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10 October 2012

Mr Ted Malone MP
Chair
State Development, Infrastructure and Industry Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Malone 

Brisbane City Council is pleased to provide the Queensland Parliament's State Development, Infrastructure and Industry Committee with a submission regarding the Sustainable Planning and Other Legislation Amendment Bill 2012 (SPOLA Bill 2012). Please find enclosed a copy of our submission.

Council strongly supports key policy proposals included in the Bill such as the provisions to:

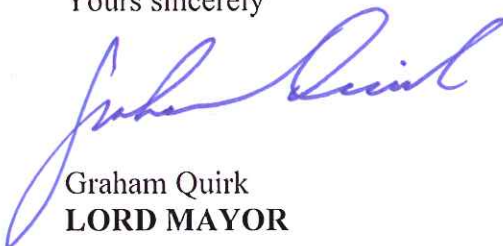
- Improve the coordination and responsiveness of the state government in dealing with particular development applications.
- Reduce regulatory 'red tape' for development applications involving a state resource.
- Provide more flexibility in the requirements for supporting information accompanying a development application.

Council's submission outlines two policy proposals requiring further consideration and our position on these matters, the proposals include:

- The Planning and Environment Court to be given general discretion in relation to costs.
- The intention to provide a maximum level of assessment for certain low risk operational works and certain provisions within the Queensland Planning Provisions will also apply to local government planning schemes made under the *Integrated Planning Act 1997* (repealed).

Should you require any further information about Council's submission please contact Ms Erica Gould, Council's Regional Planning Coordinator on 3178 1363 or email erica.gould@brisbane.qld.gov.au.

Yours sincerely


Graham Quirk
LORD MAYOR

Ref: LM34132-2012
Att.

Brisbane City Council Submission to the Queensland Parliament's State Development, Infrastructure and Industry Committee Inquiry into the *Sustainable Planning and Other Legislation Amendment Bill 2012*

Brisbane City Council (Council) makes this submission to the Queensland Parliament's State Development, Infrastructure and Industry Committee (the Committee) Inquiry into the *Sustainable Planning and Other Legislation Amendment Bill 2012* (the Bill). This submission supports most of the proposals included in the Bill, identifies proposals requiring further consideration and outstanding proposals.

Council made a submission to the Department of State Development, Infrastructure and Planning (DSDIP) in July 2012 following a formal request to provide input to inform the *Sustainable Planning Act 2009* (SPA) planning reform agenda. Council notes that the State Government has considered key issues raised in the submission, which has resulted in Council being able to support most of the proposals outlined in the Bill.

In particular Council supports the following proposals:

- *Improve the coordination and responsiveness of the state government in dealing with particular development applications* (proposing development within or partially within state jurisdiction):
 - Council supports the proposal to create a single state assessment manager and referral agency and notes that the provisions will not commence until early 2013 as time is required to establish the administrative and operational arrangements for achieving this outcome.
 - Through various forums, Council has raised the need for DSDIP to take a stronger leadership role in resolving competing priorities between individual departmental interests.
 - Council notes that the full effect of these proposed amendments will not be known until the intended changes to the *Sustainable Planning Regulation 2009* are made and that DSDIP will need to be adequately resourced to respond to service demand.
- *Remove ineffective master planning and structure planning arrangements* – these provisions are not applicable to Council as there are currently no areas affected by master or structure planning provisions in the SPA; however, Council is supportive of provisions that enable faster and more effective processes for redevelopment and intensification particularly in infill locations.
- *Reduce regulatory 'red tape' for development applications involving a state resource* – Council requested that provisions regarding resource entitlements be improved and the relevant provisions in the Bill will greatly assist with improving assessment timeframes.
- *Provide more flexibility in the requirements for supporting information accompanying a development application* – these proposals are welcomed and will streamline the development application process.

Proposals requiring further consideration:

Provide a maximum level of assessment for certain low risk operational works and certain provisions within the Queensland Planning Provisions (QPP) will also apply to local

government planning schemes made under the Integrated Planning Act 1997 (repealed).

- Council reiterates the comments made by the Local Government Association of Queensland (LGAQ) in its media release about the Bill that full consultation is required with councils to determine the operational works considered low-risk. As the Bill was not accompanied by proposed QPP provisions, the extent of the proposed changes are not clear.
- Making changes to the Brisbane City Plan 2000 whilst a new City Plan is being drafted would be disruptive and would be unlikely to be beneficial. Council requests that these provisions only apply to local governments who have not yet commenced the plan making process for a SPA scheme under the statutory guidelines. If Council had to amend its current City Plan there would be concerns about the timeframes in which amendments are required to be made (presumably 90 days).
- The proposed S55A as drafted, does not appear to limit itself to what the explanatory note says is a “maximum level of assessment for certain low risk operational works”. It is recommended that this section be reviewed.
- In addition Council has concerns about provisions creating increased use of compliance assessment, as the current process needs to be significantly simplified to be effective for local governments and industry.

The Planning and Environment Court to be given general discretion in relation to costs:

- The Council says that the proposed amendments to section 457 (costs) do not give the Planning and Environment Court (the Court) a general discretion as to costs.
- The proposed amendments are in the same form as the Rules with respect to civil proceedings in the Supreme, District and Magistrates Courts. There is ample authority to say that the practical and ordinary effect of the proposed amendment is that the unsuccessful party to a proceeding in the Court will be ordered to pay the costs of the successful party.
- The Council does not support the introduction of a costs regime in proceedings about planning applications where the event that will give rise to a costs order is the success or otherwise of proceedings in the Court.
- The Council considers that the conduct of the parties in proceedings should determine whether or not a costs order should be made.
- Therefore, the Council says that the proposed section 457 should be amended to provide that costs only be ordered against a party whose conduct in the proceedings was unreasonable rather than following the event.

The introduction of an alternative dispute resolution (ADR) process in the Planning and Environment Court for minor disputes:

- It is expected that this will reduce judicial time in determining relatively minor matters dealing with routine applications.
- Additional resources will be required by Council though to deal with the mediation process being brought forward.

Outstanding proposals

Council encourages the Committee to recommend that the following issues also be addressed through the Bill:

- The Minister could establish a process to consider recommendations from Councils regarding the nomination of prohibited uses. This would assist with reducing the number of complex issues to be dealt with during the plan making process and give

greater certainty to applicants and the community.

In addition Council requests that the following SPA provisions be amended as follows:

- SPA s424A(3)(h) - five business days to make representations to a Minister about an application that the Minister proposes to be called in is not adequate. Council requests that this section be amended to allow 20 business days.
- Section 422A - remove provisions relating to the Minister being given the power to give directions without consultation particularly in relation to directions to local governments and to applicants.

If the Committee requires any further information about Council's submission please contact:

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