in relation to development that may not be part of the local government's broader strategic land use plan and consider submissions from the relevant local government in respect of funding to support the local government's provision or maintenance of the infrastructure.
 - Council further recommends that section 128 be amended to include a dispute resolution process should mutual agreement not be reached.

- Section 132 (Membership of the board):
 - This section provides for the membership of the Economic Development board. There is no requirement for a local government representative to be appointed to the board.
 - Council recommends that the board consist of the chief executive officer (or representative) of the Brisbane City Council.

- Section 158 (Establishment):
 - This section provides for the establishment of a local representative committee for an area to assist the MEDQ to perform its functions. There is no requirement for a local government representative to be appointed to the committee.
 - Council recommends that a person from the local government area to which a local representative committee has been established, be appointed as a member of that local representative committee.

- Section 169 (Delegations):
 - This section provides for the MEDQ to delegate its functions and powers to a range of potential delegates; however, it is unclear as to whether sub-delegations can occur.
 - Council recommends that Section 169 be amended to include the following section:
 - If the MEDQ delegates a function to the chief executive officer of a local government under subsection (1)(h), the chief executive officer may sub-delegate the function to an appropriately qualified employee of the local government.
 - There is no requirement for the MEDQ to provide all relevant information to the delegated entity to permit the delegated entity to perform its delegated functions. Section 52 provides for clarity in the event of declaration or revocation. Council considers that the same level of clarity should be provided in the event of Delegation of powers and functions.
 - Council recommends that section 169 be amended to include the following subsection (5):
 - If the MEDQ delegates any of its functions or powers under subsection (1), the MEDQ must provide all information that the delegate reasonably needs to perform the delegated functions or powers.

- Section 189 (Other things done by former entity):
 - Provides that anything done by the former entity under the ULDA Act continues in effect and from the commencement is taken to have been done by the MEDQ where the effect of that thing done has not ended, is something that the MEDQ can do and is not otherwise dealt with by a provision of this Part.
 - If the Minister were to delegate functions to local government, then that delegation would fall under Section 189 and be treated as a delegation by the MEDQ. The delegation will simply need to be updated to reflect the sections of the new Act.
 - Council recommends direction regarding the intentions of the MEDQ or alternatively amendment of the Bill to add further subclauses under Section 189 (3) in respect to the former ULDA Act provisions in former ULDA Section 136 – Delegations and former ULDA Section 97 (f) – Infrastructure Charging.

Strategic comments on the *South Bank Corporation Act 1989* (SBC Act)

Planning powers and development assessment manager function

Council broadly agrees with the proposed amendments and supports the intent of the proposed changes to hand back planning powers to Council.

While Council supports the intent, the following proposed additional amendments will ensure Council can effectively operate as development assessment manager:

- Section 10 (Composition of the board) should enable greater Council representation on the Board than 2 members. Council recommends that the Minister and Council have equal rights to appoint a member (“no more than 5 members appointed on the Council’s nomination” and “no more than 5 members appointed on the Minister’s nomination”).
- Section 35 (Amendment of approved development plan) and Section 36 (Implementation of approved development plan) under the SBC Act should be delegated to Council which includes the ability to create a new plan and amend Council’s planning scheme.
- Section 72 of the SBC Act (Application of this division to the corporation) regarding South Bank development offences should be amended to read the “Corporation and Council”. This section provides that the South Bank development offences division does not bind the corporation. As Council will be the development assessment manager and the manager of the parkland, the same rights of the Corporation should apply to Council.
- Regarding section 253 (Amendment of Section 25 (functions), the removal of the reference to s25(1) in the SBC Act indicates that Council will be required to consult with the Corporation about any future planning for the Corporation area (“to facilitate and control with the Council, the development of land within the corporation area in accordance with the approved development plan”).
- In relation to Section 253, Council as development assessment manager requests full control over the development assessment function to assess against the current scheme.
- Council suggests that the Corporation is nominated as a concurrency agency should it wish to have knowledge about applications.

