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

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

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Introduction

Equis Australia Management Pty Ltd (Equis), would like to thank the State Development, Infrastructure and Works Committee (SDIWC) for the opportunity to provide a submission on the *Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025* (the Bill), introduced into Parliament on 1 May 2025.

Equis is a leading renewable energy developer focused on accelerating Australia's transition to clean energy. We have developed over 250 renewable projects globally; our current Australian portfolio consists of 16 battery energy storage systems (BESS), 2 of which are under construction, 10 onshore wind farms, one solar farm and seven other projects. We currently have wind and BESS projects under development or nearing construction in Queensland and therefore take an active interest in the legislative and planning framework associated with renewable energy.

Equis actively undertakes early and meaningful engagement with local government, First Nations stakeholders and community. We agree with the Government's position that all developers should engage appropriately and contribute to benefit sharing. However, the regulatory approach proposed in the Bill does not reflect community expectation and best practice standards developed by the Office of the Coordinator General and the resource industry.

We believe the Bill does not meet the government's stated intent of ensuring renewable projects are subject to, '*the same rigorous approval process as other major resource developments, and Queenslanders, particularly in rural and regional Queensland, would finally be able to have a say on renewable energy projects happening in their backyard*' (Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations, Hon Jarrod Bleijie MP's First Reading Speech).

Several key aspects of the Bill go significantly beyond what would typically be required for resource developments. Most notably, resource proponents can apply for a mining tenure and an environmental authority under the *Environmental Protection Act 1994* (Qld) without having entered into a commercial agreement with Council (s) or another public sector entity. Potential amenity and social impacts and risks are adequately and rightly considered and assessed prior to lodgement via a Social Impact Mitigation Plan (SIMP) during the Environmental Impact Assessment (EIS) assessment, allowing the decision-making process under the *State Development and Public Works Organisation Act 1971* (Qld) to occur thereafter.

We also note that the Bill, and other recent changes to State Code 23 for wind farm developments, which were not consulted on, frame renewable energy projects in a negative light, ignoring or understating the significant number of positive impacts that renewable energy projects provide, including for example:

- Benefits to existing farming operations by providing an additional revenue stream through landowner agreements to regional landowners, whether host or nearby neighbours.
- Economic benefits to the broader and local regions via employment opportunities and community benefit sharing opportunities.
- Benefits to Traditional Owners through individualised benefit sharing and Cultural Heritage Management Plans.
- Reduction of retail power bills through the provision of stable low-cost generation.
- Reduction in greenhouse gas emissions and subsequent positive impact to reducing climate change.

We note that the Bill contains amendments to a significant number of pieces of legislation, however our submission is limited to chapter 2 only, being the components which relate to the regulation of renewable energy.

Consultation to Date

Prior to setting out our detailed review of the Bill, we would like to comment on the lack of industry consultation on the development of this Bill. As outlined in the Explanatory Notes accompanying the Bill, only some Local Governments and the Local Government Association of Queensland (LGAQ) were consulted. The Government did not even consult with its own Government Owned Corporation (GOC) energy producers and/or developers.

Stakeholder consultation, particularly with those directly affected by the Bill, is a crucial step in developing effective, leading-practice regulation. Meaningful consultation helps ensure the legislation is practical, and provides insight into how it may impact projects and the industry more broadly, including what transitional arrangements may be required.

Equis would implore the Government to implement a comprehensive and transparent stakeholder consultation process on all policy and legislative reform in line with the *Better Regulation Policy* (April 2025). This process should occur early in the policy development cycle to ensure regulations are practical, fully consider transitional arrangements, and provide the policy certainty needed to support continued investment in Queensland.

Review of The Bill

Clause 10 Amendment of section 51 (Making development applications)

The introduction of pre-application requirements for Social Impact Assessments (SIAs) and Community Benefit Agreements (CBAs) under the *Planning Act 2016* (Qld) (Planning Act) represents a significant departure from community expectation and best practice standards developed by the Office of the Coordinator General and the resource industry.

A robust SIA is contingent on the outcomes of other technical studies such as, noise, traffic, ecology, project layout and project requirements such as technology used, timing and scale. Hence, SIAs should be completed during the development assessment phase and seen as equal to other technical studies. Once the SIA has been assessed it can inform the basis of a CBAs framework via the SMIP mechanics, which allows ongoing improvement and flexibility in benefit sharing.

