

Housing Availability and Affordability (Planning and Other Legislation) Amendment Bill 2023

Submission No: 26
Submitted by: Gecko Environment Council
Publication:
Attachments:
Submitter Comments:

31 October 2023

Committee Secretary
State Development and Regional Industries Committee
Parliament House
sdric@parliament.qld.gov.au

Dear Committee Secretary,

Re: Submission on the Housing Availability and Affordability (Planning and Other Legislation Amendment) Bill 2023

Thank you for the opportunity to provide comment on this Bill.

Gecko Environment Council Assoc. Inc (Gecko) has demonstrated interest in planning relating this region and of the Gold Coast (Southern Sub Region) in particular, for several decades and has provided feedback on the various iterations of the SEQ regional plan. Our primary interests relate to protection of the exceptional natural environment and biodiversity of the region and the urgent need to enact true sustainability measures in the built environment as the population of the region continues to grow along with the impacts of climate change.

Gecko Environment Council Assoc. Inc. is a not-for-profit environment association founded in 1989 and has been active for the past 34 years in protecting the environmental values and ecological sustainability of the Gold Coast, Queensland and, when appropriate, nationally. Gecko's Mission is *"To actively promote, conserve and restore the natural environment and improve the sustainability of the built environment of the Gold Coast region in partnership with our member groups and the wider community."*

Unnecessary increase in Ministerial powers

Gecko Environment Council supports the position of SEQCA outlined in their submission to this Bill: "We believe the proposed provisions on State facilitated applications are an unnecessary duplication of existing ministerial call in powers." Gecko shares concern with the proposition to "increase the powers of the State over and above those of local councils and the community by substituting the chief executive in place of local councils as decision-maker for particular development and in so doing eliminating any scope for impact assessable development (including third party appeal rights)."

This not only reduces residents' democratic rights to have a say in the development of their communities it is also likely to add to delays in assessment as well as adding another layer of bureaucracy.

Gecko supports the further details provided regarding Ministerial powers in the SEQCA submission.

Integrity and consultation in decision-making

Gecko recognises that current State land acquisition powers must be for a state benefit. The proposed powers allow the ability to confer rights to a third party or give measurable benefit to a third party. The result is potential benefit to the public and landholder.

This raises concerns about integrity in decision-making, considering any proponent may make a case for development to the Minister. Given, through enacting this Bill that it will be up to the Minister's discretion to determine whether the tests in the act have been met, assisted by the department (referral to department implied, but not defined in legislation).

Gecko understands that the Ministerial direction powers can only be applied when adequate consultation has been undertaken. This consultation must be contextualised at a local level, for example, the Spit Master Plan which involved various stakeholders. Given this contextualised consultation is proven, the Minister then may assume the directional powers. (Issue highlighted in the public briefing, 23/10).

Gecko calls for regulations to specify what "contextual consultation" means, including the scope and appropriate methods of consultation and engaging with relevant stakeholders (as an operational amendment).

Additionally, **the community must have an avenue for challenge** with regards to the Ministerial direction powers.

Additionally, it is our understanding that one aim of the directional powers is to help ease a tension between state planning and outdated local planning schemes. To this effect, through this bill the Minister would have the power to direct a local Government to amend their scheme regarding expanding urban footprint.

If the Bill proceeds to legislation, **the public interest, and environmental impacts in decision-making regarding expansion of the urban footprint must be taken into account**. Again, it is vital to regulate sufficient community consultation and avenue for challenge in this process.

Community rights in decision making

The loss of the community's right to appeal a State directive is unacceptable.

Without an Independent EPA in QLD there is elevating concern with regards to integrity and accountability in government. The currently failing EPBC Act also provides no assurance of environmental protection.

As upheld over decades by countless groups it is vitally important that communities have a fair say in environmental decision-making.

