

6 June 2025

Our ref: KB:MC

Committee Secretary
State Development, Infrastructure and Works Committee
Parliament House
George Street
Brisbane Qld 4000

By email: [REDACTED]

Dear Committee Secretary

Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025 – further supplementary submission

The Queensland Law Society (**QLS**) thanks the State Development, Infrastructure and Works Committee for the invitation to appear at the public hearing regarding the Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025 (**Bill**) on 3 June 2025.

QLS is aware that other witnesses at the hearing discussed issues relating to the social impact and community benefit amendments in the Bill. We provide the following comments to address these issues in the event this is helpful to the Committee.

Section 50 of the *Planning Act 2016 (Qld)* (**Planning Act**) has a heading entitled, 'Right to make a development application', re-enforcing the open nature of Queensland's planning system. The barriers to entry to that system are not onerous. An applicant must complete an approved form, pay the prescribed fee and, ordinarily, provide owner's consent. It is a system that has served Queenslanders well. It handles smaller building and operational works applications as well as large scale proposals for quarries, landfills, resort hotels and shopping centres.

Since 1998, it is a system that is integrated – allowing a proposal to be assessed through a development assessment process ordinarily undertaken by a local government with involvement from State agencies via referral. Government authorities are held accountable to comply with assessment timeframes. This gives an applicant confidence that at the end of the process there will be an outcome, favourable or unfavourable. It is a system that is transparent and confers appeal rights for participants in the prescribed circumstances, including rights that can be exercised if timeframes are not met.

The recent trend has been to move away from entry barriers. Under the former *Sustainable Planning Act 2009 (Qld)* there was a barrier requiring an applicant for development on State land to demonstrate they had a State resource entitlement prior to making an application. This was abolished by Act No. 32 of 2012 (section 41) and the Explanatory Notes recorded a policy

intent to decouple the resource allocation or entitlement process from the development assessment process.

These proposed reforms create a barrier to the development assessment system which has not existed previously. The system has been open for a period of about 13 years. QLS submits this barrier, which has no clear circuit breaker, is a move away from the current integrated development assessment system. It will lead to delays and additional cost.

Even if a social impact report and CBA is in place, the application itself may not be approved and the time spent on this prerequisite process will be wasted. Experience also shows that applications are refined during the integrated assessment process in response to information requests and public submissions. Therefore, these reports and agreements may be out-of-date by the time the application is to be decided whereas, if they formed part of the ordinary process, they could be documents that evolve within the assessment framework, much like technical reports evolve.

QLS has suggested the current framework could be adapted to address the policy intent. The discretion of an assessment manager to accept an application which does not meet the ordinary prerequisite requirements should be retained.

Early engagement with the community

We are also aware that Committee members asked questions about ensuing early engagement with the local community.

There is nothing preventing a proponent from engaging with the relevant community prior to lodgement of an application. These reforms seek to mandate this; however, we do not consider there will be a positive impact from this mandate. Rather the reforms will likely lead to uncertainty, increased costs and delays.

Most development applications can be viewed on PD-Online¹ by the community upon lodgement. The applications trigger impact assessment (proposed Schedule 10, Part 14A of the Planning Regulation and existing Schedule 10, Part 21 of the *Planning Regulation 2017*) and the community can make a submission about the development during the public notification stage (a council, if it is not the assessment manager, can also make a submission). This process enables a properly made submission to be considered and provides appeal rights following a decision.

Importantly, the right for the community to have a say will occur before the decision stage commences and an applicant may take on board any negative community sentiment and amend their application. This process will occur irrespective of any pre-requisite restrictions proposed by this Bill.

Given the community is able to be engaged with, at any time, by the developer and can utilise the formal process when an application is made, is there any value in a mandated 'early' process? Based on our submissions to date, it is very likely a CBA will be out-of-date after further investigations are undertaken. We also refer to the lack of public participation in the formation of the CBA.

If there was a concern about the previous regime whereby wind farm proposals were treated as code-assessable and decided by the State with insufficient local government or community

¹ Each local government has its own webpage

input, then the proposed amendments to the regulation (in addition to the amendments to the regulation that have already occurred) which make wind and solar farm developments impact assessable, will address this concern without the need to amend the primary legislation.

Proposed new section 53DD(3) of *Brisbane Olympic and Paralympic Games Arrangements Act 2021* – prohibition on civil proceedings

At the public hearing, the Bar Association of Queensland (**BAQ**) spoke about its significant concerns with the introduction of this prohibition. These are shared by QLS and we strongly recommend amendment to this provision. We consider the “fast-track” measures suggested by BAQ will assist to reduce delay, while still preserving important rights.

We also take this opportunity to suggest some potential amended drafting to give effect to our recommendation for the court to oversee actions:

(3) Also, a civil proceeding may not be started against a person in relation to the development, use or activity without the leave of the court.

(4) In granting leave to commence proceedings the court must consider:

(a) if there is a reasonable prospect that the proceeding will prevent the timely delivery of an authority venue, other venue or village for the Brisbane 2032 Olympic and Paralympic Games; and

(b) if there is a reasonable prospect that the proceeding will prevent the timely completion of games-related transport infrastructure; and

(c) whether the applicant has demonstrated that the proposed proceedings have sufficient merit to warrant leave and that there is a serious question to be tried; and

(d) whether the proceedings are necessary to give effect to a legislative requirement or contractual obligation; and

(e) whether the applicant has demonstrated that the proceedings are necessary to prevent physical harm to an individual.

QLS would welcome the opportunity to engage further on these issues.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on [REDACTED] [REDACTED]

