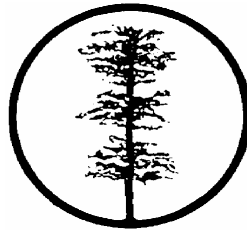


REVIEW OF THE INTEGRATED PLANNING ACT

*Response to DLGPSR Discussion Paper*

Joint Stakeholder Submission of:  
the Environmental Defenders Office (Qld) Inc;  
the Environmental Defenders Office of Northern Queensland Inc;  
and Queensland Conservation

November 2006



**Environmental Defenders Office (Qld) Inc**



**Environmental Defenders Office of Northern Qld Inc**



***This submission is endorsed by: Capricorn Conservation Council; GEKO (Gold Coast and Hinterland Environment Council); Logan & Albert Conservation Association; North Queensland Conservation Council; Mackay Conservation Group; and Sunshine Coast Environment Council.***

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## **Attachments**

IPA Shame File - North Queensland Examples  
Legislation extracts

## **Endorsements**

This submission is endorsed by the following active and highly respected regional environment groups:

- Capricorn Conservation Council;
- Gecko – Gold Coast and Hinterland Environment Council
- Logan & Albert Conservation Association
- North Queensland Conservation Council
- Mackay Conservation Group
- Sunshine Coast Environment Council

Written by Anita O’Hart  
November 2006

## **DEAR DECISION-MAKERS**

*The Hon. Andrew Fraser MP, Michael Kinnane, Colin Cassidy, Tracy Stinson, ministerial advisors and the team at the DLGPSR,*

*During the IPA review there has been a lot of talk about balance - balancing economic and environmental interests and balancing the interests of the local government, development and the community sectors. The legislative proposals in the Discussion Paper certainly reflect this balancing act. It's been said that the Discussion Paper, at least procedurally, gives something to everyone.*

*The irony about the balance is that environment and public interest economics are really on the same side. There is a very real financial interest in preserving Queensland's environment. Please do not proceed on the assumption that environmental protection is too costly – that is simply a line run by the development industry wishing to preserve private profit margins.*

*The Environmental Defenders Offices and Queensland Conservation are highly respected community based non-profit organisations. We make this submission not merely as the voice of one of the competing 'stakeholders' in this review. The environment is the one thing that connects and concerns us all. We make this submission on behalf of Queensland's climate, natural environment, neighborhoods and quality of life.*

*No State, Regional or local plan can ignore the impacts of climate change. No State, Regional or local plan can ignore the need to achieve ecological sustainability. No development can ignore its environmental impacts.*

*Queensland has prided itself on its innovative, flexible approach to planning and development. Your message in the review has been that the principles in IPA are sound. What good, however, are sound principals, when the outcomes are clearly not sound?*

*We have engaged widely with the community regarding IPA, both in this review and in the years since IPA was introduced. The community is strongly dissatisfied with IPA and its outcomes and point to the visible signs of extensive loss of vegetation, destruction of wetlands, increased air pollution, and the rare sightings of species such as koalas and cassowaries – all associated with development.*

*We must consider IPA in terms of environmental outcomes. The phrasing of ecological sustainability in the purposive section of the Act has not, in its application, ensured sustainable environmental outcomes in planning and development decision making. Where the Act is not achieving ecological sustainability, amendments are needed. You may not be able to legislate "good manners", but you can certainly legislate better environmental protection.*

*The amendments we propose are by no means radical – they merely reflect the stated purpose of IPA. We believe that IPA can readily be amended to make a very real and significant difference to the environment and the future of Queensland.*

*Please do not hesitate to contact us to discuss this submission or the implementation of the IPA proposals.*

Environmental Defenders Office (Qld)  
Environmental Defenders Office of Northern Queensland  
Queensland Conservation Inc

## EXECUTIVE SUMMARY & OUTLINE

The biggest threat to the future of Queensland's planning and development is climate change. This submission starts with a brief overview of the vital role IPA must play in reducing greenhouse emissions and adapting to climate change. Climate change issues must be added to the agenda of the IPA review with a goal to amendments within the 'short-term' timeframe. No planning or development decisions should be made without regard to reducing greenhouse gases and adapting to climate change.

We congratulate the DLGPSR for producing a well set out and comprehensive discussion paper "*Dynamic Planning for a Growing State*" August 2006 ('the Discussion Paper'). We are pleased to read a number of key improvements to IPA, such as improving development applications, introducing prohibitions, and measures to simplify planning schemes. We are very concerned, however, that what is given with one hand, is taken away with the other, with proposals such as widening the court's discretion to excuse non-compliance and allowing major amendments to development conditions.

We welcome the proposal to improve the information accompanying a development application, however, are extremely disappointed that 'considering' the EIS process is expressed as a long-term goal.

In this submission, the section '*Response to DLGPSR Discussion Paper*' considers each of the proposals in the discussion paper dated August 2006 and adds a number of additional proposals that have been overlooked. Whilst we have addressed each of the Discussion Paper proposals in turn, we urge you not to lose sight of overriding improvements needed to ensure better environmental outcomes.

Improving community input into the planning and development process is identified as a key issue in the Discussion Paper, however, the proposals fall well short of achieving this goal. **Legislative amendments are required to achieve consistency and certainty.** Funding is required to give the community, as a stakeholder, a voice in this review and future planning decisions. We have added a section in the 'Building Capacity' proposals to discuss how to build the capacity of the community as a stakeholder.

Attached to this submission is the "Shame File – North Queensland" which provides just a few examples of how IPA is failing the community and environment. Also attached to the submission are extracts from the legislation referred to in the submission.

## CLIMATE CHANGE

The Integrated Planning Act 1997 ('IPA') is Queensland's most important piece of land-use legislation. Climate change is the greatest threat facing Queensland. This submission discusses briefly why IPA is relevant to climate change, how climate change is considered in our current land-use planning regime, and how IPA can be amended to respond to climate change in planning and development.

### Why is IPA relevant to climate change?

#### *In your words:*

The importance of land-use planning and development approval regimes to climate change is discussed in the Queensland Government's publication "*Climate Smart Adaptation – what does climate change mean for you?*" (2005). That paper was co-signed by the then Minister for Environment, Local Government and Planning. Extracts from the paper include:

*"The combined effects of rapid population growth and climate change will be a major challenge. There will be pressure to develop in areas prone to natural hazards, such as low-lying coastal areas. ... The design, location and delivery of services and infrastructure to support this population and associated economic growth will need to factor in climate conditions ..."* (page 9)

*"Some parts of the natural environment may not be able to cope with climate change. The natural environment will be less able to adapt if it is polluted and fragmented."* (page 11)

*"Trends such as population growth, an ageing community, pollution, increasing demand for resources... can compound the impact of climate change."* (page 12)

*"Queensland's mechanisms for managing land use (regional planning frameworks, State planning policies, local government planning schemes and development assessment codes) can be used to address climate change."* (Page 19)

