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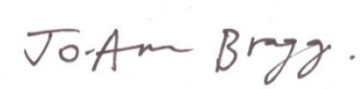
State Development, Infrastructure and Industry Committee

Sustainable Planning and Other Legislation Amendment Bill 2012 ("Bill")

Supplementary Submission

	Proposed by Bill	Comment
1. Single state assessment manager and referral agency	The Bill proposes changes to the *Sustainable Planning Act 2009* (Qld)(**SPA**) and the *Sustainable Planning Regulation 2009* (Qld) (**SPA Regs**) making the Chief Executive of the Department of Sustainability Development Infrastructure and Planning (**DSDIP**) the "single state assessment manager and referral agency" in certain circumstances.	We have been given no regulation containing the criteria upon which decisions might be made by the CEO of the DSDIP or detail of which developments will be decided by the CEO. From reading the policy intent in the Explanatory Notes however we understand that the intention is that the proposed change would effectively end the "concurrence" power of the Department of Environment and Heritage Protection (DEHP)- and other referral agencies- on development assessment. That is, end their legitimate and necessary jurisdiction to say "no" to a development or require conditions, for example in relation to protection of the coast or stopping contamination. Many developments, for example chemical factories pose a huge risk to the environment and to public health if sited in the wrong place or without correct conditions. Other development proposals, for example resorts on the coast could irreversibly damage areas of high ecological significance. The proposed changes make it likely that crucial environmental impacts will be disregarded in favour of short term economic development by the CEO of one super department. This change would undo the value of a raft of environmental legislation concerning which EHP has concurrence powers. <u>Recommendation is to delete this change from the Bill.</u> Instead, a detailed discussion paper outlining this proposal , how it might work with actual case examples and the missing criteria for decisions is needed for further public discussion.

2.Properly made applications and acceptance of applications	The Bill: 1. Removes the need for development applications to be accompanied by evidence of a state resource entitlement/allocation. 2. Removes the requirement that a development application be accompanied by mandatory supporting information and introduces discretion for local government to accept applications.	In a number of Court cases an analogy has been drawn between the mandatory requirement for owner's consent of a development application and the need to obtain approval of the relevant State government department where a development may interfere with a State resource.[1] It makes sense; both matters are fundamental requirements about rights to land or resources to be sorted out before local governments or the public are put to the time and effort of examining and assessing a development proposal. For example if the State will not allocate water for a poultry shed, as town water needs must take priority, or if the State has other proposed uses for State land, its inefficient to allow a development application to be lodged without evidence of an entitlement or allocation. <u>Recommendation: keep the need for development applications to be accompanied by evidence of a state resource entitlement/allocation.</u> This amendment would decrease the time required from developers in preparing a development application. However it places a huge burden on local government, agencies and the community to process and comment on sketchy applications, instead of sending the developer back to redo applications and to provide the mandatory information about the development and its impacts. This amendment will increase the time and cost to the public purse of assessing development applications and encourage cowboy developers to put in poor quality applications. <u>Recommendation: keep the requirement for a development application to be accompanied by mandatory supporting information.</u>



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[1] *Northeast Business Park Pty Ltd v Moreton Bay Regional Council and the Chief Executive, Department of Main Roads* [2010] QPEC 112; *Vidler v Fraser Coast Regional Council & Chief Executive, Department of Main Roads* [2011] QPEC 18; *Barro Group Pty Ltd v Redland Shire Council & Ors* [2009] QCA 310