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State Development, Infrastructure and Industry  
Committee  
Parliament House  
Brisbane Qld 4000

Via Email: [sdiic@parliament.qld.gov.au](mailto:sdiic@parliament.qld.gov.au)

Dear Sir/Madam,

**SUBMISSION ON CHANGES PROPOSED UNDER THE SUSTAINABLE PLANNING  
AND OTHER LEGISLATION AMENDMENT (SPOLA) BILL 2012**

Thank you for the opportunity to comment on changes to various Acts proposed under the *Sustainable Planning and Other Legislation Amendment Bill 2012*. While Council is generally supportive of many of the proposed changes, there is a few that give cause for concern. In particular, the clauses dealing with the following matters are in urgent need of revision and/or clarification:

- Removal of Master Planning and Structure Planning Arrangements
- Maximum Level of Assessment for Operational Works (IPA Standard Provisions)
- Awarding of Court Costs

These matters are addressed in turn below.

**Removal of Master Planning and Structure Planning Arrangements**

In February 2012 Caboolture West was declared a master planned area under s.133 of the *Sustainable Planning Act 2009*. The proposed amendments to remove Chapter 4 Planning Partnerships from the Act will have an impact on Moreton Bay Regional Council's future planning for this area. In particular, Council has concerns about preliminary approvals; process and commitment to partnership; use of Temporary Local Planning Instruments; timeframes; and terminology.

**Ability to lodge preliminary approval applications**

Council is concerned about the Bill's failure to follow through the aspect of s.134 of the Act, which restricts development applications for s.242 preliminary approvals being made where a structure plan is not yet in effect for a master planned area. New provisions should be included to restrict s.242 applications in declared master planned areas until after the instruments contemplated in new s.901 are completed and in effect.

Although unrelated to this amendment bill, because a structure plan for Caboolture West has not been prepared, Council will rely heavily on the provisions of the SEQ Regional Plan State Planning Regulatory Provisions (SPRP) when assessing future applications in the area. This reliance emphasises the need for the State government to maintain the current effect of the SPRP.

#### Planning process and commitment to partnership

The transitional provisions in the Bill mean Council would no longer be required to prepare a structure plan for Caboolture West, but rather QPP compliant planning scheme provisions and/or a TLPI for the area which provide the following information (refer new s.901):

- the broad environmental, infrastructure and development intent to guide detailed planning;
- a code that states development entitlements and obligations;
- a map (or maps) showing the spatial elements of future development;
- the assessment levels for development.

The Caboolture West Master Planned Area Declaration 2012 sets out the process to enable the planning framework for Caboolture West to be developed; detailing the coordinating agency, participating agencies and timeframes in accordance with the Act and statutory guideline for preparing and making the structure plan for the area.

Council's understanding is that the Bill does not require the continuation of this formal structure plan preparation process. Rather, the Bill requires the standard process for making or amending a local planning instrument (s.117 of the Act), being Statutory Guideline 01/12, to be followed. The relevance of the declaration content is therefore questioned and the State government's confirmed commitment to working in partnership with Council during the preparation of planning scheme provisions is requested.

#### Use of a Temporary Local Planning Instrument (TLPI)

The matters listed in new s.901(2) seem to assume that some detailed level of planning has been undertaken for a declared master planned area and the contents of a TLPI would identify what development should be occurring rather than what is to be prevented or avoided so as to not affect the long term planning intent.

Amendment to s.901 is required to clarify the use of a TLPI for the purpose of preventing or avoiding development that may affect the long term planning intent for the area, as opposed to identifying what and how development should occur (as required in s. 901(2)). As detailed planning is yet to be undertaken for Caboolture West, it may be difficult for Council to make a TLPI in compliance with s.901.

Consideration should be given to amending s.901 to provide for the use of a TLPI as an interim measure to restrict applications/development in a similar way as how s.134 currently operates until such time as detailed planning scheme provisions and/or a TLPI is made to include the matters listed in s.901(2).

#### Timeframes

New s.901 does not provide a timeframe in which Council must include planning scheme provisions or make a TLPI for the area. New s.761A outlines timeframes (three years), however this section is not relevant to Council because a structure plan for the area has not been made for the area and will not be in effect at commencement.

It is therefore assumed that the inclusion of planning scheme provisions in the new MBRC planning scheme, which is programed to commence late 2014 will be satisfactory. The State's confirmation of this is sought.

#### Terminology and cross-referencing

Clarification of new s.761A is required. The definition of "structure plan" in s.761A(4), should refer to a "declared master planned area", rather than a, "master planned area". It is also suggested that the references to "section 761A(3)" in the amended s.893 definitions should be to, "section 761A(4)".

#### Maximum Level of Assessment for Operational Works (IPA Standard Provisions)

The need for new s.55A, which provides for *IPA standard provisions*, is questioned. Section 232 of SPA and the Queensland Planning Provisions already provide for certain development to be prescribed as self-assessable development, development requiring compliance assessment or assessable development. These existing provisions could be utilised to prescribe the maximum level of assessment for low risk operational works, without the need for introducing a further 'layer' to the system (ie. *IPA standard provisions*).

It is noted that the *IPA standard provisions* mechanism could be used for a range of purposes to apply QPP provisions to existing IPA planning schemes. The openness of this mechanism is a concern as it has the potential to require Council to make amendments to its existing IPA planning schemes in the coming years which could jeopardise the on time delivery of the new regional planning scheme in 2014.

#### Awarding of Court Costs

Council strongly opposes any proposal whereby Council may be ordered to pay another party's costs. Council suggests that the bill should make it clear that a court must not order a local government to pay the costs of any other party in any proceeding.

Council appreciates the opportunity to comment on the changes envisaged under the *Sustainable Planning and Other Legislation Amendment Bill 2012* and trusts that its concerns outlined in this submission are given the appropriate consideration.

For further information please contact Council's Senior Strategic Planner, Samantha Cullen on 5433 2058 or email [samantha.cullen@moretonbay.qld.gov.au](mailto:samantha.cullen@moretonbay.qld.gov.au).

Yours faithfully,



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