



CHAMBER OF COMMERCE AND INDUSTRY QUEENSLAND SUBMISSION

▼ *The Draft Planning Bill 2015*

Department of Infrastructure, Local Government and Planning

OCTOBER 2015

1. Overview

1. As Queensland's peak business body, the Chamber of Commerce and Industry Queensland (CCIQ) welcomes the opportunity to provide a submission to the Department of Infrastructure, Local Government and Planning on the Draft Planning Bill 2015 (the Bill), and provide comment on Queensland's planning and development system more broadly.
2. CCIQ believes that a reinvigorated planning system will create the right environment to attract investment and lure big projects. Efficiency of the state's planning laws will result in little impediment on economic development, other than demand considerations.
3. According to the latest CommSec State of The States report (July 2015), "Queensland barely holds on to fifth spot [in terms of economic performance nationally] from the ACT (sixth)". While Queensland retains fifth position due to retail trade and equipment investment, it is ranked sixth on unemployment, construction work and overall economic growth. Perhaps not surprisingly, the summaries of the top two performing states have their strengths placed within the area of development:
 - a) NSW: "NSW retains the top spot of the best performing economies. Home building is strong".
 - b) VIC: "Victoria is the second strongest economy, and is ranked second on population growth, housing finance and dwelling starts".
4. Government and businesses would mutually benefit from regulations that create an environment where small and medium enterprises (SMEs) can grow and thrive, in turn capturing the economic and employment opportunities afforded. CCIQ views that a successful, streamlined planning policy across the state should align to three key principles of consistency, transparency and efficiency.
5. **Consistency in controls – one state – one planning system – one language:** Consistency between and within councils and planning schemes is of critical importance, particularly to businesses that operate across council boundaries. It allows developers and businesses to operate anywhere in the state with a degree of certainty in terms of regulation. Secondly, it helps to demythologise the planning process, allowing businesses to translate or even find the relevant parts of a planning scheme without expert help.
6. **Transparency in process - knowing what is expected before you start:** Increased awareness and improved access of resources that assist in guiding applicants through the complexity of the planning process, including the vast number of different approvals often required, is absolutely vital in improving transparency. This process requires as much simplification, integration and lack of duplication as possible, across all three levels of government.
7. **Efficiency in operation - regulation - where it is not required remove it, where it is required refine it:** Often good regulation has unintended or unforeseen consequences. The role of planning instruments should be centered on driving economic growth and providing certainty and transparency for future investment upon its merits. Planning must be performed in a manner that does not unnecessarily encumber those developments which are essential for the ongoing economic development of the State. Any new planning strategy should consider how it

can maximise the retention and attraction of investment to Queensland. Queensland's current planning policy is seen as a minefield of complexity that is restricting business growth and acting as an impediment to future investment in the state.

8. CCIQ is overwhelmingly of the view that the State Government through a reinvigorated planning system has a unique opportunity to create right environment that will attract investment and lure big projects in the future. At the core of this discussion is that planning issues are of fundamental importance to the economic wellbeing of the Sunshine State.
9. Previous and current planning policies represent a significant business issue and impacts negatively on investment and local decisions. CCIQ has been approached by many businesses with a belief that the Queensland's planning laws over a period of time have failed to evolve with the State's economy.
10. CCIQ has often been on the public record as a proponent for a number of projects that have for various reasons failed to reach the development phase due to failure or frustration with necessary planning processes. Case studies with Queensland businesses have consistently raised issues associated with planning procedures as constraining businesses growth. Concerns from stakeholders include that the Act is long complex and unresponsive, resulting in an over-regulated system that stifles, instead of facilitates, development.
11. On 21 September 2015, Prime Minister Malcolm Turnbull appointed Jamie Briggs as the first Minister for Cities and Built Environment, emphasising the role of development and our cities as one of the great drivers of the Australian economy. As Federal Government intensifies its focus on well planned cities serviced by world class digital and physical infrastructure, State Government can continue and indeed accelerate this momentum to ensure cities continue to grow as economic assets into the future.
12. CCIQ makes this submission with the aim to assist government in recognising the needs of SMEs during the planning process as they look to grow, expand and excel their businesses, in turn boosting economic growth in Queensland.