*"Likely climate conditions in 50-100 years' time should be considered in infrastructure reviews and upgrades, and in major investment and planning decisions."* (Page 30)

The State Government's "Queensland Greenhouse Strategy" (May 2004) further highlights to importance of land use planning in reducing greenhouse gases and adapting to climate change:

*“Strategic planning will play an important role in implementing greenhouse initiatives at the regional level, by linking State and local government activities aimed at reducing greenhouse gas emissions and adapting to the impact of climate change.*

*The Queensland Integrated Planning Act 1997 “seeks to achieve ecologically sustainable development” and provides a framework for:*

- *Regulating and assessing development*
- *Planning at the State, regional and local government levels.*

*This Act provides an opportunity to incorporate emissions reduction and climate change adaptation considerations into local government planning processes.”*  
(page B62)

*Climate change has the potential to increase the damage caused by natural disasters, and in the process, cost Queensland millions of dollars. ... An effective way to mitigate the effects of these disasters is through effective land use planning.”*  
(page B65)

### ***Why IPA & why now?***

As the act responsible for development decisions and coordinating planning at State, regional and local levels, IPA must play a vital role in managing the reduction of greenhouse gas emissions and adapting to climate change. The work of some councils towards considering the impacts of climate change in their local government areas should be congratulated. However, in order for Queensland to mitigate and adapt to climate change, climate change must be considered in all planning and development decisions at local, regional and State levels.

The decision whether to consider climate change adaptation and mitigation cannot be left to individual councils and councilors who have varying levels of understanding, and indeed, even acceptance, of climate change issues.

It is only a matter of time before Queensland will have mandatory greenhouse reduction targets. At the land use and planning level, mechanisms will be required to implement those targets. Future planning cannot occur without regard to the likely impacts of climate change.

There are pressing economic reasons to act now, rather than delay; see ‘*The Business Case for Early Action*’ April 2006 – Australian Business Roundtable on Climate Change and the recently released report by former World Bank chief economist Sir Nicholas Stern).

Given that IPA is currently being reviewed, IPA should be amended now and in a flexible manner which allows for the State’s development of greenhouse gas reduction targets and the continuing knowledge of adaptation and mitigation measures.

The costs of inaction or the delay caused by not addressing climate change issues in this review are simply too high.

### **How is climate change addressed in current land-use planning instruments?**

The Integrated Planning Act fails to mention climate change or greenhouse emissions. Despite climate change being the most important planning and environment issue facing Queensland, the Government's Discussion Paper on the IPA Review (August 2006) fails to mention climate change or greenhouse emissions.

The SEQ Regional Plan briefly considers climate change:

*Policy 2.3.4 – Assess the impact of potential climate change in preparing planning schemes and land use strategies.*

*Policy 2.4.4 – Ensure use and management of the coast provides for natural fluctuations in coastal processes, including storm and tide inundation, climate change and sea level rise.*

The State Coastal Management Plan and SPP1/03 Mitigation of Adverse Impacts of Flood, Bushfire and Landslide speak briefly and in general terms about adaptation to climate change (see policy 2.2.1 of the Coastal Management Plan and section 4.6 and 4.7 of SPP 1/03).

The Nature Conservation (Koala) Conservation Plan 2006 simply identifies climate change as one of a number of important factors that affect koala population size (para 2.5).

The proposed Extractive Industries State Planning Policy fails to mention climate change or greenhouse emissions.

The uncoordinated statements of policy are totally inadequate in addressing the urgent need to consider climate change in all planning and development decisions.

### **How is climate change addressed in Court decisions?**

The Mackay Conservation Group Inc, in *Mackay Conservation Group v East Point & Mackay City Council* [2005] QPEC94 sought to challenge a large tourism and residential development on a beachfront site sand spit at the mouth of Pioneer River. Unchallenged scientific evidence was given by Dr Nott as to the likelihood of intense cyclones and storm/tide surges.

His Honour Judge Robin QC acknowledged "*It may well be that some cautious people, in the circumstances, will prefer to keep away from East Point*". However, in line with

earlier decisions of the Planning & Environment Court, Judge Robin found that it is for the planning authority, and not the court, to balance the risks and set the standards for building levels (see para 67 of the judgement).

The case demonstrates that it is its imperative for climate change adaptation and appropriate restrictions on development to be drafted into planning schemes and made integral to IPA decision making.

(More information about this case appears in the attached North Queensland Shame File).

## **How can IPA address climate change?**

A two tiered approach is needed to address greenhouse gas reduction and adaptation to climate change:

1. In this review, IPA should be amended to refer to reducing greenhouse gas emissions and adapting to climate change; and
2. Queensland urgently needs a strong and overriding SPP on reducing greenhouse gas emissions and adapting to climate change.

These approaches are discussed below.

### **1. Amendments to IPA**

#### ***The Purpose of IPA***

Amend the purpose sections of IPA so that IPA clearly states that reducing greenhouse gas emissions is integral to achieving ecological sustainability.

For example:

#### *IPA section 1.2.1 Purpose of Act*

*The purpose of this Act is to seek to achieve ecological sustainability by—*

- (a) coordinating and integrating planning at the local, regional and State levels; and*
- (b) managing the process by which development occurs; and*
- (c) managing the effects of development on the environment (including managing the use of premises), and*
- (d) reducing greenhouse gas emissions and adapting to the likely effects of climate change in planning and development decisions.*

### ***Local Planning***

IPA should require local governments to consider the reduction of greenhouse gas emissions and adaptation to climate change in preparing and amending planning schemes.

Policy 2.3.4 of the SEQ Regional Plan broadly requires council to assess the impact of potential climate change in preparing planning schemes, however, clearer mandatory direction should be given and the requirement to consider climate change should include all local government areas, not just those under the SEQRP.

For example:

*IPA section 2.1.3A Core matters for planning schemes*

- (1) *Each of the following are core matters for the preparation of a planning scheme –*
- (a) *land use and development;*
  - (b) *infrastructure;*
  - (c) *valuable features;*
  - (d) *greenhouse gas reduction and climate change adaptation.*

### ***State & Regional Planning***

We need an urgent SPP on reducing greenhouse gas emissions and adapting to climate change (see Climate Change SPP below). However, in the meantime and in addition to the Climate Change SPP, IPA should require that all SPPs consider the reduction of greenhouse gas emissions and adaptation to the impacts of climate change.

We also need regional planning to strongly address reducing greenhouse gas emissions and adapting to climate change at the regional level. The lack of climate change provisions, or any real consideration of climate change in the SEQ Regional Plan demonstrates the need for mandatory climate change consideration in regional planning.

Reducing greenhouse emissions and adapting to climate change is relevant to all State planning instruments– whether it be affordable housing; koala conservation, extractive industries, regional planning or coastal management. For example, coastal development cannot be considered separately from the increased risk of cyclones and storm surges. Impacts of development on endangered species cannot be considered separately from the pressures that climate change will have on endangered species.

Where planning policies conflict, clear priority should be given to reducing greenhouse gas emissions.