Requiring these assessments and commercial agreements prior to application lodgement introduces practical challenges, including difficulty in accurately defining community benefits, the risk of superficial consultation, and duplication of work due to regulatory updates before assessment. This type of increased upfront regulatory burden is inconsistent with the Government's commitment to streamlining the approval process for resource-intensive industries, where impacts considerably outweigh those of the renewable energy sector.

It is noted that Queensland will be the only jurisdiction in the country with such pre-lodgement requirements.

A more suitable alternative, aligned with Government's intent for alignment with the resource sector and early indicative support from Councils, would involve securing preliminary support letters from local governments post-SIA and making the finalisation of CBAs a condition of development approval rather than a precondition for application submission. This approach provides practical flexibility, mitigates risk, and sustains the integrity and effectiveness of community engagement processes already established within the sector.

The capability and capacity of local governments to adequately assess and approve CBAs is also a significant concern. Many local governments are already operating under considerable strain, and the requirement to potentially manage hundreds of CBAs in some regions (due to the low 1MW inclusion threshold) could add a substantial burden. This increased workload risks causing delays and inconsistent outcomes in the CBA process.

Equis is also concerned there is an inherent contradiction within the current scope of proposed CBAs. Although termed 'Community Benefit Agreements', they effectively operate more as agreements between developers and local governments. This approach risks diminishing direct community engagement and the active participation of communities in shaping benefits, thereby potentially limiting genuine local empowerment.

Recommendations:

Remove Pre-Application Requirements for SIA and CBA

Remove the requirement for SIAs and CBAs to be completed prior to lodgement of development applications. These assessments should occur later in the process when project parameters are more defined and should align with existing guidelines.

Allow preliminary support letters from local governments post-SIA and making the finalisation of CBAs a condition of development approval rather than a precondition for application submission.

Clause 15 Insertion of new Section 65AA (Other permitted development conditions—development requiring social impact assessment)

Section 65AA(4)(b) permits development conditions relating to social impact mitigation or infrastructure provision only where the social impact of the development has "materially changed" since the SIA report was prepared or last updated. However, the legislation provides no guidance on what constitutes a "material change," who is responsible for determining whether such a change has occurred, or how that assessment should be made. The absence of clear criteria

introduces uncertainty for proponents, local governments, and decision-makers, and may result in inconsistent interpretation or application of this provision.

Recommendation:

Include guidance in the Planning Regulation or an accompanying policy to define "material change" in social impact and identify the decision-maker and process for determining when a change has occurred.

Clause 21 Insertion of new Chapter 3, pt 6B

Division 1 106R (Definition for part)

The changed definition of “social impact” under the S106R does not align with the Social Impact Assessment Guideline.

‘Social impact’ is, in part, defined under Clause 21 amending S106R of the Planning Act, in relation to development as the potential impact of the development on:

(a) the physical or mental wellbeing of members of the community;

Whilst it is important to look after every member of the community, broader and more collective wording appears in other legislation and guidance. For example, section 2.2.4 of the Draft Social Impact Assessment Guideline V2 states, ‘*Social impacts are…impacts on communities’ physical and mental health and well-being’*. While it may appear to be a minor change, it is significant, as it takes the statement from referencing a whole community to referencing singular members of that community. Who gets to decide whose physical and mental wellbeing is regarded or which individual members of the communities’ physical or mental wellbeing takes precedence?

Recommendation:

Replace:

(a) the physical or mental wellbeing of members of the community;

with

(a) the communities’ physical and mental health and well-being;

Division 2 106T (Making regulation about development requiring social impact assessment)

This section is a gross overstep of Government. Government should not halt the progress of existing development, for which significant time and expenses has been outlaid, for political point scoring. There is no good legislative, planning or social need to actively prevent the continuation of existing development under a previous lawful legislation.

This section, and corresponding sections of the Planning Regulation, appears to have no evidence that the Bill has been evaluated against the Queensland Government’s own *Better Regulation Policy* (April 2025), overseen by the Office of Best Practice Regulation within the Queensland Productivity Commission. This policy sets out a clear framework to ensure that regulation is “necessary, effective and efficient”, delivering policy objectives while minimising costs to business and the community. The Bill, as introduced, does not appear to meet these standards.

