

Review of proposed planning framework 2015

3. OPEN, TRANSPARENT, ACCOUNTABLE PLANNING FRAMEWORK			
Issue of interest	CHANGES NEEDED / NOT ADEQUATE	GOOD	Comments
<ul style="list-style-type: none"> The Act mandates public access to a specific list of documents? 	<ul style="list-style-type: none"> ✗ No detail in the Act prescribing the types of documents to be made accessible to the public ✗ No section prescribing general meaning of 'available for inspection and purchase' 	<ul style="list-style-type: none"> ✓ Substantially similar documents to those provided for in SPA are required to be made available to the public – detailed in the Regulation (Schedule 30). 	<p>Certain and easy access to information by the community is a key tenet of democratic governance and good planning. These provisions must be in the Act, not subordinate legislation, with clear detail as to what information must be available for public access, as is the case in SPA currently.</p>
<ul style="list-style-type: none"> Third party enforcement provisions 	<ul style="list-style-type: none"> ✗ Costs to follow the event for enforcement provisions – this is most likely to be a significant deterrent for the community in applying for enforcement orders, meaning the extra watch dog role played by the community will be lost. 	<ul style="list-style-type: none"> ✓ Third parties can apply to the Magistrates Court for enforcement orders (s178) 	<p>Third party rights to seek enforcement orders are a benefit to the Government and the community by ensuring that compliance and enforcement are provided for where the government is not sufficiently resourced or willing to do so itself. This provides an extra watch dog on development activities throughout the State.</p>
<ul style="list-style-type: none"> Ministerial powers provided for in the Act? 		<ul style="list-style-type: none"> ✓ Ministerial powers are provided for in the Bill in a similar form to SPA (Chapter 3, Part 7) 	<p>It is essential that powers provided through our planning framework are provided for in the Act - so that they are not open to be changed</p>

			easily at the whim of any government.
<ul style="list-style-type: none"> ● Planning studies and supporting documents required to be prepared to inform new planning instrument? 	<ul style="list-style-type: none"> ✗ No requirement for local or State governments to prepare reports or explanatory statements when reviewing planning instruments. 	<ul style="list-style-type: none"> ✓ Minister may require a local government to review their planning instrument and report back to the Minister on the review (s23(5)(a)). This report must be kept available to the public (Reg Sch 30,s2(1)(m)) 	<p>Good planning reform is informed by a reflection as to how effective and successful planning is being undertaken at present or has been in the past. This is optional but not mandated currently. It would be highly beneficial for studies to be required and publically available, as well as public consultation be undertaken, prior to any new or amended planning instrument being developed.</p>
<ul style="list-style-type: none"> ● Are local and State governments required to keep any reports, studies etc which inform the creation or amendment of planning instruments available to the public if prepared? 		<ul style="list-style-type: none"> ✓ Local governments must keep any explanatory statement, report, study etc used in the preparation of a local planning instrument available for inspection and purchase (Reg, Sch 30, 2(1)(k)) ✓ Chief executive must keep any explanatory statements prepared for each proposed State planning instrument available for inspection and purchase (Reg, Sch 30, 12(1)(b)) 	<p>If studies are undertaken to inform a planning instrument, it is essential that the community is able to access them to understand the background behind the development of the instrument. A better informed community = a happier community and better planning.</p>

<ul style="list-style-type: none"> • Planning provisions provided for to guide planning schemes – providing certainty and reflection of Government policy? 	<ul style="list-style-type: none"> ✗ Fewer prescriptive directions are given to local governments in the preparation of their local schemes or policies – leaving discretion and inconsistency in regulation between each local government area 		<p>State Planning Regulatory Provisions (SPRP) (such as the SEQ Regional Plan and the Koala Conservation SPRP) and Queensland Planning Provisions (QPP) (which guides how planning schemes should be developed) are no longer continued, to be moved to subordinate legislation. The Draft Regulation out for comment is not currently updated with all SPRPs so we cannot critique the adequacy of this inclusion. We hope to see the SPRPs and QPPs reflected adequately in the Regulation, as they provide certainty and consistency in planning across the State. Without these, every planning scheme could look different in each local government area!</p>
<ul style="list-style-type: none"> • Local governments required to review planning instruments 		<ul style="list-style-type: none"> ✓ Yes – as in SPA they are required to be reviewed every 10 years (s22) 	<p>We support the review of planning instruments, to make sure they are effective and current. We recommend that a shorter time period might be helpful – we are aware that many local governments often take longer than 10 years to review their schemes.</p>

<ul style="list-style-type: none"> • Power to ‘exempt’ development proposals from assessment not provided? 	<ul style="list-style-type: none"> × Exemption certificates may be sought by developers (s44) meaning some developments will not require development assessment. 		<p>The power to certify that a development is exempt from development assessment is a broad discretionary power to give to the government. This power reduces certainty and exposes our planning framework to corruption. This power should not be provided for in our planning framework.</p>
<ul style="list-style-type: none"> • Judicial review allowed for planning decisions? • Reasons available for decisions? 	<ul style="list-style-type: none"> × No, judicial review is not allowed for decisions under the planning act (s229(3)) – this is also the case in SPA. 	<ul style="list-style-type: none"> ✓ Reasons for decisions may be applied for under the Qld <i>Judicial Review Act 1991</i> 	<p>We encourage an amendment allowing for judicial review of planning decisions. This is an inherently restricted action limited to reviewing whether a decision was made according to the legal processes provided for. There is no reason why planning decisions should be exempt from this scrutiny.</p>