### ***Development applications***

IPA should require mandatory information about the expected greenhouse emissions of a proposed development at both the development/construction phase and operation/use phase. The information should include any measures to reduce greenhouse gas emissions. Greenhouse gas emissions over a certain level should trigger the EIS process.

For example:

(Proposal 14.4 of the Discussion Paper):

*The development application must include the following minimum information:*

- *The nature and extent of environmental impacts likely to result from the proposed development; and*
- *The expected greenhouse emissions likely to result from the proposed development at both the construction and use/operation phases; and*
- *The prevention, minimisation and mitigation strategies for managing or reducing the identified environmental impacts.*

### ***Development assessment***

The matters that an assessment manager must consider when determining a development application should include greenhouse gas emissions, reduction measures, and impacts that climate change may have on the proposed development.

For example:

*IPA section 3.5.5      Impact assessment*

...

*(2) If the application is for development in a planning scheme area, the assessment manager must carry out the impact assessment having regard to the following—*

...

*(x) The likely environmental impacts of the proposed development.*

*(x) The greenhouse gas emissions likely to result from the development and any proposed mitigation measures.*

*(x) The suitability of the site and the suitability of the development having regard to adaptation to climate change impacts.*

### ***Decision making***

The sections relating to the assessment manager's decision (section 3.5.14 and 3.5.15) should require that an assessment manager must not approve a development that will have a significant impact on greenhouse emissions without adequate ameliorative measures to counteract that impact.

## **2. Climate Change SPP – Reducing Greenhouse Gas Emissions and Adapting to Climate Change.**

There is an urgent need for a strong SPP on reducing greenhouse gas emissions and adapting to climate change.

The SPP should be flexible to respond to current targets and the increasing knowledge as to the impacts of climate change. An SPP would ensure a consistent approach by local government and provide a mechanism to adaptation and mitigation measures.

It is imperative that new development is planned within the context of achieving greenhouse reductions. Any new developments that do not take this into consideration and fail to include appropriate measures create an impost on the rest of the population to do even more to keep emissions down.

We propose a climate neutral policy to ensure that all new developments meet worlds best practice in limiting greenhouse gas emissions. This policy would set benchmark standards which would be regularly updated and improved as technology, practices and innovation improves standards.

## RESPONSE TO DLGPSR DISCUSSION PAPER

The following are comments on the Discussion Paper: *Dynamic Planning for a Growing State*, August 2006:

Key

	DLGPSR proposal
	EDO submission

### ***Stakeholder Engagement***

<b>1.</b>	<b>Ensure stakeholders understand the planning and development assessment system.</b>	
1.1	DLGPSR will develop and implement a detailed stakeholder engagement framework.	Community needs to clearly be identified as a stakeholder. <i>See proposals: EDO 23 to 25.</i>  The goal of creating more opportunities for community input is important. However, the community needs to be consulted in the development and implementation of the detailed stakeholder engagement framework.  An issue that needs to be overcome with the community is a loss of faith in the public submission process and a belief that their views won't be heard in law reform; the formulation of plans at all levels; and development assessment.
1.2	Audit all advice and information dealing with the IPA and IDAS and redraft in plain language.	Agree.  Make all advice and information easily accessible online and in local libraries.
1.3	Develop and implement a detailed communication plan to support the stakeholder engagement framework.	Involve community consultation in formulation of the communication plan. <i>See proposals: EDO 23 to 25.</i>
<b>2</b>	<b>DLGPSR will assume a strong leadership role.</b>	
2.1	DLGPSR in its leadership role will prioritise change management, conflict resolution and good	Agree. <i>See also proposal: EDO 25</i>

	organisation communication within the department.	
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## State and Regional Planning

<b>3</b>	<b>Accelerate regional planning</b>	
3.1	Accelerate regional planning outside SEQ	<p>The SEQRP must be fully reviewed in terms of outcomes and achieving ecological sustainability before it can be used as a blue print for planning in other regions.</p> <p>Regional planning should be focused on ecological sustainability, not simply managing growth.</p> <p>Consideration must be given to environmental constraints of a region as well as infrastructure and economic development. <i>For example endangered species such as mahogany gliders and southern cassowaries are not adequately protected in local plans and must be preserved in regional planning.</i></p> <p>The EPA should be given broader concurrence powers for all SPPs that have an environmental theme; where development may impact on a protected area (as per the Nature Conservation Act); where a development will have an impact upon a species subject to a Management Plan (for example koalas); and all development that impacts on threatened species or their habitat.</p>

<b>4</b>	<b>Develop and implement State planning instruments</b>	
4.1	DLGPSR will develop a web based centralised repository for information about state interests.	Must be in a form accessible to everyone.
4.2	DLGPSR will collaborate with State agencies to finalise a number of state policies and plans.	There is an urgent need for a greenhouse SPP and for climate change to be an overriding consideration in all SPPs. We need an SPP that deals with climate change, cyclones and storm surges on coastal development. We need an SPP which deals with energy efficiency.

		<p>IPA should direct that all plans promote ecologically sustainability. The plans must address better environmental outcomes.</p> <p><i>For example, the Extractive Industries State Planning Policy – provides little attention to the objects of IPA and there is insufficient consideration of ecological values in determining Key Resource Areas. One site proposed in Behana Gorge south of Cairns is next to the National Park and World Heritage Area which will become part of the buffer for the quarry.</i></p>
4.3	<p>IPA/IDAS State Agencies Reference Group to negotiate and integrate State policies across agencies.</p>	<p>Agree. There is an urgent need for overriding environmental considerations in State policies. Reducing greenhouse emissions is relevant to most, if not all, State policies.</p> <p>State Planning Policies must not be used to circumvent environmental protection in IPA and planning schemes.</p> <p>There should be non-negotiable elements to SPPs e.g a Coastal Management that prohibits development below Q100 or coastal building line 2.4 AHD or similar, depending upon the region in Qld.</p>
4.4	<p>Clarify relationship between SEQRP, SPPs and other planning instruments</p>	<p>Agree. Further:</p> <p>Stronger provisions need to be included in IPA to ensure that State Planning Policies such as Coastal Management Plans are binding on local Councils. At present, a Council merely has to have regard to these documents. <i>For example, a number of key coastal sites in North Queensland have been developed in conflict with the Coastal Management Plan and Regional Coastal Management Plan and the EPA has had little power to regulate these developments.</i></p>
4.5	<p>New process for making State codes.</p>	<p>Agree on the basis that there will be opportunity for public consultation.</p>
4.6	<p>Allow codes included in an</p>	<p>Strongly agree as an important and necessary</p>