2. The importance of reducing regulatory burden for SMEs

13. Often it is understated how population will flow to areas where economic and employment opportunities are growing. In order for Queensland to retain and foster the skills and expertise both regionally and within the metropolitan areas, it is absolutely critical that investments are made in establishing and growing the business environment.
14. SMEs are crucial to the economic growth process of our state. Queensland is home to over 406,000 small businesses, representing over 97% of businesses statewide and employing approximately 43% of all private sector workers.
15. The "*G20 Agenda for Growth: Opportunities for SMEs Conference*" held in June 2014 recognised the importance of SMEs on a global stage, highlighting how proportionate compliance costs can be 10 to 30 times greater for SMEs than larger firms, and by reducing the costs of red tape by 25% would increase economic growth by 1% - half the G20 target of 2% growth above trend.

16. Meeting the requirements of the planning system imposed by Government has proven to be costly to businesses and individuals, and is cumulative. These requirements hinder innovation, investment and job creation, and displace effort where resources could be more productively deployed.
17. CCIQ strongly supports the view that a planning system that enables for unimpeded business growth, will as a result deliver economic and social prosperity to Queensland.

3. Planning challenges for SMEs into the future

18. Many challenges lie ahead for planners and the business community including the impacts of increasing demand for limited natural resources, climate change, extreme weather events, changing consumer expectations for services and social interaction, and a population that is both increasing and ageing. Technological advancement is accelerating, reshaping retail and office precincts, labour markets, city design and function.
19. Furthermore, new markets will be created and existing ones extinguished. It is essential for government to focus efforts on what the future may bring as well. NewPlanner publication talks about future trends that will shape the planning profession, touching on subjects such as drone application in planning, 3D printing entering the mainstream planning dialogue, and the opportunity to crowdfund a city's infrastructure. Government together with industry must start conversations around innovation and technology that will enable us to leverage off potential efficiencies and opportunities in our planning system.
20. It is evident that planning will play a critical role in engaging every sphere of government, industry, academia and the community to create resilient cities that can withstand the shocks and stresses of these events.
21. The success of businesses to respond and evolve with these events will rely heavily on the effectiveness of the existing frameworks to deliver good outcomes in a timely manner. A major impediment within the planning system at present is the move away from performance-based planning under the current *Sustainable Planning Act 2009*, which has amounted to de facto prohibition. The failings of the current decision rules frustrate appropriate development and too frequently result in legal technicalities and complications.
22. The Bill and subsequently the new *Planning Act 2015* will need to allow for the flexibility required to adjust state planning instruments and local planning instruments, as well as within the development assessment system, in order to respond to future trends, markets and the inevitable change in our living habitats.

4. Advancing the Act's purpose

23. The Bill indicates that advancing the Act's purpose is an area that the Government seeks further input on. It is understood that the 'Purpose of the Act' will read as follows:

“(1) The purpose of this Act is to facilitate ecologically sustainable development that balances—
(a) the protection of ecological processes and natural systems at local, regional, State, and wider levels; and
(b) economic growth; and
(c) the maintenance of the cultural, economic, physical and social wellbeing of people and communities.”

24. The draft wording under ‘Advancing the Act’s purpose’ places firm emphasis upon comprehensive assessment of the environmental impacts from development, moving away from a focus on economic prosperity as under the now lapsed *Planning and Development Bill 2014*. Notwithstanding that there is nothing intrinsically wrong with this policy shift, the pendulum appears to have swung too far afield and offers a very limited scope to support projects that will become drivers of economic growth. CCIQ strongly warns against this outcome.
25. Striking the right balance requires a focus on sustainable socio-economic prosperity which recognises that economic prosperity and community improvement/environmental protection are not mutually exclusive. CCIQ strongly supports a decision-making process that focuses on this relationship by providing adequate consideration for catalyst projects and those of economic value, in turn creating jobs and improving the local economy. This will create community prosperity and societal wellbeing.