- Council suggests that the SBC Act be amended to require the transfer of all information from SBC to Council, that Council would reasonably need to perform the assessment functions.

Powers in relation to land

- Regarding s254 (Amendment of Section 26 – powers in relation to land), Council understands that the removal of section 26(2) of the SBC Act will expand the Corporation’s ability to dispose of land in the Corporation area to any entity.
- Council requests the parkland lot defined in section 18 (Riverside parkland) of the existing Act is excluded from this definition and that any transfer of that lot would need to be to Council as the Act currently permits.
- Further, Council considers proposed amendments to the area proposed under s18 should be clearly specified in legislation and not refer to the Approved Development Plan. This land should be consistent with the land current nominated under s18 in the SBC Act.

Security powers

- In relation to the delegation of security powers, Council supports the ability of the relevant entity to employ security officers who have relevant powers under the SBC Act. To ensure the intent of the Act is fulfilled, Council also suggests section 86 under the SBC Act (Court may exclude person from the site) is amended to state that “the corporation, council or a police officer authorised by the corporation or Council.”

Ability to make and amend by-laws

- Under s115 of the SBC Act (By-laws of the corporation), the Corporation has the ability to make by-laws which relate to the behaviour of persons at the site and provide for the security of lands, buildings, structures, etc. Council requests this power is delegated to effectively manage the parkland lot and to ensure that there is no conflict with the Council Local Laws, including those for advertising signage.

Comments in relation to Chapter 8 Amendment of Other Acts, Part 1 Amendment of the *Disaster Management Act 2003*

- This part amends the *Disaster Management Act 2003* by including a new section 86A and 86B relating to the appointment and functions of the SES Coordinator. This proposed amendment has been made in order to address a recommendation of the Final Report of the Queensland Flood Commission of Inquiry.
- Council accepts the general purpose of the amendment, but suggests that the current proposed Sections 86A and 86B, be replaced entirely by the following proposed Sections 86A, 86B and 86C:

86A Appointment of an SES Coordinator

- (1) Subject to subsection (2), the Chief Executive may in exceptional circumstances during a disaster event appoint a person or person as SES Coordinator/s where the Chief Executive:
 - (a) reasonably considers that the nature of the disaster goes beyond the capacity or capability of the local SES resources; or

- (b) has been requested by a local government to appoint an SES Coordinator/s.
- (2) The Chief Executive may only appoint an SES Coordinator if:
 - (a) consultation has occurred with the relevant affected local government/s;
 - (b) approval has been obtained from the Chairperson of the State Disaster Management Group; and
 - (c) the Chief Executive is satisfied that the person has the necessary expertise or experience to perform the functions of the role.
 - (3) The Chief Executive must advise the Chairperson of the Local Disaster Management Group, and the District Disaster Coordinator that an SES Coordinator/s has been appointed.
 - (4) The appointment of a SES Coordinator/s must be in writing.
 - (5) In this division:
exceptional circumstances means a disaster event which causes serious disruption to two or more relevant local governments.

86B Termination of appointment of SES Coordinator

- (1) The Chief Executive must terminate the appointment if the Chief Executive decides that it is no longer necessary.
- (2) The Chief Executive must advise the Chairperson of the Local Disaster Management Group and the District Coordinator of the termination of the appointment.
- (3) The termination of an SES Coordinator/s must be in writing.

86C Functions of SES Coordinator

- (1) An SES Coordinator may have the following functions:
 - (a) be prepared to manage and coordinate additional resources deployed to assist with disaster options on the request of the Local Disaster Coordinator; or
 - (b) direct the SES with respect to personnel, safety and fatigue management, logistical support and finance, and
 - (c) provide advice to the Local Disaster Coordinator for the operational tasking of the SES.
- (2) A SES Coordinator must consult, in collaboration with the Local Disaster Coordinator for the management of SES tasks and may undertake additional tasks in relation to the local SES as agreed with the Local Disaster Coordinator.

If any further information is required about Council's submission please contact:

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