	SPP to continue to be used after the remainder of the SPP has been reflected in the planning scheme.	amendment. The codes must be well drafted and promote ecological sustainability.
4.7	A new mechanism by which the Minister can assume a proactive role in the assessment of significant developments.	<p>More information is required to assess this proposal.</p> <p>We would support the proposal, provided that:</p> <ul style="list-style-type: none"> <li>▪ The types of developments this applies to are clearly defined.</li> <li>▪ Significant developments are also subject to tight planning controls and ecologically sustainability and the precautionary principles are the key abiding principles.</li> <li>▪ There is opportunity for community consultation and submissions.</li> <li>▪ The power to call in should apply to both code and impact assessable DAs.</li> <li>▪ There should be submitter appeal rights.</li> </ul> <p>The power must not be used to circumvent environmental protection and speed up controversial development.</p> <p>The Minister should also have greater powers to overturn inappropriate decisions of Local Councils in circumstances where they have ignored the content of their planning scheme or the environmental impacts of a development. This would provide an additional check, rather than simply relying on community groups to take such matters to court.</p>
4.8	Allow the Minister to implement temporary local planning instruments where there is an urgent need to protect a State interest.	<p>Agree.</p> <p><i>Example: The EDO-NQ has been lobbying for the creation of a TLPI in the Johnstone Shire Council in relation to Mission Beach area and the rural conservation zonings in that area. Allowing the Minister to do this quickly and easily would assist greatly with situations such as faced at Mission Beach where delays are causing significant environmental pressures particularly on the population of endangered southern cassowaries in the area.</i></p>
4.9	Ensure changes to IPA-related	Agree.

	State policy are adequately resourced.	
<b>5</b>	<b>DLGPSR will coordinate the definition of State interests</b>	
5.1	Define what constitutes State interests and reflect in standard planning scheme provisions.	<p>Agree.</p> <p>Key and urgent State interests must include climate change; reducing emissions; and preservation of critical habitat for endangered species. Environmental protection should clearly be defined as a State interest and the EPA given concurrence power over all DA's with environmental impacts.</p> <p>Given the delays associated with formulating SPPs, there is an urgent need to define State interests.</p>
5.2	Establish a process for resolving State interests.	Agree. The issue of resolving State interests is important and should involve stakeholder (community) consultation.

## Local Government Planning Policy

<b>6</b>	<b>Improve community engagement into planning schemes</b>	
6.1	Encourage community engagement by reviewing public information, training stakeholders and showcasing good examples of schemes developed with community input.	<p>More decisive action needs to be taken to encourage community involvement.</p> <p>A major problem is the fact that the community feels discouraged and disenfranchised in the process for formulating or amending planning schemes.</p> <p>There is a need to resource NGOs which have displayed a consistent ability to deliver education to the community to help them become effective in the planning process.</p> <p><i>See also proposals: EDO 23-25</i></p>
6.2	DLGPSR will develop with the LGAQ a strategy to encourage councils to improve community engagement in the process for making and amending planning schemes.	This does not go far enough. <b>Legislative changes must be made.</b> There must be consistency within councils and across different councils. Inconsistency leads to community mistrust and confusion.

		<p>Some clients have suggested that the International Association of Public Participation (IAP2) standard for community consultation may be considered as a basis for consultation.</p> <p><i>See also proposals: EDO 23-25</i></p>
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<b>7</b>	<b>Introduce limited prohibitions</b>	
7.1	Introduce limited prohibitions at State, regional and local levels.	<p>Agree, but there is no need for this power to be limited.</p> <p>The ‘prohibition’ power should require prohibition of development on the basis of environmental constraints. Otherwise developers take advantage to IPA’s ‘flexibility’ to push through unecologically sound development.</p> <p>Community/environmental stakeholder consultation is essential.</p>

<b>8</b>	<b>Improve the quality of IPA planning schemes.</b>	
8.1	Standard administrative definitions for planning schemes.	Agree, however, we would like further consultation in their formulation.
8.2	Improve the form & content of strategic elements in planning schemes.	<p>Strongly agree to improvements for better strategic planning. Further:</p> <p>There needs to be a clear hierarchy where DEO’s conflict. In development decision making, by virtue of section 3.5.14, a decision must not conflict with DEO’s. However, in reality, the DEO’s often conflict.</p>
8.3	Allow standard planning scheme provisions.	<p>Agree, on the basis that:</p> <p>There must be sufficient flexibility in the standard provisions to allow for site specific environmental considerations. The standard planning scheme provisions must not enable Councils to avoid the need for careful planning on specific regional issues such as the preservation of biodiversity and key habitats within a shire, and the provision of water and other services.</p> <p>Further consultation is required as to the</p>

		formulation of the standard provisions.
8.4	Use standard planning scheme provisions to introduce a consistent approach to prohibition.	Agree, but Councils should also be given the power to prohibit development based on environmental constraints.
8.5	Improve expression of policy in codes and promote a wider range of assessment outcomes.	More information is needed about this proposal.  Strongly oppose changes that foreshadow an extension to the types of code assessable development.  IPA should require that any development that is likely to have an impact on the environment cannot be classed as code assessable and must undergo impact assessment.
8.6	Implementation program for standard planning scheme provisions.	Agree.

<b>9</b>	<b>Streamline the process for reviewing and amending planning schemes</b>	
9.1	Streamline the plan making process for State interests.	Agree, however, the streamlined process must improve the State interest checks, rather than result in less effective checks. See also comments at 5.1 regarding the need to define state interests so as to clearly include environmental issues like climate change and biodiversity protection.
9.2	Performance targets for State involvement in planning scheme reviews.	Agree, however, the targets need to relate to performance outcomes, and not simply time limits.

## Infrastructure Planning & Charging

Due to resource constraints, we are not in a position to consider the proposals regarding infrastructure and planning in detail. It is not possible to properly understand and respond to the proposals as set out in the Discussion Paper without a working knowledge of the new framework for infrastructure planning and charging.

However, we make the following comments with respect to infrastructure planning & charging:

- i) The development industry’s attack on the infrastructure charging system on the basis of increased house prices is unjustified. Developers’ huge profit margins have the most impact on house affordability.

- ii) We support a 100% costs recovery to Local Government on infrastructure.
- iii) Reducing greenhouse gas emissions and climate change adaptation measures are fundamental considerations to infrastructure.
- iv) There is a need for more green infrastructure and open space.
- v) Development should not be permitted where it unreasonably degrades access to and use of public infrastructure and services, i.e. impacts on potable water supply, power and communication services.
- vi) Development approval should be subject to infrastructure, such as access to public transport, being readily available.
- vii) There is a need for community education and consultation regarding infrastructure.

