

**EDO** Qld.

Environmental Defenders Office

*Using the law to protect  
our environment.*

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Committee Secretary  
State Development , Natural Resources  
and Agricultural Industry Development Committee  
Parliament House  
Sent via email only: [sdnraidc@parliament.qld.gov.au](mailto:sdnraidc@parliament.qld.gov.au)

Dear Chair and Committee,

**Submission to Economic Development and Other Legislation Amendment Bill 2018 (ED Bill) inquiry**

Thank you for the opportunity to provide a submission on this important Bill.

**About EDO Qld**

EDO Qld is a non-profit community legal centre with clients from both rural and urban areas and backgrounds. Our solicitors provide legal advice to over a thousand individuals and groups every year, including through educational events we organise in partnership with community groups and in response to specific advice requests by clients on public interest matters. Our legal work covers a wide range of planning, environment and resource law topics. We run a small number of public interest court cases in state and federal courts to assist those who have good legal grounds to use their legal rights under our laws to defend the interests of the environment and their community.

**Consultation on this Bill**

EDO Qld is arguably the key stakeholder representing community and environmental interests in planning and development law in the state. However, we are disappointed and surprised that EDO Qld were not consulted on the proposed amendments to the *Economic Development Act 2012* (Qld) (**ED Act**) nor provided with any forewarning that these amendments were proposed. This is regrettable as it suggests a failure to adequately consider the interests of the community and environment in formulating the policies behind these amendments. We do note that we were consulted on some proposed amendments to the *Planning Act 2016* (Qld) (**Planning Act**) provided for in this Bill; this consultation was valued. We hope that consultation through the Department of State Development, Infrastructure and Planning will improve in future for other relevant legislation, particularly powerful Acts like the *ED Act* and *State Development and Public Works Organisation Act 1971* (Qld).

Due to this failure to consult early on in policy development with our office, coupled with our limited resources, we have not had sufficient capacity to provide a thorough review of this Bill in the time available. Submissions provided here form our preliminary views on the Bill.

**Overall, EDO Qld are disappointed that greater reforms are not being suggested to the ED Act to improve accountability and decision making under this powerful Act.**

EDO Qld are aware that there is significant concern in the community that the ED Act does not provide for good quality decision making in development and planning, particularly given that it:

- locks out community appeal rights that are recognised to be essential in improving the quality of decisions and minimising the risk of corruption around decision making;<sup>1</sup>
- can allow for public notification and community submission rights requirements to vary greatly between Priority Development Areas (**PDA**);
- overrides normal Planning Act provisions and local planning schemes that have undergone extensive public consultation and Ministerial review to ensure they are the best plan to meet community needs and expectations and under our Planning Act requirements; and
- by overriding normal Planning Act provisions, proposed clearing of vegetation is not assessed against the normal planning and *Vegetation Management Act 1999* (Qld) provisions, removing certainty for the community that clearing will be appropriately regulated; and
- overrides the regulation even of areas outside of declared PDAs where they are declared to be ‘PDA-associated development’, further locking out the community and providing significant discretion around development assessment and planning decision making.

In Opposition, the Labor Government did not support the ED Act. In Opposition when the Bill was debated, then Member Jackie Trad spoke strongly against the Bill, raising numerous “severe concerns regarding the bill”, which can be reviewed from pages 2896 – 2904 of the [Queensland Parliament. Record of Proceedings, 28 November 2012](#).

EDO Qld suggests that, given the government’s opposition to the Bill on introduction, the government might like to review the criticisms it made at this time and now seek to rectify these issues that persist with the Act under the government’s watch.

We also raise concerns with respect to the following amendments proposed in this Bill.

***Minor boundary changes of priority development areas***

We are concerned that the Bill proposes to introduce a power to change the boundaries of a PDA to include more land in the PDA. The limitation on this power is relatively vague, being for example that: “*MEDQ is satisfied the minor boundary change promotes the proper and orderly planning, development and management of the additional land to be included in, or the land to be excluded from, the priority development area*” (**clause 28, proposed ss40F(2)(b)**). We suggest this

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<sup>1</sup> Productivity Commission (2013) *Major Project Development Assessment Processes at* <http://www.pc.gov.au/inquiries/completed/major-projects/report/major-projects.pdf>; ICAC (2012) *Anti-corruption Safeguards in the NSW Planning System at* <http://www.icac.nsw.gov.au/documents/preventing-corruption/cp-publicationsguidelines/3867-anti-corruption-safeguards-and-the-nsw-planning-system-2012/file>.

provision could be more clearly limited to provide greater certainty to the community that the provision cannot be misused.

***Service requirements***

We support the amendments in clause 67 to the Planning Act with respect to service requirements, however we recommend that these provisions be amended to clarify the content required in the 'communication' as defined in s171(1)(B). This 'communication' must include itself information that explains the decision and any legal rights or requirements available to the reader with respect to the communication, for example that the reader has appeal rights available to them with respect to a decision for which they made a properly made submission. This important information should not be left to be provided via a hyperlink; it must be provided clearly to the receiver directly.

***Discretions such as exemption certificates and allowing non-compliance with public notification requirements***

We do not support the inclusion in the ED Act of exemption certificates nor the allowance of non-compliance with public notification requirements. These powers provide concerning discretions to decision makers under the ED Act which degrade community confidence and expose the decisions to potential misuse to the detriment of good decision making. We recommend that these provisions not be passed, and also that the government remove these discretions from the Planning Act.

***We support amendments which allow for the refusal of development applications that do not comply with information requirements and lapsing of development applications.***

Once again, we regret that time and our limited resources have not enabled us to provide a thorough review of this extensive Bill. We trust that these submissions have still been of assistance to your inquiry.

Please do not hesitate to contact us if you have any questions or would like to discuss this matter further.

Yours faithfully

Environmental Defenders Office (Qld) Inc



**Revel Pointon**

*Senior Solicitor*

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