Gecko supports The Wilderness Society's following statement about embedding rights in Australia's laws and policies at all levels of government:

"The current state of Community Rights in Australia do not reflect the three core environmental Community Rights established by the Rio Declaration in 1992. Achieving integrity and accountability means more than increasing transparency; it requires enshrining the following set of human rights—which Australia has signed on to—in Australia's environment laws:

- **The right to know**—to access the information that authorities hold.
- **The right to participate**—to have a genuine say in decision-making.

- **The right to challenge**—to seek legal remedy if decisions are made illegally or not in the public interest.
- Cultural and self-determination rights of First Nations, including to give or withhold their **free, prior and informed consent.**”

<https://www.wilderness.org.au/community-power/environmental-community-rights>

Social equity in housing requires environmental protection

Too few people can access housing suitable to their needs, and demand is rapidly growing. The State Government’s assumption that compromises must be made because housing supply conflicts with environmental protection is largely false and damaging.

Evidence and best practice demonstrate that maintaining environment values in urban areas is highly valued and provides essential ecosystem services for liveability. This is a matter of social equity and rights in housing.

All residents should have access to healthy, liveable, resilient housing.

Gecko recognises this housing bill aims to make the planning framework as efficient as possible. But this must be done without compromising the liveability of housing for generations.

The delay in incorporating concrete mechanisms for climate adaptation and mitigation into the SEQRP and statutory law is of great concern and considerable risk to residents and our regional biodiversity.

This bill does not address the public interest to urgently integrate climate resilience in planning legislation. While supply and affordability are without argument, urgent needs, this is coupled inextricably with resilience and equity, and the government should not ethically seek to expedite housing development without considering the implications for residents into the future.

The State Government must consider its responsibility to protect citizens from intolerable risk and implement suitable mechanisms to achieve the following (including through increased guidance for Local Government planning schemes):

- Recognise greenspace as community infrastructure and provide greenspace consideration and protection at all levels of government
- Direct local planning schemes to support gentle density informed by neighbourhood planning, futures thinking, social equity, conservation and climate change
- Require local planning schemes to reflect SPP’s, including sufficient data-informed decision making in planning and specific integration of Nature-based Solutions such as appropriate set-backs and provisions for deep planting
- Minimise clearing of remnant or mature native vegetation
- Integrate nature-based solutions in all levels of planning
- Require heat hazard and microclimate assessment
- Adopt a minimum threshold for place-based greenspace
- Provide guidance for local government to apply to verge gardens
- Develop and honour local neighbourhood plans and embed planning with community, for good urban design of neighbourhoods
- Preserve access to community facilities including greenspace and preserve mature native trees
- Ensure housing development is sustainable, resilient and liveable
- Legislate a planning code, such as a *Liveability and Sustainability Code*, to ensure the actions in the SEQ Regional Plan themes of SUSTAIN and LIVE are implemented
- Establish an expert panel

Gecko reiterates the call made in the SEQRP submissions by QCC and Gecko to establish an expert panel to deliver on multiple commitments: integrating ecosystems services, green infrastructure, habitat protection, connecting and regenerating landscapes.

Gecko would provide strong support to the State Government incorporating natural and green spaces as highly valued **community infrastructure** that are essential for community health, resilience and urban biodiversity and adaptation.

Gecko notes the unaddressed issues with compliance to the SEQ Regional Plan and the Measures that Matter, thereby limiting the ability to evaluate and improve planning instruments.

In preparing this submission, Gecko has referred to our SEQ Regional Plan submission, academic evidence, and recent expert reports on Best Practice Regional Planning for SEQ, by SGS Economics & Planning ([here](#)) and Holding the Line: reversing biodiversity decline, by Shannon Mooney & Andrew Davidson ([here](#)).

Thank you for inviting and considering our views in the bill process.

Yours sincerely,



Sara Hicks
Approved by the Gecko Management Committee

Gecko Environment Council
139 Duringan Street
Currumbin
QLD 4223

www.gecko.org.au
(07) 5534 1412

Sara Hicks
Climate Advocate

