Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025

Submission No: 462

Submitted by: Gilvear Planning Pty Ltd

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Submitter Comments:

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EXECUTIVE SUMMARY

As outlined in the attached detailed submission, Gilvear Planning Pty Ltd have identified concerns in relation to the proposed amendments outlined in *Planning (Social and Community Benefit) and Other Legislation Amendment Bill 2025* particularly in relation to the *Planning Act 2016*, *Planning Regulation 2017*, DA Rules and State Code 26: Solar Farm development as they relate to renewable energy developments in Queensland, such as:

1. Separate definitions for both Solar and Wind developments lack consistency and exclude other ancillary and related development such as transmission and storage; as well as the necessary tenure that are integral to such large scale developments. The impact is that the community will lack a clear understanding of the full extent of project elements and Council's will still be forced to assess key components outside of the State process. The proposed solutions include:

    a. Definitions for both Solar and Wind are combined so that a 'Renewable Energy Facility' is from any renewable resource and includes ancillary infrastructure and works;

    b. Clarify what 'other assessable development' may include by way of examples or explicit description.

    c. Subdivisions (i.e. Reconfiguring a Lot for long term leases or freehold land) associated with Renewable Energy Facilities are captured by the State assessment process.

2. Requiring a Community Benefit Agreement to be binding, before the assessment of a project undermines the integrity of the development assessment process and inability for real community input. Applying the provisions to existing applications is also in conflict with the established assessment process for applications which substantially impacts on investor certainty. The suggested solutions are:

    a. Remove the binding nature of the Community Benefit Agreement to be entered into prior to the lodgement of the application and instead, require written agreement to enter into negotiations so that it forms part of the application material (that is publicly available and forms an assessment benchmark as a relevant matter) and is negotiated with Council's as part of the assessment process (with Council becoming a referral agency for the matter).

    b. Consider further amendments so that Renewable Energy Facilities follow a similar process to that for a Ministerial Infrastructure Designation process (which all other large scale energy infrastructure such as transmission lines typically follows) so that detailed stakeholder engagement is undertaken as a precursor to lodgement of an application.

    c. Remove the retrospective nature of the provisions as they apply to 'pre-existing applications' and allow a condition to be imposed for CBA/SIA to be undertaken for those projects yet to be decided.

3. There are technical inconsistencies with the introduction of a new State Code for Solar farm development which could be improved including:

    a. Combine the State Codes 23 and 26 for all Renewable Energy Facilities and include additional provisions related to associated development.

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OUR REF: J000001:SR
DATE: 20 May 2025

State Development, Infrastructure and Works Committee
Via online

To Committee Members:

RE: SUBMISSION IN RELATION TO THE PROPOSED PLANNING [SOCIAL IMPACT AND COMMUNITY BENEFIT] AND OTHER LEGISLATION AMENDMENT BILL 2025

Gilvear Planning Pty Ltd are a town planning consultancy based primarily in Queensland (Babinda and Brisbane), with offices in Darwin and Coffs Harbour. Our team have been involved in renewable projects since 2009, as part of a larger team responsible for the strategy and approvals associated with Mt Emerald Wind Farm (being Queensland's second wind farm to be developed) under the *Sustainable Planning Act 2009*, as well as being part of the project team responsible for obtaining approvals in 2017 for the Wandoan South Solar and Storage project, which is Queensland's first 'big battery storage system' constructed and operational since 2022.

Firstly, we welcome any changes that incorporates greater community participation in project development and requires that tangible benefits for the communities which host the development are delivered. Secondly, we are making this submission independent of any project developer and have not consulted with any existing, previous or potential client in relation to the contents of this submission. This submission is made based on our professional experience with renewable projects in Queensland.

As planners, we are typically at the front of renewable projects being investigated and developed within Queensland – we are often involved in site identification, provision of advice during site acquisition, management of various application processes through to advice during construction and monitoring of these projects, which can easily span over 10 years from site identification to operation.