As outlined in section 1.5 of the *Better Regulation Policy,* all regulatory proposals that are not minor and machinery in nature require an Impact Analysis Statement (IAS). Yet, no IAS has been prepared or published for this Bill.

In addition, none of the policy’s thresholds for *not* preparing an IAS appear to have been met. There has been no demonstrated conclusion that the Bill will “not increase costs or regulatory burden on business or the community,” and no evidence of any robust consideration of the significance of the impact—especially in consultation with industry. The Better Regulation Policy outlines several key significance criteria that have seemingly been overlooked:

- The breadth of the impact - does it affect a large number of industries or individuals or a large proportion of businesses within an industry? **Yes**
- The proportionality of the impact — does it have a disproportionate impact on a particular stakeholder group (such as small business)? **Yes**

- The probability of the impact — does it have a high probability of occurring? **Yes**
- The extent to which the impact is reversible or can be mitigated — can it be reversed or mitigated? **No**
- The degree of uncertainty regarding the impact — is there a high degree of uncertainty? **Yes**

Even the Bill's own *Explanatory Notes* (p.8) concede that "aspects may create new administrative costs and potentially reduce competition to some degree."

Recommendation:

- Remove section 106U from the Bill and section 51L and 51J from the Regulation until a full and proper IAS has been completed.

Division 4 Community benefit agreements

Equis supports transparent and equitable processes that enable positive social outcomes for communities hosting renewable energy developments. This is evidenced by each of our existing developments and projects under development, proposing or providing community benefit funds to support a range of outcomes.

- Providing timely and accurate information.
- Community Benefit Funds,
- Equis' Higher Degree by Research Scholarship as well as funding for traineeships and apprenticeships
- Commitment to procurement for First Nations businesses, and
- Prioritising local industry.

However, the new legislative framework introduces significant risk to future Equis projects through onerous pre-lodgement requirements. In particular, the requirement to negotiate and enter into a commercially binding CBA with local Council(s) prior to lodging a development application.

Equis recommends that the requirement to enter into a CBA be removed from the legislation. Rather Community benefits should be developed along with a SIMP and approved by the assessment manager consistent with community expectations established by the resources sector and recognises that many early-stage projects do not proceed to application.

In addition, to maintain procedural fairness and consistency across projects, the government should create a Community Benefit guideline, leveraging frameworks from other jurisdictions such as NSW, while ensuring that any quantitative contributions remain proportionate to the specific impacts identified during the SIA.

Whether CBA's are the sole responsibility of Council or required under a SIMP via an assessment manager, Equis supports the transparent reporting of expenditure of funds obtained via CBAs.

Section 106Y (Meaning of community benefit agreement)

The Bill includes and number of overly simplistic but prescriptive examples of the types of "infrastructure" a CBA can contribute towards, such as a sports facility or library. In practice, each CBA should be informed by the outcomes of the SIA and tailored to the specific context, needs, and priorities of the host community.

As previously stated, it is also important to note that CBA's will be attached to projects proposed over 25 – 35 years and during this time the requirements and wants of the community may change dramatically. CBA's will need to be sufficiently open to the ongoing changes in community and landscape.

Recommendation:

- A detailed and transparent guideline should be developed to ensure CBAs are fit-for-purpose, adaptable, and grounded in good practice.

Section 106Z (Entering into community benefit agreements)

Please refer to the concerns raised under Clause 10 Amendment of section 51.

Section 106ZB (Referral to mediation)

Although Equis does not support the requirement of a CBA being entered into prior to lodgement, we provide the following commentary on Division 4, Section 106ZB.

Equis broadly supports the inclusion of mediation processes, particularly in circumstances where a proponent has genuinely pursued good-faith negotiations with a local government but has been unable to reach agreement. However, we are concerned that the request for mediation can only be made by local government ***and*** the other entity (proponent). We can foresee circumstances where local government may refuse to initiate mediation despite good-faith negotiations.

