

# *Development Watch Inc*

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Planning Reform Group  
Department of Infrastructure, Local Government and Planning  
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Dear Sir/Madam,

## **DRAFT PLANNING BILL 2015 (Planning Bill) and**

## **PLANNING AND ENVIRONMENT COURT BILL 2015 (P&E Court Bill)**

Thank you for the opportunity to make a submission on the exposure drafts of the new proposed planning framework.

Development Watch is a community group based in Coolum on the Sunshine Coast. One of our primary aims is to encourage policies and planning practices that preserve and enhance the quality of life in the Coolum district for both residents and visitors. We have prepared this submission on the Draft Planning Bills with this aim in mind. We appreciate being given the opportunity to make this submission. However, we are disappointed with the relatively short timeframe provided for community consultation on this extensive framework. Providing a comprehensive submission is a very large task for our group and we have been unable to provide a comprehensive submission before the deadline. Consequently, this submission is based on EDO Qld information. However, it also includes additional comment drawn from our own concerns about defects in the draft bills.

A planning system must ensure the protection of environmental and community values, free of undue influence, corruption and politics. We support a planning system that facilitates good development and is based on ecologically sustainable development (ESD) principles. Therefore, it must balance economic development with the protection and enhancement of both environmental and community values. Our planning framework must provide the fundamental protection to mitigate development impacts on our natural resources and plant and animal species, both terrestrial and marine. It must also ensure development is appropriate to the community's needs.

A planning framework must be free of unnecessary discretions for decision makers. Importantly, it also must have clear, legislated processes for community rights to participate in planning. Otherwise, these rights can be eroded if the community is seen to stand in the way of development under bad governance. Thus, it must provide clear, strong provisions to ensure environmental impacts are mitigated. Also, it must provide for

the community to have its say on planning instruments and significant developments as well as providing reasonable access to the P & E Court.

Unfortunately, we believe the draft planning bills that have been provided for public consultation do not improve community participation nor do they improve environmental protections in planning and development decisions. They are substantially inferior to the present legislation, the *Sustainable Planning Act (2009)* (SPA).

We provide the following comments and suggested changes to ensure:

- adequate environmental protections in planning;
- meaningful community involvement in decision making; and
- open, transparent and accountable planning decision making.

## A - ENSURING ADEQUATE ENVIRONMENTAL PROTECTIONS AND GOOD PLANNING

1. The purpose of the current legislation, SPA, "... is to seek to achieve ecological sustainability by ...". We ask that the current SPA purpose be used as the purpose in the new planning bill, with one small alteration. Deletion of the words, "seek to" would eliminate the flexibility and uncertainty of purpose that presently exists. In addition, we ask that all terms relating to purpose and advancing the purpose (including ESD) be comprehensively defined.

**Response to request for comment - Options for advancing the Act's purposes:** We strongly support the suggested wording shown at Section 3(6) of the draft bill.

2. Guidance provided is insufficient to ensure environmental values and concerns are integrated into planning instruments. There is no requirement for performance indicators that would support achievement of meaningful performance..
3. We strongly believe the Coordinator General, contrary to Section 5, should not be exempt from the provisions set out in the draft planning bill.

**Response to request for comment - Compensation:** We believe Queensland should, as NSW has done, remove the ability to obtain compensation from local governments. The spectre of a compensation claim can unduly influence local government decisions on development applications.

## B - ENSURING MEANINGFUL COMMUNITY INVOLVEMENT IN DECISION MAKING

1. We believe the draft planning bill needs amending to improve community involvement in decision making. As presented, it weakens public involvement. For example:

- a. Public consultation timeframes for submissions have been reduced compared to that provided under SPA prior to amendment by the Newman Government in 2013. Prior to 2013, developments requiring three or more concurrence agencies. This same consultation period was required by the *Sustainable Planning Regulation 2009*, schedules 16 and 17 for particular of concern development. These extended public consultation provisions should be reinstated as, at present, most community groups do not have the resources to satisfactorily examine complex development proposals.
  - b. Discretion for assessment managers to excuse non-compliance with public notification procedures has been introduced. Also, exemptions from assessment through exemption certificates are allowed. Discretions like this are likely to be abused under bad governance.
  - c. The timing of the commencement of public notification is proposed to be subject to discretion. This has the potential to allow the public submission stage to start before the information request stage has ended. Thus, certainty that the community has the correct information on which to base a submission is diminished.
  - d. All legislation governing public consultation on development should be in the one place and subject to public and Parliamentary scrutiny, not hidden away in rules and regulations. Unlike Acts of Parliament, changes to rules and regulations are difficult for community members to monitor.
2. We support the reinstatement of the general rule that each party pays its own costs. This rule is integral to ensure that community members are fully able to participate in the decision-making process. The community plays an important watchdog role to ensure planning offences don't get ignored.

**Response to request for comment on categories of assessment:** We support the retention of the terms currently used in SPA. They are well understood by the engaged community and there is no advantage to the community in changing them.

**C - ENSURING OPEN, TRANSPARENT AND ACCOUNTABLE PLANNING DECISION MAKING**

1. We are most concerned that the proposed planning bill has not carried through from SPA the concept of "sufficient grounds. Eliminating this concept will seriously reduce the transparency of decision-making by assessment managers. Removing this concept is the antithesis of improving transparency and good governance.
2. The State Assessment Referral Agency (**SARA**) has significant power under this framework. We strongly believe SARA, in its advice on development applications, should be required to publish recommendations from relevant Departments, Also, if SARA's advice differs from these recommendations, it should be required to publish reasons why recommendations were not followed.

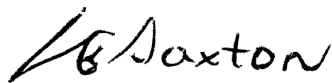
3. To truly ensure *open access to planning and development information*, as provided in the Directions Paper, public access rights to information should be in the legislation, not hidden in rules that can be changed without any Parliamentary or public scrutiny.
4. The Development Assessment Rules should be secured in legislation so that changes to them would have a transparent reform process with public and Parliamentary scrutiny.

**Response to request for comment – assessment under standard/code rules):** We strongly oppose the implementation of the presumption in favour of approval in standard/code assessment, as well as the ability for the assessment manager to approve development that does not comply with assessment benchmarks, as outlined in Option 1. These proposals degrade the integrity of the planning assessment framework. The example provided in Option 1(3) does not adequately limit the significant discretion provided in (3) which could easily be abused to allow bad development without any safeguards. We support the use of Option 2 in the Bill which provides an accountable and certain approach to development assessment.

**Response to request for comment – transitional provisions for standard/code assessment (p.256):** A development application should be assessed under the code which was chosen as appropriate at the time of applying – to ensure certainty in assessment.

We call on the Queensland Government to amend the proposed legislation as detailed above and also generally, to empower our communities so they can meaningfully participate in planning and assessment and to adequately protect the environment from bad development.

Yours sincerely,



Lynette Saxton,  
President,  
Development Watch Inc.