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Research Director
Infrastructure, Planning and Natural Resources Committee
Parliament House
George Street
Brisbane QLD 4000
By email: ipnrc@parliament.qld.gov.au

Dear Sir/Madam,

Sustainable Ports Development Bill 2015

We welcome the opportunity to provide a submission on the management of the Sustainable Ports Development Bill (**Ports Bill**).

Who we are

Environmental Defenders Office (Qld) Inc (**EDO Qld**) is a non-profit, non-government community legal centre which helps people understand their legal rights to protect the environment in the public interest. We assist both urban and rural clients. We have assisted many clients with respect to Great Barrier Reef issues, including most notably the WWF Australia and the AMCS, along with other conservation groups and individuals concerned about the impacts to our Reef.

Overview

'... [the World Heritage Committee] requests the State Party to rigorously implement all of its commitments of the 2050 LTSP, including where necessary through their inclusion in legislation, in order to halt the current documented declines in the property, create the conditions for sustained recovery and to enhance the property's resilience'

- Draft decision, UNESCO World Heritage Committee (39 COM 7B.7), clause 6

We congratulate the government on implementing a number of its pre-election and Reef 2050 Long-Term Sustainability Plan (**Reef 2050 Plan**) commitments to protect the reef through the Ports Bill. This Bill is an important step forward in protecting our Great Barrier Reef (**GBR**) from inappropriate port development, capital dredging and dumping of dredge spoil.

While the protections the Bill puts in place are laudable, there are omissions from this Bill, including some notable commitments from the current government, which must be addressed to prevent unsustainable port development activities in the Reef and to maximise the utility of this Bill in protecting the GBR.

In broad summary these issues include the following, outlined in detail in the **Annexure 3** with suggested solutions to rectify each issue:

1. **Ban on trans-shipping must be implemented, as promised**
2. **Ban on offshore dumping of dredge spoil should be fully implemented, as promised**
3. **Restrictions on dredging and development of port facilities must be extended to GBRMP**
4. **Dredging and dumping for other types of development on the GBR coastline should be restricted**
5. **Protection of the Greater Fitzroy Delta must be ensured, as promised**
6. **Master planning should be improved**
7. **Accountability and transparency in governance must be implemented, as promised**
8. **Compensation should be more limited than provided for in the Bill**

Australia currently has international pressure to improve management of our GBR due to its significant degradation through multiple sources of impacts. The 2014 Outlook Report by the GBRMP Authority (**GBRMPA**) states that in the last 40 years coral cover in the GBR has decreased by 50 percent, with substantial acceleration of this decline in recent years. This decline is reported to be caused by a multitude of impacts in combination, led by climate change and human activities which degrade water quality. Due to the combined chronic pressure of these impacts on reef ecosystems, the GBR has not had sufficient resilience to recover. Coastal and offshore developments involving dredging, sea dumping, increased infrastructure and increased shipping are just some of these pressures degrading the GBR. It is essential that the Queensland and Commonwealth Governments take all possible steps to better regulate these impacts to help increase the GBR's resilience to face more significant impacts from climate change, as promised in the Reef 2050 Plan.

We urge you to address the issues raised in this submission before the Ports Bill is passed into law. However, if these commitments are not provided for in the Bill, then the Queensland Government must define the method and timing for implementing these commitments.

To assist the Committee in its understanding of the issues raised in this Bill, **Annexure 1** provides an explanation of key terms and issues.

EDO Qld will gladly participate in Committee Hearings for this Bill. We are also happy to discuss any of the issues we raise in our submission at any time.

Yours faithfully

Environmental Defenders Office (Qld) Inc.



Revel Pointon
Solicitor

ANNEXURE 1 - Explanation of terms and issues

Great Barrier Reef Marine Park (GBRMP)

The GBRMP is a Commonwealth marine park covering most of the GBR area created by the *Great Barrier Reef Marine Park Act 1975* (Cth) (**GBRMP Act**). The Great Barrier Reef Marine Park Authority (**GBRMPA**) administers the GBRMP Act, issues permits and monitors usage of the park. The GBR ports typically, but not exclusively, include offshore areas around existing port facilities in which the GBRMP does not apply – this area outside of the GBRMP is where master plans will apply under this Bill.

Great Barrier Reef World Heritage Area (GBRWHA)

The GBRWHA is a slightly larger area than the GBRMP, and includes both the GBRMP and areas not regulated under the GBRMP Act. Most GBR ports are in GBRWHA waters.