Recommendation:

Section 106ZB (2) be updated as follows:

> *The chief executive **must**, on request by the local government **or** the other entity, refer the local government **or** the entity to mediation to seek to achieve an agreement between them.*

Section 106ZC (Mediation process)

As mentioned under Division 4 Section 106ZB above, the requirement for both local government and the proponent to mutually agree on mediation is a concern. The wording of section 106ZC continues this concern with reference to mediation being voluntary and the ability to withdraw from mediation without reason or a notice period.

There is a significant risk of delays to project timelines if CBA negotiation and mediation processes are protracted. Proponents require certainty regarding timelines and outcomes to manage project financing, contractual obligations, and overall feasibility.

To address these issues, we recommend clear guidelines and timeframes for mediation proceedings be established within the legislative or regulatory framework to mitigate potential delays.

Clear thresholds such as statutory time limits or maximum mediation costs could also be included in the legislation for a proponent to pursue the option to apply to the Chief Executive to give a notice that an SIA or CBA is not required (new Section 106ZE) if the negotiation of a CBA has taken an unreasonable amount of time, or a resolution is not reached under mediation.

Recommendation:

Section 106ZC Mediation process could be amended as follows:

> *…*
>
> *(2) Participation in the mediation is **mandatory if a local government or other entity refers the matter to the chief executive**.*
>
> *(3) The local government or the other entity may **only** withdraw from the mediation **if:***
>
> > ***(a) all reasonable endeavours have been made by both parties, in good faith, to reach a mutually agreeable resolution; and***
> >
> > ***(b) despite these endeavours, a signed CBA cannot be reached.***
>
> *(4) A party intending to withdraw from mediation under subsection (3) must provide written notice to the mediator and the other party, clearly stating the reasons why a resolution could not be reached despite best endeavours.*
>
> *(5) The mediation ends on the earliest of the following days—*
>
> > *(a) if the local government or the other entity withdraws from the mediation—the day the local government or entity withdraws;*

(b) if the local government and the other entity agree the mediation has ended—the day the local government and the entity agree the mediation has ended;

(c) if the local government and the other entity sign an agreement agreeing to a resolution—the day the agreement is signed.

…

Section 106ZD (When community benefit agreements apply instead of particular instruments)

The prioritisation mechanism set out in Clause 106ZD introduces legal and procedural uncertainty where multiple agreements may apply to a single project, such as CBAs with local governments or public sector entities, additional conditions under section 65AA(3), or Infrastructure Agreements (IAs). Projects that require both CBAs and IAs, alongside conditions involving the delivery of infrastructure or other community benefits, are likely to be legally complex and may increase the risk of non-compliance.

This layered regulatory structure could necessitate legal involvement from multiple parties to determine the appropriate sequencing, hierarchy, or integration of these agreements. As observed in traditional developments, IAs used to complement or override development conditions are often detailed and highly technical, with comprehension often limited to their original drafters. This complexity can create ongoing issues, particularly in the event of project sale, transfer, or staff turnover.

Recommendation:

Infrastructure commitments remain with Infrastructure Agreements and that CBAs deal with non-infrastructure matters only, ensuring CBAs do not inadvertently override critical infrastructure obligations.

Division 5 Notices and directions by chief executive

Section 106ZE (Notices given by chief executive)

Equis supports the ability for a proponent to apply to the Chief Executive for a notice that a Social Impact Assessment (SIA) or Community Benefit Agreement (CBA) is not required (under new section 106ZE of the *Planning Act*). However, further detail is needed to clarify the circumstances in which the Chief Executive would be satisfied that an SIA or CBA is unnecessary.

Recommendation:

Include additional criteria in section 51M of the *Planning Regulation*, or in an accompanying policy, to outline the circumstances under which the Chief Executive may determine that a CBA or SIA is not required.

Division 6 Deciding particular applications and appeal rights

Section 106ZI (Deciding particular applications relating to development requiring social impact assessment)

Although Equis does not support the requirements for a SIA and CBA to be entered into pre-lodgement, we support the section 106ZI limiting the ability of the assessment manger from refusing an application base on the omission of a CBA or the contents of a CBA.

Section 106ZJ (Limitations on appeal rights)

Although Equis does not support the requirements for a SIA and CBA to be entered into pre-lodgement, we support the section 106ZJ limiting third party appeal rights on matter covered under a CBA or matters condition relating to social impacts or a failure to impose a condition on a development approval.

