

**Government Response to the  
State Development, Infrastructure Industry Committee**

**Report No. 13**

*Sustainable Planning and Other Legislation Amendment Bill 2012*

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**The committee's recommendations**

The Government supports all of the recommendations made by the committee with one modification. This is described in the response to recommendations 3 and 4. Amendments will be moved during consideration in detail of the *Sustainable Planning and Other Legislation Amendment Bill 2012* (the Bill) to give effect to the relevant amendments.

**Recommendation 1**

*The committee recommends that the Sustainable Planning and Other Legislation Amendment Bill 2012 be passed.*

The Government thanks the Committee for its expeditious and thorough consideration of the Bill and supports the Committee's recommendation that the Bill be passed.

**Recommendation 2**

*The committee recommends that when the legislation is implemented, the Deputy Premier and Minister for State Development, Infrastructure and Planning ensures protocols and/or guidelines are developed to promote a consistent approach to clarifying what is required for development applications to be deemed adequate for assessment.*

The Government supports this recommendation.

The Department of State Development, Infrastructure and Planning will review and update information to provide more comprehensive guidance as to what supporting information is needed in order for development applications to be assessed.

**Recommendation 3**

*The committee is pleased to note that further work will be undertaken to clarify a range of issues associated with the matter of costs and recommends that this work directly address many of the legitimate concerns raised by numerous stakeholders during the committee's inquiry on the bill.*

The Government supports this recommendation.

The Government will move amendments to the Bill about court costs to provide transparency, specifically in relation to consideration of such matters as commercial interests, public interest, unreasonable behaviour and consistency with decision rules in the *Sustainable Planning Act 2009*.

**Recommendation 4**

*The committee recommends that Clause 61 should be amended to remove the words 'but follow the event, unless the court orders otherwise'.*

The Government supports this recommendation with modification.

The Government will move amendments to amend Clause 61 to remove the words 'but follow the event, unless the court orders otherwise'. The Bill will be amended to provide for the removal of these words. This will apply to the majority of proceedings, except for enforcement which is generally brought forward by local government under section 601 of the *Sustainable Planning Act 2009*. In these instances, costs will follow the event unless determined otherwise by the Planning and Environment Court.

The amendment will give the Planning and Environment Court general discretion to award costs and provides a non-exhaustive list of what the Planning and Environment Court may take into consideration in making a decision to award costs. This will ensure greater certainty and transparency for the community and industry when bringing forward proceedings without compromising the Government's intent of increasing the risks for those who seek to use the court as a delaying tactic or as a means to prosecute weak cases.

**Recommendation 5**

*The committee recommends that s.491B(4)(b) is omitted in order to avoid unintended consequences in the exercise of power by the Alternative Dispute Resolution Registrar.*

The Government supports this recommendation. An amendment will be moved to omit this section.

**Recommendation 6**

*The committee recommends that the Deputy Premier and Minister for State Development, Infrastructure and Planning consult with the Attorney General to ensure that the Registrar of the Planning and Environment Court is provided with the necessary additional resources to fulfil its proposed expanded functions.*

The Government support this recommendation and will ensure the necessary consultation occurs.