This table from GBRMPA provides a useful comparison of the boundaries of the two areas:

Size (km ²)	Great Barrier Reef Marine Park	Great Barrier Reef World Heritage Area
Landward (inner) boundary	Low water mark, but excludes internal waters and various small exclusion areas (eg.ports)	Low water mark on the mainland
Islands	Includes only 70 Commonwealth Islands	Includes all 1050 islands (including Commonwealth islands)
Tidal waters/tidal lands	Not included along the coast and around Queensland-owned islands	Included where they occur around islands

Figure 1 Table from GBRMPA - <http://www.gbrmpa.gov.au/about-the-reef/heritage/great-barrier-reef-world-heritage-area/differences-between-the-marine-park-and-the-world-heritage-area?>

Great Barrier Reef Coast Marine Park

The GBR Coast Marine Park is a Queensland marine park which provides protection for the State's tidal lands and tidal waters. The park runs along the entire length of the Commonwealth GBRMP with some overlap with the GBRMP. The GBR Coast Marine Park is generally managed with similar zoning objections and provisions to the Commonwealth GBRMP to provide consistency in management between the areas; however some regulation of the GBR Coast Marine Park is unique to the Queensland marine park.

Capital dredging v maintenance dredging:

Capital dredging is the removal of underwater sediments for the creation of new or enlarged development, such as channels, berth areas and swing basins.

Maintenance dredging is the removal of underwater sediments to maintain the designated dimensions of existing development. Maintenance dredging is undertaken for safety and operational effectiveness.

Trans-shipping:

References to trans-shipping refer to the transfer of bulk commodities such as coal, bauxite, or other minerals from one vessel to another while at sea, be it between ships or barges or floating or anchored platform to ship. This transfer involves a high risk of pollution to GBR waters, for example from coal or coal dust pollution, exacerbated by rough seas and extreme weather events. Three trans-shipping proposals have been made recently in or adjacent to the GBRMP, being at Princess Charlotte Bay on Cape York, the Fitzroy Delta near Yeppoon and at Hay Point near Mackay. The Labor Government has recognised that this is not an appropriate activity in the World Heritage Listed GBRMP or state Coastal Marine Park and thus committed to banning trans-shipping in the GBRMP.

Offshore regulation jurisdictional issue:

There is some uncertainty and complexity around who has jurisdiction to regulate in the waters around the GBR. The Queensland Government appear to be taking a conservative approach.

The Queensland Government has jurisdiction to regulate 3 nautical miles from the low water mark in Queensland. In the GBR Region this jurisdiction overlaps with Commonwealth regulation of the GBRMP. There is some uncertainty as to the capacity of the Queensland Government to regulate waters in the GBRMP, due to section 109 of the Australian Constitution which states that where there is inconsistency between Commonwealth and State laws, the Commonwealth law prevails and the State law is invalid.

The GBRMP regulatory framework currently provides the ability to get permits for capital dredging and development. While it is arguable, there is a risk that attempts by the Queensland Government to restrict capital dredging or development of port facilities in the GBRMP will be inconsistent and invalid. As stated above, this hasn't been tested at law for the GBRMP region and therefore it is uncertain. The preferable approach would clearly be that the Reef Ministerial Forum work together to implement the commitments promised in the Reef Plan at a Queensland and Commonwealth level.

Existing Queensland trading ports on GBR coastline:



Figure 2 - Queensland Trading Ports in GBR coastline – Ports 7, 8, 9 & 10 and 12 are proposed to be ‘Priority Ports’ under the Bill. Infographic from ABC FactCheck - <http://www.abc.net.au/news/2015-05-04/fact-check-great-barrier-reef/6333178>

ANNEXURE 2 - Key issues and suggested solutions

1. *Ban on trans-shipping must be implemented, as promised*

Commitments:

‘A Labor Government will also prohibit trans-shipping operations within the Great Barrier Reef Marine Park.’ – ALP Policy, ‘Saving the Great Barrier Reef’, page 4.

‘WQA21: The Queensland Government will not support trans-shipping operations that adversely affect the Great Barrier Reef Marine Park.’ – Reef 2050 Plan, page 43.