Drawing from our experience with renewable projects through various changes to legislation since 2009; we wish to outline the following concerns from a procedural perspective and offer some suggestions and observations relevant to the proposed changes. We have grouped our discussion into aspects related to

defined terms and ancillary uses; procedural concerns with application processes; technical aspects of the State Codes; as well as suggested resolutions for consideration.

1. **Definitions and ancillary uses.**

Currently, there are two definitions that apply to large scale Wind and Solar projects as follows:

a. *Renewable Energy Facility:*

(a) means the use of premises for the generation of electricity or energy from a renewable energy source, including, for example, sources of bioenergy, geothermal energy, hydropower, ocean energy, solar energy or wind energy; but

(b) does not include the use of premises to generate electricity or energy to be used mainly on the premises.

b. *Wind Farm*

(a) means the use of premises for generating electricity by wind force, other than electricity that is to be used mainly on the premises for a domestic or rural use; and

(b) includes the use of premises for any of the following, if the use relates, or is ancillary, to the use stated in paragraph (a)—

(i) a wind turbine, wind monitoring tower or anemometer;

(ii) a building or structure, including, for example, a site office or temporary workers' accommodation;

(iii) a storage area or maintenance facility, including, for example, a lay down area;

(iv)infrastructure or works, including, for example, site access, foundations, electrical works, substations or landscaping.

Definitions are a critical element in determining the extent of the project and therefore assessment process, as well as being the key component of a community's understanding of the project being developed. For this reason, it is imperative that the definitions are easily understood and appropriately capture the full extent of development being assessed.

There are two definitions proposed for what are essentially similar developments, except the Wind Farm definition is partially captured by the Renewable Energy Facility definition and includes detailed ancillary components where the Renewable Energy Facility definition does not. This creates uncertainty in the application of the definitions and does not allow for clear and concise application, creating a potential for confusion.

As is often the case with larger scale projects, and particularly more recently, many projects include ancillary features such as a Battery Energy Storage System and these, in the case of solar projects can be disbursed or consolidated (i.e. part of the solar array or a consolidated system). Currently, there is an entirely separate definition for a Battery Storage Facility established under the *Planning Regulation 2017*, which would on the face of the proposed definitions, potentially exclude. Similarly, as technology expands and matures, we are seeing other forms of storage and generating plant that is a combination of receiving electricity from the grid and potentially

There is mention of 'other assessable development' within the amendments to s21 (3A); but no description of what this may extend to? and appears to only extend to other assessable development where it is associated with Renewable Energy Facilities; and not stand-alone storage for example?

The second trend we are seeing is the provision of private Transmission infrastructure necessary to connect renewable projects (either proposed or approved) external to discrete projects that are crucial for the delivery of the generated energy to the grid. Often, the State and developers have excluded external transmission lines; however more often than not recently, Powerlink have (presumably due to a resourcing issue) been unable to deliver the connections. Without the powers of being a public utility and appropriate strategic considerations for the network, such aspects are separately assessed – and defined as Major Electricity Infrastructure – and would therefore be excluded from the assessment process. This results in a piecemeal approach that further the community's expectations and understanding of the project components.

Thirdly, a key component of any project is security of tenure through creation of long term leases; and or freehold parcels for the infrastructure to be constructed and operated. Currently, such processes appear to be excluded from the amendments and would therefore require an approval under the Local Government planning process. This approach essentially results in a Local Government being forced to approve a subdivision application, where it may be significantly in contrast to their Strategic Framework of the planning scheme, particularly given these developments are located on Rural Zoned land and often, subdivisions (via long term leases or freehold land) is strongly discouraged due to fragmentation and servicing issues.

Determining what is ancillary and what the defined use would be and therefore the assessment process is critical to ensure the appropriate process is followed, the community understands what is being proposed and there are no piecemeal applications being made. It is therefore suggested that the definition is amalgamated and clear description of ancillary and associated works includes.