***Integrated Development Assessment System (IDAS)***

<b>13</b>	<b>Reduce the complexity and improve the efficiency and effectiveness of IPA</b>	
13.1	DLGPSR will clearly define the scope and jurisdiction of referral triggers and publish on website.	<p>Agree.</p> <p>All development which will have an impact on threatened species and/or their habitat must be referred to the EPA as concurrence agency.</p>
13.2	DLGPSR will improve the quality of conditions imposed on a development.	<p>Strongly agree and must be done in conjunction with improving the capacity to enforce conditions.</p> <p>There number and quality of conditions imposed to reduce environmental impacts must be improved.</p> <p>Development approvals must clearly define the development being approved and the conditions attached. A problem arises where a DA is amended and/or additional documents and responses to information requests are submitted and the approval conditions do not clearly state which documents formulate the development being approved.</p> <p><i>For example, an industrial development was approved by a Council on koala conservation land. The documents in support of the DA included a report detailing how to mitigate</i></p>

		<p><i>impacts of the development on koalas. The EDO was contacted by a councillor who voted to approve the development on the basis of the ameliorative measures proposed in that report. That councillor was surprised to later learn that because the report was not referred to in the approval and conditions, it was not binding on the developer.</i></p>
13.3	<p>Broaden the scope of conditions requiring compliance assessment under section 5.5.31A of IPA.</p>	<p>Agree, however:</p> <p>Amend paragraph 7 of schedule 12 of the Integrated Planning Regulation 1998 to remove the assumption of compliance when an entity fails to respond within the specified time. Under the current wording, a developer can engage a private entity to assess compliance and if that entity does not respond within the time agreed the development is assumed to comply!</p> <p>Our experience in the past has been that third party entities have not provided thorough and detailed assessments in the private certification process. It would be more useful if funding were available to ensure that the relevant authorities have the ability to undertake the work internally.</p>
13.4	<p>Amend schedule 8 of IPA to clarify and simplify referral triggers.</p>	<p>Agree, but strongly oppose any reduction to the number of referral triggers.</p>
13.5	<p>Amend IPA to include a separate process for determining whether development may be undertaken under a superseded planning scheme</p>	<p>Strongly oppose.</p> <p>The option to apply for an approval under a superseded planning scheme should be removed entirely from IPA. If the planning for a proposed area has changed, then there are clearly good planning grounds for the change, including changes in needs, environment, economics and social issues. The changes were made following the consultation procedures for the implementation of an IPA planning scheme.</p> <p>Developers often argue against community</p>

		<p>submitters opposing a development that the community had its opportunity to be heard when the planning scheme was being formulated. Following that reasoning, if a developer intends to develop land, they have the opportunity to make submissions when the new planning scheme is being formulated.</p> <p>If, despite the strong community and environment sector submissions against this process, approvals under superceded planning schemes continue - at a bare minimum, only a person with an interest in the land at the time of the superceded planning scheme should have the right to apply for an assessment under the superceded planning scheme.</p> <p>If, despite our submission, the process for lodging a superceded application continues, there must be clear and binding guidelines as to what types of development can be assessed under the superceded planning scheme - for example, a development that is classified as impact assessable under a current planning scheme must not be assessed under a superceded planning scheme as code assessable. The legislation also needs to set out clear and binding factors that must be considered when deciding whether to assess a DA under a superceded planning scheme – for example, if the development is likely to impact on the environment, the DA must be assessed under the current planning scheme.</p>
13.6	<p>IPA will be amended to reword section 3.5.13 and 3.5.14 ...</p>	<p>These sections of IPA are very important and more information is required to assess the proposals.</p> <p>Past experience and environmental outcomes from development decisions under those sections have been poor. The concept of “<i>sufficient planning grounds</i>” in the past has been used to give councils unlimited discretion to approve developments that conflict with the planning scheme.</p> <p>An assessment manager must clearly be given</p>

		<p>the discretion to refuse a development for environmental reasons.</p> <p>The decision making sections of IPA must require that an assessment manager who is satisfied that the activity will detrimentally affect the environment (including critical habitat) or threatened species, populations or ecological communities may only:</p> <ul style="list-style-type: none"> <li>a. impose conditions or require modifications that will eliminate or substantially reduce the detrimental effect of the activity on the environment; or</li> <li>b. refuse the development application.</li> </ul> <p><i>(See section 112(4) of NSW Environmental Planning &amp; Assessment Act attached)</i></p> <p>Strongly agree with removing the current presumption in favour of approval for code assessable development.</p> <p>Agree that guidance is needed where codes conflict, but there needs to be more guidance in codes on when development should be rejected.</p> <p>Strongly oppose the expansion of code assessable development.</p> <p>There should be stronger provisions to ensure that environmental impacts are considered in assessing both code and impact assessable development.</p>
13.7	Amend IPA to consolidate and simplify the existing arrangements for changing approvals.	<p>The process for modifying development consents in IPA is completely inadequate and essentially allows major modifications without proper assessment and notification.</p> <p>Whilst we welcome the proposed amendment to include submitters in the process for negotiated decision notices, unless the process for modifying consents is amended, a developer would be well advised to avoid</p>

		<p>community involvement by simply waiting for the expiration of the appeal period before applying for a modification.</p> <p>We propose a system similar to that in NSW where the level of assessment and public notification necessary to amend approvals reflects the type of development and the extent of the modification:</p> <p>In NSW, modifications involving minor error, misdescription or miscalculation can be made on application to the assessment manager. Different provisions apply to modifications involving minimal environmental impact, more major modifications, and modifications of court approvals. Public notification is required for modifications to developments that require notification. <i>See sections 96, 96AA of the Environmental Planning &amp; Assessment Act 1979 and regulation s 117 to 119 of the Environmental Planning and Assessment Regulation 2000 (attached).</i></p>
<p>13.8</p>	<p>DLGPSR to establish a project team, including EPA, Councils and LGAQ to assess the benefits of including the general decision-making criteria in IPA to reflect the provisions of the Environmental Protection Act 1993 related to preventing environmental harm.</p>	<p>Strongly agree that environmental protection needs to be included in the decision-making criteria in IPA.</p> <p>The EDO (Qld and Nth Qld), as the peak non-government environmental/community legal voice in Queensland should be on the project team.</p>
<p>13.9</p>	<p>Amend IPA to allow significant changes to DAs without the application returning to IDAS.</p>	<p>Strongly oppose.</p> <p>The suggestion that an applicant may change the substance of a development application in response to an information request circumvents the proposed amendments to improve the quality of development applications and fails to understand the purpose of information requests. The process for information requests is to provide assessment managers and any concurrence agencies with <b><i>further information needed to assess the development application</i></b></p>