The Queensland Government has committed to ban trans-shipping in the Great Barrier Reef Marine Park (**GBRMP**), both in pre-election policy commitments and in the Reef 2050 Long-Term Sustainability Plan (**Reef 2050 Plan**). This has not been provided for in the Bill, where it would logically sit as a port related development. Restrictions on capital dredging and port facilities could lead to an increase in applications for trans-shipping through the GBRMP, so it is important that appropriate regulations are in place for trans-shipping by the time the new Ports Bill commences.

Developments such as the [Wongai Project](#) in Cape York will be allowed to continue under the transitional provisions (cl 60) provided in the Bill for port facilities. The Wongai Project is a proposal for an underground coking coal mine which will export coal using trans-shipping through the GBRMP from an area bordering Princess Charlotte Bay, 150 kilometres north-west of Cooktown. This project should not be allowed to continue as it is in direct conflict with the Queensland Government’s commitment.

SOLUTIONS:

- (a) The Bill should be amended to prohibit any development in Queensland jurisdiction which would facilitate trans-shipping in the GBRMP.**

Suggested amendment:

Insert: 32A No approvals for trans-shipping facilities

- (1) An approving authority may not grant an approval for development that includes or facilitates trans-shipping in a State or Commonwealth marine park.
- (2) Trans-shipping means transferring bulk commodities, for example coal, from vessel to vessel.

- (b) Transitional provisions should be amended to ensure current trans-shipping applications (eg. the Wongai Project) are not allowed to progress where they could impact the GBRMP.**

Suggested amendment:

Remove clause 60 OR amend clause 60 to delete (3)(d) and (e).

- (c) The Committee should request that the joint Queensland-Commonwealth Reef Ministerial Council cooperate to align state and federal laws to prevent trans-shipping in the GBRMP.**

2. Ban on offshore dumping of dredge spoil should be fully implemented, as promised

Commitments:

'Queensland Labor will ban sea-based dumping of capital dredge spoil within the Great Barrier Reef World Heritage Area' – ALP Policy, 'Saving the Great Barrier Reef', page 4.

The WHC draft decision welcomes the State Party's 'commitment to establish a permanent ban on dumping of dredged material from all capital dredging projects within the property'. Draft decision: 39 COM 7B.7, clause 5.

We support the proposal to prohibit the sea based disposal of capital dredge spoil in the GBRWHA provided in clause 34.

However, we do not support the limitation of this prohibition to only capital dredge material from port facility development, provided in the definition of 'prescribed dredge material' in clause 34(2).

The Queensland Government made a pre-election commitment to ban sea-based dumping as above, which has been supported by the World Heritage Committee in their recent draft decision, excerpted also above. The Federal Government has provided a ban on offshore dumping of capital dredge spoil in the GBRMP that is not limited to port related dredging projects. This should be mirrored by the Queensland Government to fully implement this agreed commitment.

Maintenance dredging

Dumping of maintenance dredge spoil is also not dealt with by the Bill. On average, close to 1 million m³ of spoil from maintenance dredging is dumped offshore each year in the GBRWHA. In its 'Saving the Reef' election policy, the Queensland Government committed to providing for a statewide framework to reduce the impacts of maintenance dredging and spoil disposal.¹ If this framework is not to be provided through this Bill, the Government should make a clear proposal as to the method and timing for the provision of this framework.

Existing permit – Port of Townsville

Further, the Port of Townsville currently holds a permit for offshore dumping of 1.2 million m³ of capital dredge spoil from the proposed '[Berth 12' development](#), in state waters off Magnetic Island. This should not be allowed to continue as it is in direct conflict with the Queensland Government's commitment to end sea-dumping in the GBRWHA. If the Government is considering providing a Ministerial Directive with respect to this permit, the Directive should be for the surrender of the permit so that no future use can be made of it.

¹ *Saving the Great Barrier Reef: Labor's plan to protect a natural wonder*, Queensland Labor (January 2015), p.5.

SOLUTIONS:

- (a) **The Queensland Government should extend the prohibition on offshore dumping in the GBRWHA to all dredge material, not only that from port related development.**

Suggested amendment:

Clause 34 (2) replace ‘*prescribed dredge material*’ definition with:
‘means material generated from capital dredging.’