2. Procedural concerns in relation to application processes:

We understand and appreciate the need for a consistent approach to community engagement and delivery of tangible benefits to host communities. The proposed changes require a Social Impact

Assessment and Community Benefit Agreement ('CBA') to be finalised prior to the making of a Development Application including those existing applications not yet decided and other change applications under the *Planning Act 2016*. Such changes raise the following considerations:

a. The retrospective nature of the provisions appears to conflict with the provisions of the s45(7) of the Planning Act which states *'The assessment manager must assess the development application against or having regard to the statutory instrument, or other document, as in effect when the development application was properly made.'* By essentially circumventing this provision, there is a clear contravention of established, sound principles applying to the assessment of an application in the manner consistent with the purposes of the Act (i.e. efficient, effective, transparent, integrated, coordinated and accountable system of land use planning, development assessment etc etc). As outlined above, projects take a number of years of background studies before an application can be made for determination; with many of the assessments relevant for only a few years. A number of

b. The transparency of the process of Community Benefit Agreement ('CBA') is limited, with the CBA for the delivery of benefits to a community as a result of a project not yet decided has the potential to create unrealistic expectations within the community. Further, given the timeframes for projects to be realised (i.e. often 10 plus years), there is a risk that the benefits agreed to (and which are binding) are potentially outdated once the application is approved which dilutes the significance and integrity of the benefit. There is also a significant risk that the project is amended during the application process in response to community concerns or ecological assessments which would impact on the overall output of the project to which the benefit is assigned.

c. The requirement to enter into a binding agreement with Council/s, essentially forces Council/s to agree to a project being delivered that has not yet been through an assessment process; and to which they have no decision making powers or input into.

d. A social impact as defined is particularly broad. The Local Government Planning Scheme and Community Plan is supposed to be reflective of the 'values of the community'.

e. Energy development, like all development, has impacts. We (the collective community which includes investors, developers and general public) need to determine the EXTENT of impacts we are willing to concede and how these are managed into the future. That is the role of government – to assess individual developments on their merits and to set standards that are 'generally' acceptable based on best practice, noting that not everyone will always agree.

f. All energy development is similar – and is an expected PUBLIC utility. When it is provided by a private entity, then the same rules should apply – they are not granted the same abilities as public utility providers in the form of transmission (which is critical to the projects).

3. State Codes

We understand that it is proposed to include a new State Code 26 for Solar farm development, which includes Performance outcomes and Overall outcomes which need to be met by individual projects. There are a few key differences between the State Code 26: Solar farm development and State Code 23: Wind farm development as follows:

a. State Code 23: Wind farm development includes Performance Outcomes PO1 – PO4 which require development to avoid '*protected wildlife and associated habitats'* as well as areas of *'high ecological value'*, however State Code 26 (Solar Farms), includes only a single Performance Outcome PO1 and relates only to areas of high ecological values.

b. Performance outcomes PO2 – PO6 of State Code 26: Solar farm development requires the need to consider both the high-quality agricultural land and stock route network which is not a requirement for State Code 23: Wind farm development, nor fertility or soil attributes. There will be instances where turbines are placed on agricultural land and accordingly, the same requirements should be met for both.

c. There is a requirement for Wind farms to consider natural drainage patterns, but not for Solar – where solar is usually on flatter land and has a greater area of 'disturbance' in terms of impervious areas (PO6 of State Code 23 v PO9 on State Code 26).

d. Acoustic objectives are slightly different, where these should simply refer to the *Environmental Protection (Noise) Policy 2019* (as amended) (PO12 and PO13 of State Code 23 v PO12 on State Code 26).

e. Transport Network impacts – the outcomes should be identical for both Wind and Solar farms. There are slight nuances between the impacts being considered (efficiency and safety for Wind versus safety of users).

f. Land surface and ambient temperature considerations on adjoining land will be difficult to ascertain without significant background monitoring.

g. There is also additional consideration of acid, iron and other soil base contaminants for Solar and not Wind where these are most likely to be associated with other associated development.

c. Inconsistency in the definition of 'high quality agricultural land' – State Code 23: Wind Farm Code, High Quality Agricultural land includes 'priority living areas' where Solar includes 'priority agricultural areas' which appears to be a mistake (as priority living areas are often areas outside of high quality agricultural land).

d. There are no provisions to consider ancillary uses and their impacts such as Substations or Battery Energy Storage Systems (i.e. Hazards Assessment for example).