		<p>(see sections 3.3.1 &amp; 3.3.6 of IPA). The process is not a system for an assessment manager to outline for the applicant the type of development that would be approved.</p> <p>The proposal seems to allow amendments even where the substance of the development application is significantly changed. This is ridiculous and makes a mockery of the IDAS process.</p> <p>We support a system similar to that in NSW where a development application may only be amended or varied by the applicant with the agreement of the consent authority. Sufficient particulars as to the nature of the changed development must be provided (<i>clause 55 of the Environmental Planning &amp; Assessment Regulation 2000 attached</i>).</p> <p>Further, where the development requires notification, the amended DA must be re-notified unless the amended DA differs only in minor respects from the original application (<i>see section 79 of the Environmental Planning &amp; Assessment Act attached</i>).</p> <p>At the very least, where a DA has been amended, all submitters should be notified directly as to the amendment and given further opportunity to make submissions.</p>
<p>13.9 cont</p>	<p>Amend IPA so that if an applicant changes a development application, the only additional referrals to be made are those arising because of the change itself and not as a result in changes to the law.</p>	<p>Disagree. The proposals for better DA's and better definitions as to triggers for referrals makes this proposal unnecessary. We query the likelihood of the law having changed in terms of triggers from the date the DA was lodged to the date the DA was amended.</p> <p>The DLGPSR discussion states that there is a strong incentive for applicants to dispute missed referrals – there also needs to be an incentive to get the referral process right!</p>
<p>13.10</p>	<p>DLGPSR will accelerate the implementation of the Smart</p>	<p>Agree. We support the Smart eDA project on the basis that it will be easily accessible and</p>

	eDA project.	make more information available to the community. It will still be important to have hardcopies of documents available at councils.
13.11	Amend IPA to redistribute the provisions relating to lapsing of development applications.	Agree.
13.12	Amend IPA to extent the jurisdiction of the Building and Development Tribunal to include appeals about the correct referral agencies, matters stated in the acknowledgement notice and decisions made by the assessment manager during the application state.	Disagree. Agree that there needs to be a faster process; however, do not agree that the Building and Development Tribunals jurisdiction should be expanded to include issues which really are a matter of construction and interpretation. <i>See also proposal 16 Dispute Resolution below.</i>
13.13	DLGPSR will engage with stakeholders to communicate the new assessment and decision rules for impact and code assessment.	The DLGPSR should engage with stakeholders as to the <b>content</b> of the new assessment and decision rules as these important rules are not clearly formulated in the discussion paper.  Further consultation is required.
13.14	DLGPSR will work with councils to ensure that opportunities for delegation of planning decisions to officers are maximised where appropriate.	We oppose the delegation of decisions which involve impact assessment.  Clear accountable frameworks need to be developed to allow for delegation of decision making functions. The same provisions must apply to delegated decision makers – for example – the requirement that an assessment manager give reasons for a decision which conflicts with a planning scheme.  The community must have the same rights for delegated decisions as non-delegated decisions – for example, access to the file.
13.15	Further development of the Risk Smart project.	Further information is required. There must be community consultation regarding this process.
13.16	Reduce the period of responses to information requests from 12 months to 3 months.	Agree.  Remove the discretion to refuse to answer an information request. Where a full response supplying information is not received, the DA should lapse. Responses to information requests are required so that the assessment

		<p>managers or referral agencies have the further information needed to assess the development. In the event that the system of information requests is abused, the applicant currently has the ability to apply to the Director General.</p> <p>At the very least, if IPA is not amended to require responses to information requests, the following sub-paragraph should be added:</p> <p><i>3.3.8(3) - If the applicant responds to the information request by stating that the applicant does not intend to supply all or any of the information requested, the assessment manager or concurrence agency must assess the development with reference to the precautionary principle and can draw adverse assumptions regarding environmental impacts where the applicant has failed to provide further information necessary to assess those impacts.</i></p>
13.17	Reduce the period for an applicant to provide a notice of compliance about public notification to 15 business days.	Agree.
13.18	Rationalise schedule 8 of IPA to better reflect jurisdictions of State agencies.	<p>More information is needed about this proposal.</p> <p>Disagree with the proposal to reduce the number of referral triggers. The number of referral triggers should be based on which bodies are best equipped to assess aspects of a development application.</p>
EDO 13.19	Remove the process for preliminary approvals.	<p>Preliminary approvals, by making impact assessable development code assessable, circumvent community involvement and a proper and full assessment of environmental impacts. Preliminary approvals that override planning schemes circumvent the proper planning processes required by IPA.</p> <p>There is no real and justifiable need for the preliminary approval provisions.</p>

EDO 13.20	Bring back the 12 month prohibition on re-lodging development applications substantially the same as refused applications.	<p>This proposed amendment is even more important given resource issues and high demands on councils. Unless the planning scheme has been altered, there is no reason for a developer to re-lodge a refused DA.</p> <p>The 12 month prohibition was contained in the superceded Local Government (Planning &amp; Environment) Act.</p>
EDO 13.21	All advice agency responses and third party advises to be treated as properly made submissions.	It should not be necessary for advice agencies to specifically state that they would like their submission to be treated as a properly made submission. Delete subparagraph 4.1.29(1) of IPA.

<b>EDO 13.A</b>	<b>Introduce amendments to improve decision making</b> <i>This key strategy is missing from the Discussion Paper</i>	
EDO 13A.1	Provide clear direction to refuse certain development applications.	<p>Require that an assessment manager who is satisfied that the activity will detrimentally affect the environment (including critical habitat) or threatened species, populations or ecological communities may only:</p> <ul style="list-style-type: none"> <li>▪ impose conditions or require modifications that will eliminate or substantially reduce the detrimental effect of the activity on the environment; or</li> <li>▪ refuse the development application.</li> </ul> <p><i>(See section 112(4) of NSW Environmental Planning &amp; Assessment Act)</i></p>
EDO 13A.2	Provide a better description of the matters to be considered in code and impact development.	<p>Add into the sections on the matters to be considered in code and impact assessment (section 3.5.4 &amp; 3.5.5):</p> <ul style="list-style-type: none"> <li>▪ the likely impacts of the development, including environmental impacts</li> <li>▪ whether the development promotes ecological sustainability;</li> <li>▪ the suitability of the site;</li> <li>▪ any submissions made;</li> </ul>

		<ul style="list-style-type: none"> <li>▪ the public interest</li> <li>▪ greenhouse gas emissions and the impact of climate change.</li> </ul> <p style="text-align: center;"><i>(See section 79C and section 111 of the NSW EP&amp;A Act)</i></p>
EDO 13A.3	Better conditions for environmental protection.	Require the imposition of certain types of conditions – eg conditions to manage environmental nuisance; environmental impacts and conditions to implement relevant state interests such as SPPs, RP and EPP where those interests are not represented by a concurrence agency.

<b>14</b>	<b>Improve the quality of information submitted with DAs</b>	
14.1	DLGPSR will prepare best practice information checklists for different types of applications.	Agree
14.2	Review and improve the IDAS Application Form 1	Agree.  The DA should state whether the development application is an application for impact and/or code assessable development.
14.3	Amend IPA to require that an Assessment Manager may only accept a development application if it is properly made.	Strongly agree. The assessment manager must be required to refuse DAs that are not properly made.  The notice that the assessment manager is required to give should be simple and not require the assessment manager to formulate for the applicant how the DA should properly be made.
14.4	Require as part of a properly made submission a statement as to the nature and extent of environmental impacts likely to result from the proposed development and the prevention, minimisation and mitigation strategies for managing the identified impacts.	Strongly agree. The regulations should set out in more detail what information is required for the statement of environmental effects and mitigation measures – for example, details as to how the environment impacts of the development have been identified.  Development approvals should be conditional upon the implementation of the mitigation measures proposed in the statement of environmental effects.

