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EDO Qld.

Environmental Defenders Office

*Using the law to protect
our environment.*

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State Development, Infrastructure and Industry Committee
Queensland Parliament

By email only: sdiic@parliament.qld.gov.au

Dear Chair and Committee Members

EDO Qld submission on the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014

Thank you for the opportunity to make a submission on the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014 ('the Bill'). Our comments are confined to the Part 4A amendments to the *State Development and Public Works Organisation Act 1971* (Qld) ('SDPWOA'). We also refer in this submission to the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) ('Cth legislation').

As time to prepare our submission was very tight, we request an opportunity to speak to the Committee to enlarge on this submission.

Who we are

The Environmental Defenders Office Qld Inc (EDO Qld) is a non-profit community legal centre which helps disadvantaged people in coastal, rural and urban areas understand and access their legal rights to protect the environment. EDO Qld has over 20 years of experience in interpreting environmental laws - including Commonwealth laws and Queensland laws - to deliver community legal education and to inform law reform.

Consultation on the Bill and exposure regulation

We are a key Queensland conservation and legal organisation that was not consulted at all by the Office of the Coordinator General. If we had been consulted, then a number of the below criticisms might have been cooperatively addressed prior to the Bill coming to Parliament.

Summary

Our seven main points of concern are:

1. This Bill, according to the draft Qld Approval Bilateral, would apply to all matters of national environmental significance, including the Great Barrier Reef Marine Park and World Heritage. The Bill does not even meet the standards of the Cth regime.
2. The Coordinator General, responsible for promoting development, is proposed as decision-maker yet has an insolvable conflict of interest, whereas under the Cth legislation the Federal Environment Minister makes decisions. See Four Corners example below.
3. The Bill includes inferior public access to information compared to the Cth legislation and falls below standards for transparency.

4. The Bill includes inferior accountability provisions as less people qualify to go to Court to remedy illegality compared to the Cth legislation, and the declarations power is too narrow. The Bill falls below basic standards of accountability for public interest environmental legislation. For example in 2003 and 2004, the Nathan Dam Federal Court case was successful in correcting serious legal errors that impacted on the Great Barrier Reef but the applicants would not have qualified to go to Court under the inferior proposed rules in the Bill.
5. Weakened rules apply in the Bill as to if an action must undergo assessment and approval as a 'bilateral project declaration' compared to a 'controlled action' decision by the Cth. Nathan Dam again is an example of the existing Cth legislation working.
6. The existing SDPWOA includes inferior provisions to outlaw supply of false and misleading documents compared to Cth legislation. For an example of Cth legislation working, see the current Abbot Point T3 EPBC 2008/4468 investigation.
7. The Bill lacks any power to reject clearly unacceptable project whereas such efficient powers exist under Cth legislation. This risks wasting public time and money. For example of how this works, see the 'clearly unacceptable' decision in GKI Resort EPBC 2009/5095.

We also note these changes will introduce complexity and confusion, the exact opposite of what was proposed to be achieved, for example:

- Replacing Cth terms that are understood with new terminology. For example 'controlled action' replaced with 'bilateral project declaration' and 'Environmental Impact Statement' with 'Protected Matters Report';
- The proposed amendments add an additional process and around 30 pages of legislation to the SDPWO Act without any reduction in legislation at a Commonwealth level.

Please contact Rana Koroglu or Jo Bragg on (07) 3211 4466 or at edoqld@edo.org.au.

Yours faithfully
Environmental Defenders Office (Qld) Inc

Jo Anne Bragg

Jo-Anne Bragg
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Case example: Four Corners Investigation on CSG assessment

In April 2013, a whistle blower from the Queensland Coordinator-General's Department of Infrastructure and Planning, came forward and revealed that preliminary approval had been given to huge coal seam gas (CSG) projects despite the Coordinator-General not having all the relevant information on the potential impacts on groundwater. ABC's Four Corners program investigated and reported that the companies didn't supply enough basic information for an informed decision to be made about the environmental impacts. Despite this, various government agencies [including the Coordinator General] permitted the developments to go ahead, allowing the companies to submit key information at a later date. The whistle blower said of the assessment process for a \$20 billion project by Queensland Gas Corporation, "*We were only given a matter of days to prepare conditions for that report. We were actually not given any time to do any reading or assessment of the material. We were just instructed to write conditions for QGC, which is, again, unbelievably bad.*" This case example casts light on Queensland's Coordinator General's preparedness what has occurred in not only the approval process of coordinated projects, but also the assessment process being cut short.