5. Names of assessment categories and transitional provisions

26. The Bill indicates that the names of assessment categories – standard/code and merit/impact – that are used in the Bill is an area that the Government seeks further input on.
27. CCIQ is of the view that terminology is not only secondary to the intent of each category, but should align to how they will ultimately be used. It is essential to look past “planning speak” and consider the perception and understanding of the terminology by those outside of the planning profession. For example, financiers hold a long-standing perception that a development is riskier if it is classified as “impact assessable” and therefore apply caution to lending. A shift to “softer” terminology such as “merit assessable” could go some way in successfully obtaining finance.
28. In order to facilitate development, government must look to reduce risk and cost for proponents by way of reverting to the originally intended method of assessment (performance based), which is understood to be best demonstrated through the proposed “standard assessment” category. Standard assessment, as proposed under the lapsed *Planning and Development Bill 2014*, involved:
 - a presumption in favour of approval for compliant development;
 - a requirement to approve a development if it complies with an assessment benchmark to the extent that development complies with the assessment benchmarks it must be approved; and
 - development can only be refused if it doesn’t comply, and compliance cannot be achieved by imposing lawful conditions.

29. In addition to showing support for standard assessment both for its intent and terminology, CCIQ believes that the “merit assessment” process would also deliver more favourable outcomes over the current “impact assessment” process.
30. Under the *Planning and Development Bill 2014*, merit assessment involved assessment against benchmarks and any other relevant matters. As the word “merit” suggests in itself, developments are afforded a genuine, performance-based planning assessment as opposed to being subjected to rigid criteria that did not balance competing considerations. Rather than planning being an unproductive “box-ticking” exercise, developments would need to primarily meet the clear policy intent of a planning scheme.
31. CCIQ further supports the concept of the categorising instruments to be introduced under the proposed legislative framework, whereby development will be clearly identified as being either “accepted”, “assessable” or “prohibited”. This will further assist in providing greater clarity for the applicant on the planning process that will be applicable to them.
32. In terms of transitional provisions, developments currently under assessment should not be opened up to a level of assessment that is against higher order and more value laden provisions of a planning scheme. As such, code assessable developments should consequently migrate into standard assessment.
33. The capacity for a development to be made standard/code assessable rather than a higher order level of assessment is a critical determinant of whether financiers are willing to provide funding to a project. Increased assessment provisions for a development, which had previously been assessed for its feasibility under a lower level of assessment, could impact upon the projects viability and therefore reduce economic activity and restrain job creation.

6. Conclusion

34. CCIQ welcomes the Bill as a positive step towards providing 'an efficient, effective, transparent, integrated and accountable system of land use planning and development assessment', as well as a practical and logically-ordered planning legislation.
35. Further to the representations made within this submission, support is also given for the following amendments:
 - a) Simplifying the planning legislative framework, which includes reducing the State planning instruments down to 2 - the State Planning Policy and Regional Plans;
 - b) Lengthening the currency periods for a ‘Material Change of Use’ approval from 4 to 6 years, and a ‘Reconfiguring of a Lot’ approval from 2 years to 4 years; and
 - c) Retaining the State Assessment and Referral Agency (SARA), the single State Planning Policy (SPP) and the State Development Assessment Provisions.
36. CCIQ reiterates that efficiency of the state’s planning laws will result in little impediment on economic development, other than demand considerations. At the core of this discussion is that planning issues are of fundamental importance to Queensland’s economic wellbeing, and that Queensland’s planning laws should serve to promote, not hinder economic development.

37. CCIQ welcomes any feedback on the submission and we look forward to providing further input into the government's planning reform. Please do not hesitate to contact Catherine Pham, Policy Advisor, at cpham@cciq.com.au should you wish to discuss this submission further.