		The statement of effects and mitigation measures should also include a statement as to the true belief of the maker of the statement.
14.4 cont	Where the proposed development identifies potential for material or serious environmental harm, require information as to: - the identification of performance criteria and objectives in relation to environmental and social impacts; and - the proposed monitoring, reporting and remediation measures.	Agree, however, more information is required about this proposal. Most importantly, the proposed monitoring, reporting and remediation measures must be conditions of the approval.  The EIS process should apply to development that identifies potential for material or series environmental harm.
14.5	Amend the IDAS forms to include the above information as mandatory.	Strongly agree.
14.6	Introduce the EIS process for controlled actions under the EPBC Act.	Agree – but need to expand the EIS triggers (see 14.8 below)
14.7	For council assessment managers – require reasons for any departure from the planning scheme or codes.	Agree. However, these amendments must not be limited to council assessment managers. The same rules must apply to all bodies or individuals responsible for decision making, including any delegated decisions (NB – we do not, however, support delegated decision making).  The provisions should apply to both code and impact assessable development.
14.8	Further expansion of EIS triggers will be investigated for additional types of high impact development.	Strongly agree, however, strongly disagree that this should be a long-term objective. There is an urgent need for EIS ASAP.  Triggers for the EIS should include <ul style="list-style-type: none"> <li>▪ certain types of development (eg quarries, aquaculture, marinas, canal developments and large sub-divisions)</li> <li>▪ certain areas of environmental sensitivity (eg flood prone and hill slopes areas)</li> <li>▪ all developments that are likely to significantly affect the environment</li> </ul>

		<p>(including critical habitat) or threatened species, populations or ecological communities or their habitats. When considering this threshold, cumulative impacts must be considered. (<i>See section 112 of NSW EP&amp;A Act 1979</i>)</p> <ul style="list-style-type: none"> <li>▪ A climate change/greenhouse emission trigger.</li> </ul>
EDO 14.9	Amend IPA to require all DAs must include a site plan and sketch of the development	<p>Mandatory information to accompany a DA must include all information necessary for assessing the development. At a minimum, the compulsory information should include a site plan of the land and a sketch of the development at a minimum.</p> <p>Appropriate amendments to IPA might reflect the types of information required for DA's in NSW - <i>see Schedule 1 of the NSW Environmental Planning and Assessment Regulation 2000 (attached) for a list of documents that must accompany development applications.</i></p>
EDO 14.10	Amend IPA to require all DAs must include a Species Impact Statement where the development is likely to significantly affect threatened species or their habitat.	<p>There must be flexibility for the environment in decision making. In order to properly assess higher impact developments, where the development is likely to significantly affect threatened species or their habitat, further information must be required.</p> <p><i>See section 5A of the NSW Environmental Planning and Assessment Act 1979.</i></p>
EDO 14.11	Require declarations from consultants/developers who provide information in a statement of environmental effects or an EIS.	Make is an offence for someone to provide false or misleading information to obtain a development approval.

<b>15</b>	<b>Increase opportunities for community input</b>	
15.1	Encourage councils to improve community awareness by publicising all current	Agree, however, 'encouraging' is not enough. To ensure consistency across council regions, such provisions must be mandatory. Councils

	development applications.	have limited resources and will only publish such information where required to do so by law. There needs to be a mandatory process for publication eg –on the internet and/or to keep a list of DA’s available at councils.
15.2	Identify the benefits of pre-lodgment meetings and promote this to councils.	Agree that there are benefits to pre-lodgment meetings and strongly agree with involving the community in such meetings. The needs to be consistency across councils and consistency as to the types of development that are appropriate for pre-lodgment meetings.
15.3	DLGPSR will work with councils to identify and outline opportunities for community to present submissions to council planning committees prior to the decision.	Agree. There needs to be consistency across councils and consistency as to when the opportunity will be given.
15.4	Investigate amending IPA to require public notification of certain code-assessable applications.	Agree, however, we strongly oppose the expansion of the types of code assessable development.
15.5	Amend IPA to allow public submissions at any time after the DA is made to the end of the notification period.	Agree, however, this amendment will only work if the public have access to information about development prior to the notification period.
15.6	Amend IPA to enable concurrence agencies and submitters to be involved in the negotiated decision making process.	Strongly agree as an essential amendment.
EDO 15.7	Ensure the community has the correct information during the notification period.	<p>Require responses to information requests and referral agency responses prior to commencing the public submission period.</p> <p>Where a response to an information request or a third party response is received after the commencement of the notification period, the notification period should recommence.</p> <p>Require all submitters be directly notified about any modifications made to a development application and provide those submitters with time to make submissions about the modification.</p>
EDO	Improve access to information	Assessment Managers to provide identified

<p>15.8</p>	<p>about development applications.</p>	<p>community groups within their area (such as key resident’s associations, regional environmental councils and state groups) with written notice of all impact assessable developments lodged within that area (<i>section 3.4.4 Public notice of applications to be given – regulations can cover process for listing identified community groups</i>). The Smart e-DA system can also be used for this notification.</p> <p>Improve the public scrutiny provisions to ensure that DA and supporting documents are readily assessable without delay:</p> <ul style="list-style-type: none"> <li>▪ Where development applications require public notification, Councils to copy the original file and make available a specific file(s) for public viewing. Where an EIS is required for the development or there are 2 or more concurrence agencies, Councils to have more than one copy available for public inspection.</li> <li>▪ Councils to provide a designated office area/space for inspecting files.</li> </ul>
<p>EDO 15.9</p>	<p>Measures for e-DA to assist community consultation.</p>	<p>Ensure that all DA’s and supporting information are available online. Where there is inconsistency in information available online it leads to uncertainty and mistrust.</p> <p>Nominated regional/local environmental groups can be automatically notified of development applications in their area through the e-DA process.</p>
<p>EDO 15.10</p>	<p>Better timeframes for submitters.</p>	<p>The proposed amendment to allow submissions prior to the notification period is a good one, but not adequate to address the time pressures faced by submitters – a proper and fully informed submission can only be made once the information request and referral agency responses have been received.</p> <p>Give submitters the right to extend the time for submissions from 15 to 30 business days – similar to as of right extensions allowed for developers and Councils.</p>

		For development that triggers the EIS process or involves 2 or more concurrence agencies, give submitters 30 business days to lodge submissions with an option to extend 10 more business days.
EDO 15.11	Address the community belief that they are not being heard.	<p>Require assessment managers (and all delegated decision makers) to prepare a report detailing how many submissions were made; numbers in support and numbers against the key issues; and the reasons for the assessment managers decision in light of the issues raised by submitters. Such accountability of decision making is similar to the proposed provision in the IPOLA Bill 2006 which requires assessment managers to give reasons for decisions where the decision conflicts with the planning scheme.</p> <p>An audit should be made of assessment manager responses to ensure that they are appropriate.</p>
EDO 15.12	Provide certainty and consistency for the community.	<p>Where the level of community consultation is left to the discretion of councils, it leads to great uncertainty for the community. Where the council, at its discretion, allows a process for community input (such as oral submissions to council meetings) for some developments, but not all developments, it leads to feelings of mistrust.</p> <p><i>For example, the EDO was approached by a community member/submitter concerned about council's conduct in determining a development application. The council had invited the submitter to make an oral submission at the council's City Planning Meeting. When the submitter arrived at the meeting, he was told that the matter had been removed from the agenda because they had decided the DA would be determined by special delegation. The submitter believed he had deliberately been deprived the right to speak at the meeting and that the development was delegated underhandedly.</i></p> <p>Many councils do not allow oral submissions at all – there should be consistency across</p>

		councils in order to address feelings of disempowerment and mistrust in the community.
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## Dispute Resolution