Division 7 Miscellaneous

Section 106ZM (Fees for particular matters)

Equis opposes the proposed addition of section 106ZM, which enables local governments to charge fees for:

(a) considering a Social Impact Assessment (SIA) report; and

(b) negotiating a Community Benefit Agreement (CBA), regardless of whether a CBA is ultimately entered into.

The ability of local governments to impose open-ended fees at the pre-lodgement stage introduces significant cost uncertainty for proponents. These fees, which are payable regardless of outcome, create a disincentive to engage in early, good-faith negotiations and increase the risk profile of renewable energy projects already facing long lead times and significant capital investment. There is no corresponding obligation on local governments to act efficiently, proportionately, or in good faith in return for the fee.

Charging fees for pre-lodgement engagement activities, particularly where the regulatory obligation to enter into a CBA has been imposed by the State, represents a significant departure from existing planning system principles. Unlike development application fees, which are tied to a formal and measurable assessment process, these fees could be applied subjectively and without limit, creating inconsistency across jurisdictions and undermining fairness in the planning system.

Additionally, there is no provision in the proposed section to require local governments to justify the fees charged, demonstrate the reasonableness of costs incurred, or limit fees to actual expenses. Nor is there any cap or framework to prevent the imposition of disproportionate or inconsistent charges across councils. The absence of such safeguards is highly problematic, particularly in rural or resource-constrained local governments with limited CBA experience or capacity.

Recommendation

Remove proposed section 106ZM from the Bill.

If retained, the section should include:

- Clear fee-setting guidelines or caps developed in consultation with industry;
- A requirement for local governments to publish a schedule of fees and provide itemised invoices; and
- Provisions to waive fees in certain circumstances, such as where a project is withdrawn or the proponent has already contributed substantially to shared community infrastructure through other mechanisms (e.g. Infrastructure Agreements or planning conditions).

Conclusion

Equis appreciates the opportunity to provide feedback on the *Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025*. While we support the Government's intent to ensure communities share in the benefits of renewable energy development, the Bill, as currently drafted, presents several critical concerns that warrant further review.

We are particularly concerned by the departure from established regulatory practice through the imposition of pre-lodgement requirements for SIAs and CBAs. These requirements are premature, impractical, and inconsistent with the resource sector framework the Bill claims to mirror. Requiring legally binding CBAs before project certainty is achieved risks superficial engagement, increases cost burdens, and fails to recognise the long lead times and evolving nature of renewable projects.

Equis recommends that SIA's and CBAs be removed as a pre-lodgement requirement. These assessments should occur later in the process when project parameters are more defined and should align with existing guidelines. If government wishes to introduce SIAs and CBA requirements to renewable projects, more suitable alternative would involve securing preliminary support letters from local governments post-SIA and making the finalisation of CBAs a condition of development approval rather than a precondition for application submission.

The lack of meaningful industry consultation throughout the Bill's development process represents a failure to meet the Queensland Government's own *Better Regulation Policy* standards. Despite the scale of reform and its potential to affect dozens of current and future projects, there has been no publicly disclosed Impact Analysis Statement (IAS) and no clear evidence that the proposed framework meets thresholds of necessity, efficiency, or proportionality.

We stress that renewable energy development is not akin to the resource industry. The sector delivers measurable public benefits including fighting climate change, lowering emissions, reducing energy costs, providing regional economic uplift, and opportunities for First Nations and local participation. It should not be subjected to a regulatory regime that imposes greater burdens than those applied to other major industries.

Equis recommends the Bill be amended to:

- Remove pre-lodgement requirements for SIAs and CBAs, aligning their timing with established environmental and planning processes;
- Remove or substantially revise section 106ZM to include safeguards, transparency, and cost reasonableness;
- Introduce detailed guidelines for CBAs to ensure consistency, flexibility, and genuine community input;
- Clarify the interaction between CBAs, IAs, and conditions of approval to prevent regulatory overlap;
- Ensure any exemption process (section 106ZE) includes clear, published criteria; and
- Defer implementation of the Bill until full consultation and an Impact Analysis Statement is undertaken in line with the Government's Better Regulation Policy.

We remain committed to working constructively with government, communities, and stakeholders to support a planning framework that is fair, efficient, and delivers enduring benefits for Queenslanders.

Best Regards,

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