- (b) **The Queensland Government should provide a clear plan as to how it will ensure that maintenance dredging and dumping will not impact the GBRWHA.**
- (c) **The Queensland Government should provide a Ministerial Directive for the Port of Townsville to surrender the permit for offshore disposal of dredge spoil from the ‘Berth 12’ development, not just suspend or delay the plan for sea-dumping.**

3. Restrictions on dredging and development of port facilities must be extended to GBRMP

Commitments:

‘We will optimise the use of existing port infrastructure in four ports within the World Heritage Area, Townsville, Abbot Point, Mackay-Hay Point and Gladstone, and prohibit capital dredging outside these ports.’ – ALP Policy, ‘Saving the Great Barrier Reef’, page 4.

‘WQA14: Restrict capital dredging for the development of new or expansion of existing port facilities to within the regulated port limits of Gladstone, Hay Point/Mackay, Abbot Point and Townsville.’ – Reef 2050 Plan, page 43.

The WHC draft decision welcomes ‘the confirmation of protection of greenfield areas by restricting major new port development in and adjoining the property, thereby limiting capital dredging for the development of new or expansion of existing port facilities to within the regulated port limits of the majors.’ Draft decision: 39 COM 7B.7, clause 4(b).

We support the proposal to prohibit capital dredging for port facilities outside of the four major ports (clause 33). We further support the limitation of the development of port facilities to the 12 ports along the GBR coastline.

We do not support that these restrictions on capital dredging and port facilities do not apply to any waters inside the GBRMP. For example, this could allow port facilities such as a jetty to extend out to the GBRMP and then capital dredging to be undertaken. This is an oversight in the Ports Bill that may have come about through concerns as to jurisdiction. The jurisdictional concerns could be overcome by restricting onshore development that facilities capital dredging or port facilities from being developed in the GBRMP, as per the suggested amendment to clause 33 below. To strengthen this regulation, we suggest that the Committee could recommend cooperation between the Reef Ministerial Forum members to also implement these restrictions through Commonwealth legislation in the GBRMP.

SOLUTIONS:

- (a) **The Committee should request that the joint Queensland-Commonwealth Reef Ministerial Council cooperate to align state and federal laws to prevent capital dredging and the development of port facilities within the GBRMP. This will ensure the restrictions being provided by the Queensland Government are coherent with management of the GBR Region.**
- (b) **The Bill should be amended to ensure restrictions as to capital dredging and port facilities are provided for in the GBRMP.**

Suggested amendment:

Clause 33 – delete (a) and (b), insert:

- (a) ‘outside of a master planned area; and
- (b) Involve dredging of more than 15,000m³ of dredged material.’

4. Dredging and dumping for other types of development on the GBR coastline should be restricted

Commitments:

‘Queensland Labor will ban sea-based dumping of capital dredge spoil within the Great Barrier Reef World Heritage Area’ – ALP Policy, ‘Saving the Great Barrier Reef’, page 4.

The WHC draft decision welcomes the State Party’s ‘commitment to establish a permanent ban on dumping of dredged material from all capital dredging projects within the property’. Draft decision: 39 COM 7B.7, clause 5.

The Bill does not provide for the restriction on non-port related development, dredging or dumping of dredge material. These non-port activities can be substantial. For example, there is a current proposal a [marina at Shute Harbour](#) which involves capital dredging of approximately 500,000m³ of dredge spoil. If the Queensland Government considers that the impacts of capital dredging and development are significant enough to provide for the restrictions on this development for ports in this Bill, it is logical that they also provide for restrictions on non-port related development which pose the same impacts. Non-port development should be included in the Queensland Government’s promise to limit capital dredging and ban offshore dumping in the GBRWHA.

SOLUTIONS:

- (a) **Amend Bill to apply to all types of capital dredging, with an exemption for up to 15,000 m³ for non-port related development. See suggested amendment to clause 33(b) above.**
- (d) **Extend the prohibition on offshore dumping in the GBRWHA to all dredge material, not only that from port related development. See suggested amendment to clause 34(2) above.**
- (b) **If the Bill will not deal with non-port related development, the Queensland Government should specify the method and time frame for implementing restrictions on non-port related development, dredging and offshore dumping of dredge material.**

5. *Protection of the Greater Fitzroy Delta must be ensured, as promised*

Commitments:

‘In Central Queensland a future Labor Government will prohibit any development in the Greater Fitzroy River delta and ensure that any necessary increase in port capacity is confined within the existing Port of Gladstone.’ – ALP Policy, ‘Saving the Great Barrier Reef’, page 5.

