

Submission No. 020

17 January 2014

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The Research Director
State Development, Infrastructure and Industry Committee
Parliament House
George Street
Brisbane, Qld 4000

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Dear Ms Pasley

Regional Planning Interests Bill 2013

Thank you for the opportunity to provide feedback on the *Regional Planning Interests Bill 2013* (Bill).

While the Bill predominantly relates to managing the impacts of resource-related activities on areas of regional interest, its relationship with the *Sustainable Planning Act 2009* (SPA) is of particular interest to our members.

As noted in the Bill, the Government's new generation regional plans are statutory documents for applications assessed against the SPA, however they are not required to be taken into consideration for applications lodged under the numerous resource Acts.

The Property Council has been working closely with the Department of State Development, Infrastructure and Planning (DSDIP) throughout the planning reform process, including in the development of the new regional plans.

A concern during the development of the regional plans related to development activities undertaken by those industries outside of property and construction, which are assessed under different pieces of legislation.

This Bill provides a clear mechanism to ensure the intent of the regional plans is upheld for all development activities, regardless of industry, however the Property Council has some concerns with regard to its practical operation.

Regional Plans

Clause 7 of the Bill allows for regional interests to be prescribed through regulation by reference to a regional plan, by map, or reference to a map. It is not anticipated that specific mapping will be generated in addition to that found in the regional plans.

As a result, the chief executive will in many situations be required to place a large emphasis on the regional plans and their associated mapping when assessing applications for a 'regional interests authority'.

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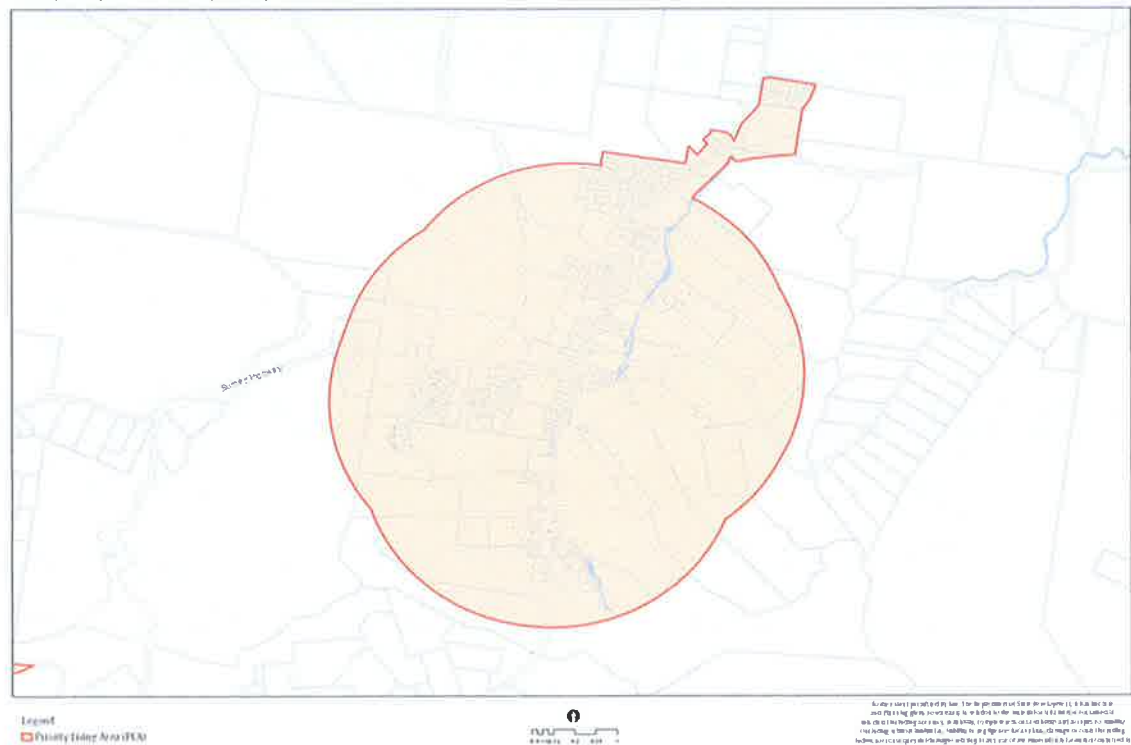


There is a vast difference in the quality of the regional plans in place or being developed for various regions across Queensland, and it can be assumed the assessment of an application will be affected by the robustness of the relevant regional plan.