<b>16</b>	<b>Extend the jurisdiction of the Building &amp; Development Tribunal</b>	
16.1	Extend the jurisdiction of the Building & Development Tribunal.	Agree that less expensive, less time consuming and less formal dispute resolution is required. However, the P&E Court is the most appropriate body for such disputes. We propose a system similar to that in NSW where the Land and Environment Court of NSW is divided into a number of different classes depending upon the type of dispute. For example, in Class 1, an ‘assessor’ (i.e. – someone with a planning background) can hear merits appeals. Where a matter involves a question of law, it is heard in Class 4 before a judge with specialist experience in planning and environment law.

<b>17</b>	<b>Increase efficiency of Planning &amp; Environment Court</b>	
17.1	Align fee structure to changes already made for other jurisdictions.	The proposal is not clear. We agree there should be no large lump sum payments at the commencement of an action. At present the fee is just over \$30 compared to several hundred dollars for a Supreme Court application. Fees need to remain at this level for the Court to be accessible to community groups. As a matter of process, the difficulty faced by community litigants when filing documents is that many registries (including Brisbane) do not accept personal cheques or credit card payments.
17.2	Establish a full time Registrar to undertake pre-court mediation.	Agree.
17.3	Give the P&E Court wider discretion in deciding whether there are sufficient grounds for departing from a planning instrument.	Strongly oppose. All Assessment Managers must be given the same task when assessing a development application. Providing the P&E Court with different assessment and decision guidelines is contrary to the principle of the merit appeal process where the court sits in the

		position of assessment manager and determines the application anew.
17.4	Extend the court’s discretion about procedural matters.	<p>Strongly oppose the proposal to extend the courts discretion about procedural matters. The threshold in section 4.1.5A(1)(b) is already too high. The non-compliance must have <i>‘substantially restricted the opportunity for a person to exercise a right’</i> for it not to be excused. Removing that sub-section effectively renders the IDAS rights and processes discretionary, and will promote intentional non-compliance.</p> <p>The proposed amendment circumvents the other proposals to improve DA’s.</p> <p>Any amendments must make it clear certain non-compliance can not be excused – for example, providing the statement of environmental effects.</p>
17.5	Investigate further extension of costs provisions to discourage litigation by commercial competitors.	<p>This scenario is already covered under section 4.1.23(a) of IPA.</p> <p>The costs consequences outlined in section 4.1.23(g) should be widened to include circumstances where costs are incurred because sufficient information is not provided with the development application itself and where costs are incurred because a development application has been amended.</p>
EDO 17.6	Further extension of costs provisions.	The costs consequences outlined in section 4.1.23(g) should be widened to include circumstances where costs are incurred because sufficient information is not provided with the development application itself and where costs are incurred because a development application has been amended.

<b>18</b>	<b>Educate and support stakeholders using alternative dispute resolution (ADR)</b>	
18.1	DLGPSR will profile successful mediations as case studies.	Agree.
18.2	DLGPSR will introduce a training package to promote awareness of ADR and	Agree. Consideration needs to be given to ADR process to address the imbalance between developers and community litigants – for

	<p>provide education and support.</p>	<p>example, if the community litigant does not have legal representation at the ADR, the other parties should also appear without legal representation. We also need to address the monetary power imbalance between developers and the community.</p> <p>The ADR system must be consistent across councils and consistent as to the types of development that trigger the process.</p> <p>The compulsory ADR process in the P&amp;E Court only applies once proceedings have been commenced. A more effective ADR process aimed at reducing the need for litigation would be a system for ADR immediately after the Council's decision notice. The time for lodging an appeal would then commence within a set timeframe after the unsuccessful ADR.</p>
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<b>19</b>	<b>Improve compliance and enforcement tools</b>	
19.1	Remove the requirement to give a 'show cause notice' before giving an enforcement notice.	Strongly agree as the requirement causes delay in enforcement.
19.2	Penalty Infringement Notices and on-the-spot fines for certain development offences.	Strongly agree.

## Building Capacity

Strategies 20, 21 & 22	Improve training and skills base of planners and local government.	Agree.
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<b>EDO Strategy</b>	<b>Building Community Capacity</b>	
EDO 23	Involve EDO in further consultation.	Many of the proposals involve further meetings or collaboration with stakeholders such as the LGAQ. The EDO, as a representative for community/environmental concerns, should be included in all such further consultation.
EDO 24	Provide funding for proper	The DLGPSR propose to improve

	<p>community consultation.</p>	<p>community consultation in planning, but has not been prepared to make any financial investment in achieving this goal. A major cause for the imbalance and unfairness of the current IPA system is that there is not a level playing field. Unlike other stakeholders in this review, community groups and individuals are not paid for their involvement. The community is forced to spend their own time and money to be heard in a process that they have lost faith in.</p> <p>The EDO (Qld) sought funding to obtain and collaborate the community viewpoint in the early stages of this review, however, were refused. The EDO was only able to do this work through donations from individuals and residents associations.</p> <p>Recently the EDO (Qld) contacted Desley Bolye (the then Minister) and the DLGPSR, and sought a mere \$3,000 towards updating the EDO planning law factsheets. The factsheets teach the community about planning and are provided for free on our website. We were refused this small request.</p> <p>If the DLGPSR is serious about engaging with the community then funding must be provided to achieve this goal.</p>
<p>EDO 25</p>	<p>Establish a Community Consultation Working Committee within the DLGPSR or provide funding to establish such a committee independent of the DLGPSR (for example, within the EDO or Queensland Conservation)</p>	<p>A representative body is needed as the focal point for community stakeholder issues.</p> <p>A body should be established to:</p> <ul style="list-style-type: none"> <li>▪ Consider amendments to IPA to improve community consultation.</li> <li>▪ Maintain a contact network and engage with diverse representatives from the community, such as residents associations and regional environmental groups.</li> <li>▪ Engage with other bodies, such as the LGAQ, DLGPSR and councils regarding issues involving community concerns.</li> <li>▪ Have an ongoing role in ensuring the</li> </ul>

		<p>proper dissemination of information to the community.</p> <p>The Community Consultation Working Committee should include, at a minimum, a representatives from the Environmental Defenders Offices in Queensland and North Queensland, residents associations, and Regional Environmental Councils. The Committee will need to meet regularly and funding must be provided to pay representatives on the Community Consultation Working Committee.</p>
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Written by  
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