‘EHA22 Protect the Fitzroy Delta including North Curtis Island and Keppel Bay by:

- extension and strengthened conservation zoning in the Great Barrier Reef Coast Marine Park*
- extension of the existing Fish Habitat area*
- establishment of a new net-free zone under fisheries legislation*
- additional protections in associated intertidal and terrestrial areas.’ – Reef 2050 Plan, page 37.*

We welcome the provisions in the Bill which will prevent capital dredging in minor ports along the GBR coastline, including Port Alma on the Fitzroy River Delta south of Rockhampton. The Queensland Government has wisely committed to protecting the Greater Fitzroy Delta, one of the largest unspoilt wetlands remaining on the GBR coast.

Currently the small port facilities at Port Alma allow for the import and export of salt from the local salt works, as well as dangerous goods such as explosives and defence equipment. No new port facilities should be allowed for other purposes at Port Alma. As currently written the Bill will not prevent significant expansion of port facilities at Port Alma, using the existing shipping channel. This development could include proposals for trans-shipping operations. This omission is contrary to the commitment made by the Queensland Government to protect the Greater Fitzroy River delta.

SOLUTIONS:

- (a) To ensure that the Greater Fitzroy Delta is protected, specific provisions should be provided to restrict port development in Port Alma to only necessary improvements to the existing facilities, not new facilities for different purposes.**
- (b) The Committee should request the Reef Ministerial Forum to specify when and how improved conservation measures will be put in place for the Delta, to meet the Government’s other commitments for the region outlined in the Reef 2050 Plan.**

6. *Master planning should be improved*

We support the public notification proposed for master plans (clause 11) and the requirement that master plans be reviewed as to their effectiveness in ameliorating environmental impacts of ports (clauses 14 to 17). To ensure the community is able to be meaningfully involved in master plan preparation, linked to upholding transparency and accountability in governance which is discussed below:

- We suggest that this review should be a public process, the Minister should publish an invitation to the public inviting submissions and all relevant supporting documents should be available to the public to inform their submissions.

- The community needs to be able to see supporting documentation about the existing state of the master planned areas and what progress has been made against the objectives and measures. The supporting documentation behind each master plan review should be made available on the public register (clause 56).
- The making or amending of port overlays should also be subject to public consultation to ensure there is no ability for Minister's to make changes to these statutory instruments that do not reflect master plans which were subject to public consultation (clause 22).

Further, every 10 years is too long to be updated on the achievements of priority management measures (clause 14). We are aware that planning scheme reviews are constantly delayed and so we suggest 7 years is a more appropriate time period.

Finally, there is no reference to the outstanding universal value (OUV) of the GBRWHA in the Bill or master plans. Since the Bill's key purpose is the protection of the GBRWHA, the Bill should be amended to include reference to the OUV.

SOLUTIONS:

- (a) **The master plan review process and the process to make or amend a port overlay should be opened for public consultation, to ensure complete accountability and transparency.**

Suggested amendments:

New clause 16A: providing for public consultation on review of master plan, including all documents informing master plan review.

New clause 22A: insert public consultation provisions for making or amending a port overlay as per clause 11.

- (b) **The supporting documentation informing the review of a master plan should be required to be held on the public register. A suggested amendment is provided here to resolve this issue, however a more broadly inclusive suggested amendment is provided below for point 7 Solution (a).**

Suggested amendment:

Clause 56: insert:

'(1)(d) supporting materials informing a master plan review under Part 2, Division 2, Subdivision 4.

'*Supporting materials*' include data and documentation about the operation of the port and its environmental management including progress in achieving priority management measures.'

- (c) **Amend the Bill to include reference to and therefore require consideration of the OUV of the GBRWHA in decision making.**

Suggested amendment:

Definition of 'environmental values' should be amended to include reference also to the OUV of the GBRWHA.

- (d) **Shorten the time period for requiring a review of the master plan every 7 years.**

Suggested amendment:

Clause 14: change '10' to '7'.

7. *Accountability and transparency in governance must be implemented, as promised*

Commitments:

'we welcomed ... public scrutiny, recognising that it improved decision-making processes and community confidence in development approvals' – Letter Deputy Premier Jackie Trad to EDO, 29 January 2015.

'GTI: Implementation, reporting and review of this Plan are based on the principles of transparency, ownership, accountability, responsiveness and the strong involvement of Traditional Owners, industry, researchers and the community.' – Reef 2050 Plan, page 53.