4. Suggested solutions

While there is no single outcome that will be supported by all stakeholders, from a planning perspective we would suggest that:

a. Definitions are combined so that a 'Renewable Energy Facility' is from any renewable resource and includes ancillary infrastructure and works as follows:

(a) means the use of premises for generating electricity by renewable source, other than electricity that is to be used mainly on the premises for a domestic or rural use; and

(b) includes the use of premises for any of the following, if the use relates, or is ancillary, to the use stated in paragraph (a)—

(i) a wind turbine, meteorological tower, wind monitoring tower, noise logger or anemometer;

(ii) a building or structure, including, for example, a site office or temporary workers' accommodation;

(iii) a storage area or maintenance facility, including, for example, a lay down area;

(iv) infrastructure or works, including, for example, site access, foundations, electrical works, ***long duration storage such as batteries****,* ***Major Electricity Infrastructure,*** *substations, switch yards or landscaping and the like.*

b. Clarify what 'other assessable development' may include by way of examples or explicit description (i.e. Major Electricity Infrastructure, Reconfiguring a Lot) so that all ancillary and associated development is clearly articulated and understood; and Council's are not forced to consider 'parts' of a development.

c. Subdivisions (i.e. Reconfiguring a Lot for long term leases or freehold land) associated with Renewable Energy Facilities are captured by the State assessment process. This is important so that such land cannot be created unless it is for a particular purpose and will reduce the potential for fragmentation of Rural land. It can then also be limited by timeframe and must cease when the use ends/at decommissioning.

d. Remove the binding nature of the Community Benefit Agreement to be entered into prior to the lodgement of the application and instead, require written agreement to enter into negotiations so that

it forms part of the application material (that is publicly available and forms an assessment benchmark as a relevant matter) and is negotiated with Council's as part of the assessment process (with Council becoming a referral agency for the matter).

e. Consider further amendments so that Renewable Energy Facilities follow a similar process to that for a Ministerial Infrastructure Designation process (which all other large scale energy infrastructure such as transmission lines typically follows) so that detailed stakeholder engagement is undertaken as a precursor to lodgement of an application.

f. Remove the retrospective nature of the provisions, allowing a condition to be imposed for CBA/SIA to be undertaken for those projects yet to be decided.

g. Combine the State Codes and ensure consistency in language for outcomes sought; and include additional provisions relating to associated and ancillary development.

5. Other observations

a. How does the legislation capture 'newer' technology that is not solar or wind but from a renewable source and associated storage and transmission? Consideration to broader definition to ensure this is captured.

b. There are no clear directions for projects that include stand-alone Battery Energy Storage Systems where not related to or part of a larger Renewable Energy Facility. This distinction, if proposed, needs to be clear so that applications can be formulated appropriately.

c. How do these changes integrate with Renewable Energy Zones? What is their role in identifying where development should/could occur. If these are to proceed, then renewable projects need to be clearly identified as consistent within these areas.

d. How does the Social Impact Assessment integrate with Cultural Heritage obligations? Such agreements take years and again, entering into these agreements without the certainty or assessment of an application on its merits reduces the integrity of the development assessment process.

e. Having a binding Community Benefit Agreement that the community has no ability to formally take issue with (via an appeal) and has no formal role in; undermines the purpose of the agreement.

f. Who is responsible for the physical, mental and livelihood of members of the community (as is required to be captured within the Social Impact Assessment) and how will that be measured longer term?

In summary, there is no development that is without impact – you only have to look at the amount of complaints and tribunal matters filed for neighbourhood fences and stormwater nuisance to understand that any form of change has the potential to seriously impact on individuals.

Energy generation and transmission is essentially a public asset that is a necessary requirement for Queensland life. When a public asset is to be delivered by private entities, the process for assessment needs to be both fair and transparent, with tangible benefits to the community.

I trust that the above includes sufficient detail for your consideration; however if you require any further information; please contact me on [redacted] or via email at [redacted].

All the best,

[redacted]

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Sera Rohan
PROJECT DIRECTOR