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

Email: sdiic@parliament.qld.gov.au

Dear Sir / Madam,

Thank you for the opportunity to comment on the proposed changes to the *Sustainable Planning and Other Legislation Act 2012*. This submission is on behalf of Brisbane City Council Labor Councillors.

There are a number of contentious changes that are not supported.

Awarding of Costs – Amendment S457

The role of town planning legislation is to provide checks and balances for the development of land. It is to provide certainty for both members of the development industry and the existing community of what to expect in the future regarding development or redevelopment of their suburb; and neighbourhood.

Many residents find planning legislation complex, multilayered with significant variables. The *Sustainable Planning Act 2009* is not a user friendly document. In our experience when members of the public use the provisions of the *Sustainable Planning Act 2009* they do so because they are seeking to protect their local urban environment and residential amenity. They are highly motivated as any appeal involves considerable cost – costs usually beyond the capacity of many of our residents to pay, and even greater time and emotional commitment.

Frivolous or vexatious appeals are a minority in our experience. In fact a Councillor with 12 years' experience can only remember one vexatious appeal by an individual solicitor to whom the legal costs was not an issue. Further there are existing provisions in the *Sustainable Planning Act* to deal with a vexatious appeal.

We are strongly opposed to the proposal to increase any likelihood of the Court ordering appellants, who are local residents, to pay the cost of the developer's court costs. Brisbane City Council could be put in the situation of being ordered to pay the costs of the other party as well.

Our justice system is underpinned by the principle of equality before the court. The allocation of costs of both parties is a major change from that principle.

Division 12A ADR Registrar

The clarification of the Alternative Dispute Resolution registrar and the process for ADR is supported. The strengthening of the role of ADR is the appropriate way of managing the delays, expectations and outcomes of an appeal process not the proposed change in awarding costs.

Properly Made Submissions S261

The proposal that the assessment manager may determine “a properly made application” after considering noncompliance of the provision of mandatory supporting information is a concern. The “weight of matters in regulation” criteria for determining the need for mandatory supporting information is open to wide interpretation.

It is noted that the Explanatory Notes provide no information as to what supporting information “may not always add value to the assessment”.

We have concerns about the application of this power being given to the assessment manager, as no review process is specified. The provision of supporting information such as traffic reports, noise assessment and management reports, erosion and sediment control audits and reports should be non-negotiable. Construction management plans should also be required for any medium to large infill Multiunit Dwelling or Centre Activity development.

The relaxation of Stormwater Management Plans is not supported. Too frequently, with infill developments, changes to the overland flow and subterranean water courses results in adverse impacts on neighbours. Any waiver of these plans is not supported.

If this amendment is not withdrawn, clarification of the mandatory supporting information that can be waived is necessary.

Subdivision 2A Chief Executive assessing particular application as assessment manager or referral agency

The reality of planning assessment is conflicting objectives, with the tension between environmental values and economic development receiving the most publicity. It is a tension that legitimately exists within our communities.

The major shifts in environmental policy have been achieved from direct community action, supported by professional environmental advice from Local Government and State Government officers and consultants.

The power of S255 for the Chief Executive to be the assessment manager is a significant change. There does not appear to be any checks or balances to this change. The Chief Executive appears to have the power to ignore the need for a detailed analysis of the environment values of an application. This does not respect the community’s concerns and wishes for the highest level of environment protection. It does not acknowledge the history of improvements in environmental outcomes.

Appropriate criteria to limit the misuse of the single referral agency must be included in the *Sustainability Planning and Other Legislation Act*.

Removal of Maser Planning and Structure Planning arrangements S55

The Explanatory Notes state, without evidence, that the Master Plans and Structure Plans have not added value and they should be replaced by improved regional planning, strategic and infrastructure plans and preliminary approvals developed in partnership with the development industry.

There is a concern about the preliminary approval stage leading the strategic and infrastructure plans. In spite of strong strategic planning in Brisbane City there are still incidences where the preliminary approvals precede the strategic plans.

This process has the potential for Council to be placed in a "catch up" position for the provision of vital infrastructure particularly public transport, community infrastructure and stormwater drainage. With the exception of a few well planned communities, this is the norm. It is particularly so with urban renewal areas.

The transition from Master Planning to strategic preliminary plans should specify the need for community consultation on the strategic plans prior to preliminary approvals.

If you wish to discuss the content of the submission, please contact Cr Helen Abrahams, Deputy Leader of the Opposition on Phone 3403 2165.

Regards

A handwritten signature in black ink, appearing to read 'H. Abrahams', with a stylized flourish at the end.

Helen Abrahams
Councillor for The Gabba