'Queensland Labor shares your concerns regarding the stability of the Queensland Government, and the erosion of integrity and accountability measures over the past three years. I am committed to restoring integrity and accountability to the Queensland Government. Further, any government I lead will be focussed on consensus and consultation, rather than the division of the past three years.' – Letter Premier Anastasia Palaszczuk to Peter Wellington MP, dated 5 February 2015.

This government has committed to the principles of accountability and transparency. Key suggestions with respect to the principles of accountability and transparency, being access to information and access to justice to ensure adequate and informed public participation in decision making are dealt with below.

With respect to accountability generally, we support the inclusion of clause 54 making it an offence to provide false or misleading information to the Minister. This is essential to ensure the reliability of information which the Minister and relevant departments will be using in their decision making and should be included in all legislation. We note that similar provisions in the *State Development and Public Works Organisation Act 1971* (Qld) (**SDPWO Act**) and SPA do not include the defences provided in clause 54(2) and so we do not understand why these defences have been provided in this Bill. So that this provision is of the utmost effect in ensuring the Minister can trust the information being provided to assist decision making:

- the offence of giving false and misleading information should be amended to apply where a person 'knows, or ought reasonably to know', as in the *Environmental Protection Act 1994* (Qld) (**EP Act**) (section 480(3)); and
- that the defences are removed to ensure transparency and accountability are provided in the Bill.

SOLUTIONS:

- (a) Remove the defences provided in clause 54, since these defences are not provided in the equivalent sections of the SDPWO Act and SPA.**
- (b) Insert, 'the person knows, or ought reasonably to know' in clause 54(1), as provided in the equivalent section of the EP Act, s. 480(1).**

Access to information

As identified above, we welcome the inclusion of a public register of documents, however more documents should be mandatorily held on the public register under clause 56. We suggest that all documents which support decision-making under the Bill should be held on the public register, to avoid the time consuming and costly need for Right to Information requests by the public. Simple and easy public access to information ensures that communities are able to meaningfully participate in decision making, key elements of proper accountability and transparency in governance.

SOLUTIONS:

(a) An alternative approach to the suggestion in the solution above for master planning (part 6 above), could be an extension of clause 56 to provide the following:

Suggested amendment

Clause 56: insert -

'(d) all documents, including supporting documents, which inform decision making undertaken by the Minister under this Act.

'Supporting materials' include data and documentation about the operation of the port and its environmental management including progress in achieving priority management measures.'

Access to justice

Third party enforcement provisions for non-compliance with this Bill and the ability to obtain declarations should be provided, as with SPA² and the EP Act³, to ensure accountability and encourage compliance. Not all of the acts to which this Bill relates provide for third party enforcement rights or rights to obtain a declaration, nor the right to judicial review around related decision making. This could be provided through the Bill to ensure these accountability measures are in place.

² See relevantly sections 601 and 456.

³ See relevant section 505.

SOLUTIONS:

- (a) Insert a clause which provides for third party rights ('open legal standing') to seek a court order from the Planning and Environment court to remedy or restrain the commission of an offence (cl54) with 'each pay own costs'.**
- (b) Insert a clause which provides for third party rights ('open legal standing') to seek a court declaration with 'each pay own costs' with respect to actions and decisions regulated under the Bill.**
- (c) Amend other legislation referred to in the Bill where it does not have third party legal standing to provide for that standing and to provide jurisdiction to the Planning and Environment Court with 'each pay own costs'.**
- (d) Ensure judicial review is available for all decisions relevant to port development regulated under the bill. For example, ensure that exclusions from judicial review provided under the SDPWO Act and *Transport Infrastructure Act 1994 (Qld)* do not apply to decisions relevant to port related development.**
- (e) Provide extended standing for judicial review as under the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*, section 487.**

8. Compensation should be more limited than provided for in the Bill

We question whether it is appropriate or necessary for this Bill to provide such broad compensation for the restriction of development rights.

SPA excludes compensation in various instances, including where a state standard planning scheme provision is provided to amend a local government planning scheme and development rights are consequently lost. This is analogous to the affect the Bill proposes to have on existing development rights.

The SDPWO Act only provides compensation where a formerly permissible activity would become an offence under a new approved development scheme. No compensation is available under the SDPWO Act where an entitlement to permissible development has been removed.

SOLUTION:

- (a) Part 4, Division 2: The Committee should consider whether it is a necessary use of Queensland Government funds to provide a right to compensation as provided under the Bill.**