The Bill outlines four regional interests to which it applies: priority agricultural area, priority living area, strategic cropping area or strategic environmental area.

When examining the new generation regional plans, it is clear some of the mapping of these regional interests has been undertaken on a cadastral basis, while other mapping tends to be indicative only. The below example of a priority living area from the *Central Queensland Regional Plan* includes both indicative and cadastral mapping.

Priority Living Area - Rockhampton Regional - Bouldercombe



From the quality of the mapping, it may be difficult for applicants and assessing authorities to determine whether or not an activity will occur within the boundaries of an identified area of regional interest, or lead to impacts on a regional interest.

It is DSDIP's intention that the regional plans are reflected on a cadastral basis within local government planning schemes as soon as practically possible, in order to provide a direction and certainty to development and resource-activity proponents, as well as the community.

The Property Council's experience with previous regional plans indicates that reflecting regional plans in planning schemes is a lengthy process, and is not always completed with accuracy.

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As the effective operation of this Bill will be highly dependent on accurate mapping and provisions, the Property Council is concerned applicants will be disadvantaged by the quality of the relevant regional plans, and/or the time taken to reflect the regional plans in local planning schemes.

Recommendations from assessing agencies

Clause 50 of the Bill requires the chief executive to give effect to the recommendations of a local government, where they are a referable assessing agency.

The Property Council is concerned that local governments may have local interests (rather than regional or state interests) in mind when assessing an application for a regional interest authority.

The recent situation in which the Minister for State Development, Infrastructure and Planning was required to 'call-in' two development applications for quarries in South East Queensland reinforces the local, rather than regional or state, focus of local governments.

Local governments should be treated the same as other assessing agencies, with the chief executive required to give consideration, rather than effect, to any comments or recommendations made during the assessment process.

Additional advice

Clause 46 of the Bill permits the chief executive to ask any person for advice about an assessment application.

The example given at Clause 46 includes the appointment of a panel of experts to provide advice to the chief executive about an application or a matter relevant to an application.

As there may be costs and time delays in seeking additional advice, the Property Council seeks clarity as to who will bear the cost of the additional advice sought, and whether or not the applicant will be advised of the process.

Appeals

The Bill provides for applicants, owners of land, and affected land owners to appeal a regional interests decision.

The definition of an 'affected land owner' includes both proximity of the affected land to the land in question, as well as the impact of the activity on an area of regional interest.

It is unclear how this definition will operate practically, as there are no parameters around an acceptable proximity or the extent of an impact.

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As it will be difficult to determine whether or not a party is considered an 'affected land owner', and consequently whether or not they have appeal rights, this definition may lead to legal challenges regarding the right to appeal.

The indicative nature of the mapping could exacerbate this issue, as potential appellants may seek to be classified as either in or out of an area of regional interest in order to fulfill the definition of an 'affected land owner'.

Integration of future State legislation

The Bill's Explanatory Notes outline the legislation will 'provide a mechanism to integrate other state legislation in the future'.

The Property Council is keen to understand what other pieces of legislation are being considered for inclusion in the future.

Conclusion

Thank you again for the opportunity to provide feedback on the *Regional Planning Interests Bill 2013*.

While the Bill will primarily impact on resource-related activities, rather than property and construction, the Property Council remains concerned about the practical operation of the Bill, its reliance on new generation regional plans and the potential for integration of other state legislation.

If you have any further questions regarding the Property Council or this submission, please do not hesitate to contact me on 07 3225 3000 or kmacdermott@propertyoz.com.au.

Yours sincerely



Kathy Mac Dermott
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