

Review of proposed planning framework 2015

1. PROTECTING NATURE			
Issue of interest	CHANGES NEEDED / NOT ADEQUATE	GOOD	Comments
<ul style="list-style-type: none"> • Purpose statement requires achievement of ecologically sustainable development (ESD)? • With requirement to <i>advance</i> the purpose and guidance as to how this should be undertaken? • Definition of ESD? 	<ul style="list-style-type: none"> ✗ No definition of ESD ✗ No detailed explanation of terms used in 'ESD' as in current legislation ✗ Unlike current legislation, no detailed guidance as to how to advance the Act's purpose ✗ So, no express mention of precautionary principle or intergenerational equity unlike current planning legislation 	<ul style="list-style-type: none"> ✓ Facilitating ESD is the purpose (s3(1)) ✓ Removal of vague notion of 'prosperity' previously proposed ✓ Requirement to advance the purpose when making decisions under the act (s3(5))¹ 	<p>The definitions and detailed explanations of the purpose are essential to good planning legislation to bring effect to the purpose, and for certainty. The terms of the purpose affect the interpretation and operation of the entire planning framework, including local planning schemes. By providing a prescriptive definition of ESD, you can be assured that the state and local governments will be required to balance the environment when assessing a development application.</p>
<ul style="list-style-type: none"> • Concepts of environmental protection adequately included in Act? 	<ul style="list-style-type: none"> ✗ Token mention of environmental protection concepts: 'ecological processes'; 'natural systems'; 'biological 		<p>Simply providing for ESD in the purpose, with no clear definition, and then giving no more than passing mention to environmental protection terms such as biological diversity or natural systems</p>

¹ Requirement to advance the purpose of the act is not provided for in a way that allows referral agencies to have a discretion when making decisions under the act which might be made also with reference to other legislation e.g. the Department of Environment and Heritage Planning acting as an advice agency would have to provide their advice by advancing the purpose of the Planning Bill 2015, possibly over the advancement of the *Environmental Protection Act 1994* which would also be relevant to their decision. See Sustainable Planning Act 2009 (SPA) section 4(1)(b) and (c).

	<p>diversity' (s3(4)(a))</p> <p>× ESD – has been inadequately incorporated into the Act – see above.</p>		<p>means that environmental issues will not be required to be adequately included in local planning schemes. Developments that may affect local animals and vegetation may be allowed to go ahead without proper consideration of their environmental impacts.</p>
<p>• Climate change included as necessary planning consideration?</p>	<p>× One nominal mention of climate change provided in whole of exposure draft - in s3(4)(c)(iv) of the key Planning Bill.</p>		<p>Climate change is a recognised phenomenon, occurring now, and one with far reaching and well researched, predicted implications. It is essential that we require its consideration in all relevant parts of planning decision making.</p>
<p>• Adequate assessment categories required for developments?</p>	<p>× There will now be fewer codes to guide developments. Currently 'self-assessable' development guided by a code – this category will now be 'accepted development' and have no code applicable.</p> <p>Codes assist in ensuring developments are suitable for the site and reduce possible impacts.</p>		<p>There are now new development assessment categories proposed:</p> <p>(1) Accepted development (subsuming self-assessable and exempt assessable development)</p> <p>(2) Assessable development (<i>names up for comment</i>):</p> <ul style="list-style-type: none"> ○ Standard/code assessment (subsuming compliance assessment) ○ Merit/impact assessment (require public notification) <p>(3) Prohibited development</p>
<p>• Clear, certain provisions to guide development assessment</p>	<p>× Development assessment procedures (currently 'IDAS') have been removed</p>		<p>Development assessment provisions are key in ensuring certainty for all stakeholders in how the assessment</p>

	<p>from the Act – to be included in ‘Development assessment rules’. Rules can be easily changed at the whim of any government. These provisions must be in the Act.</p>		<p>process will be undertaken – they are a central part of the planning framework. They should be in the Act, rather than flexible rules separate from the Act.</p>
<ul style="list-style-type: none"> • Guidance given to local governments in the drafting of local planning instruments, to ensure consistency in environmental protections? • Performance indicators provided for inclusion in and assessment of planning schemes? 	<ul style="list-style-type: none"> × ‘Key elements’ and ‘core matters’ are not provided for to direct what must be included in local planning instruments. These are currently provided in SPA and assist in ensuring key issues are incorporated into local government planning and decision making. By not including these provisions – there is likely to be inconsistency between local government approaches to environmental protections. × Performance indicators are not required to be included in local or State planning instruments. 	<ul style="list-style-type: none"> ✓ ‘Strategic outcomes’ –a form of performance indicator requiring certain outcomes to be achieved through planning - are to be required in planning schemes (s15)². 	<p>Performance indicators are an essential tool to guide and assess the effectiveness of strategic outcomes. They provide meaningful, clear intermediate steps that are necessary to achieve a strategic outcome. For example, a strategic outcome might be:</p> <p><i>‘Riparian vegetation along creek areas is protected to ensure healthy creek ecologies and prevent erosion.’</i></p> <p>A performance indicator for this outcome might be:</p> <p><i>‘Riparian vegetation is protected or re-established along all creeks in the region to ensure a 20 metre vegetation buffer is provided for in all creek catchments by 2017.’</i></p> <p>They were required in the former <i>Integrated Planning Act 1997</i> as well as referenced in the SEQ Regional Plan. They were removed seemingly because they</p>

² This was not required in the LNP Planning for Prosperity Bill 2015.

			<p>demonstrated little progress was being made! This is exactly the point of them – to help understand whether we are on the right track to achieving strategic outcomes through well considered, meaningful intermediate performance indicators. Strategic outcomes are typically too broad and vague to be effective alone.</p>
<ul style="list-style-type: none"> • State departments have concurrence powers – with the ability to require refusal or conditions 	<ul style="list-style-type: none"> × SARA is being maintained - State departments only have ‘advice’ agency status – they cannot require refusal, approval or conditions 		<p>State government departments, like the Department of Environment and Heritage Protection (DEHP) and the Department of Natural Resources Management (DNRM), are specialists in their focus areas, such as vegetation protection (DNRM) or coastal protection (DEHP). They also have a more strategic and State-wide focus on environmental protection and management. Previously these departments were given ‘concurrence agency’ status for some development applications, meaning that they could direct refusal or approval or require conditions be placed on a development to ensure environmental protections were upheld. Now these departments are at best given ‘advice agency’ status – meaning they can provide advice on a development proposal but their advice can be ignored by the assessment manager. This is particularly worrying</p>

			where local governments are being given more discretion in the planning for their region. State government departments must get their concurrence agency status back for development assessment.
<ul style="list-style-type: none"> • Planning instruments are better integrated? 	<ul style="list-style-type: none"> × Coordinator General still exempt from the Act under the <i>State Development and Public Works Organisation Act 1971</i> (Qld) (State Development Act) (s5(1)(a)) – creating poor integration and uncertainty around planning 		Queensland has many pieces of legislation which interact with our planning framework – many of which are not integrated. The State Development Act is one such legislative framework, which provides significant powers to the Coordinator General and completely overrides our planning framework. This creates uncertainty and inconsistency in planning in Qld.