



Environment  
Institute of  
Australia and  
New Zealand

18th February 2011

Mr J McGowan  
Director General  
Department of Community Safety  
GPO Box 1425  
**BRISBANE QLD 4001**

Dear Mr McGowan

**RE: SUBMISSION ON REVIEW OF STATE PLANNING POLICY 1/03: MITIGATING THE ADVERSE IMPACTS OF FLOOD, BUSHFIRE AND LANDSLIDE**

I refer to your letter of 25 November 2010 in which you invite the Environment Institute of Australia and New Zealand South East Queensland Division (EIANZ SEQ Division) to make a Submission on the above Review. EIANZ SEQ Division welcomes the opportunity to make a Submission. I must apologise that we were not able to make this Submission by your 11 January 2011 deadline. SEQ Division's response is in Attachment A.

The EIANZ SEQ Division supports the Queensland Government's use of State Planning Policies to give effect to its State interests through Local Government Planning Schemes. The EIANZ also supports the use of State Planning Policies to avoid and to mitigate the adverse impacts of flood, bushfire and landslip. EIANZ supports appropriately adaptive responses in planning for the forecast increase in flood, storm, drought, bushfire and landslip.

Issues of greatest concern to EIANZ SEQ Division relate to the undue reliance on development assessment to deal with the impacts of the various hazards rather than the prevention through strategic planning. The EIANZ SEQ is also concerned that the cumulative impacts of successive development are adequately addressed at the strategic planning and code development formulation stages.

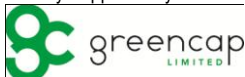
EIANZ SEQ Division welcomes any future opportunity to provide constructive comment to the Government on the way forward. While the focus of the enclosed comments are largely on flooding, EIANZ is prepared, if requested, to provide input into any follow-up on all forms of hazard.

Do not hesitate to contact me via email [david.carberry@rpsgroup.com.au](mailto:david.carberry@rpsgroup.com.au) or phone (4632 2511) if you would like to discuss our submission further.

Yours sincerely

**David Carberry**  
President South East Queensland Division  
Environment Institute of Australia and New Zealand

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## **ATTACHMENT A:**

### **ENVIRONMENT INSTITUTE OF AUSTRALIA AND NEW ZEALAND - SOUTH EAST QUEENSLAND DIVISION (EIANZ SEQ DIVISION) SUBMISSION ON THE REVIEW OF STATE PLANNING POLICY 1/03: MITIGATING THE ADVERSE IMPACTS OF FLOOD, BUSHFIRE AND LANDSLIDE.**

**18<sup>th</sup> FEBRUARY 2011**

#### **General Comments:**

EIANZ SEQ Division supports the regular review of State Planning Policies to ensure their relevance and the effectiveness and efficiency of their application so as to deliver services and infrastructure for Queenslanders. Such review is timely in light of the recent flood and cyclone events within the State.

EIANZ SEQ Division is of the view that State Planning Policies are an appropriate means of giving effect to the interests of the State Government through planning schemes. However, EIANZ SEQ Division would prefer that SPPs clearly not only apply to the assessment of development applications but that its use in code development and strategic, regional and local planning schemes be fostered.

One of the priority areas for EIANZ SEQ Division is the establishment of a strategic framework for planning at a regional level of the preferred use of natural resources – taking a view of both those in private and public ownership - so as to achieve the following outcomes:

- To increase future certainty of land use for an area;
- To minimise future land use conflict on land or adjacent lands; and
- To recognise and address cumulative effects.

This would include consideration of cumulative impacts from existing and future activities in a region.

EIANZ SEQ Division welcomes the opportunity to comment upon SPP 1/03.

As EIANZ SEQ Division is of the view that State Planning Policies influence the various uses of land and development that gives effect to those uses, there may be merit, for simplification of comprehension by the community and their application, for State Planning Policies to be more generic in nature. They could be treated as dealing with one or more of the following generic circumstances:

- Dealing with competitions between one or more uses of a particular quantum of natural resources (land, extractive resource etc) and how planning schemes might address such competition (SPP1/92; SPP 2/07, SPP1/10 and SPP2/10 would logically fit with such circumstance).
- Dealing with conflict within a proposed use of a particular quantum of natural resources (land, extractive resource etc) and how planning schemes might address such conflict (SPP2/02, SPP1/03 and SPP2/10 would logically fit with such circumstance).
- Dealing with external conflict between a proposed use and existing or future use of a particular quantum of natural resources (land, extractive resource etc) and how planning schemes might address such conflict (SPP1/92, SPP1/02 and SPP1/03 would logically fit with such circumstance).

Accordingly it is suggested that similar strategies might be used to address the different “State Interests” and that specific codes be identified to address the different forms of development captured by each specific State Planning Policy.

EIANZ SEQ Division would like to see consideration given to the above suggested generic treatment when undertaking any redrafting of SPP 1/03.

EIANZ SEQ Division would also like to see a clearer linkage between planning schemes, development assessment and statutory instruments for dealing with subsequent on-going impacts of development. The application of the State Planning Policies across the spectrum could better achieve consistencies.

The State Planning Policies, without being prescriptive from a statutory perspective, could spell out the policy intent and be the fulcrum for ensuring consistencies across State Government and between local governments. For example, there are concerns about the interaction of SPP1/03 with the Vegetation Management Act, where rural residential development is proposed in Bushland. At present, the interface is loose in that DERM (as a referral agency, when applying its RaL policies and code) assumes as a 'default' position that homeowners can clear trees around houses for fire protection to a distance of 1.5 times the height of the tallest tree, and 10 m each side of property boundaries; but there appear to be inconsistencies in whether or not Bushfire Management Plans and covenants or conditions 'override' this default position.

### **Specific comments on SPP1/03:**

The following headings relate to those in the SPP1/03 and EIANZ SEQ Division comments are outlined under each heading.

#### **POSITION STATEMENT**

It is noted that Section 2.1 of the SPP has effect when development applications are being assessed; when planning schemes are made or amended; and when land is designated for community infrastructure. However the Position Statement only refers to development. EIANZ SEQ Division believes that the position statement should also reflect strategic planning and therefore the position statement should be reworded as "The Queensland Government considers that **State and regional planning and subsequent** development should minimise the potential adverse impacts of flood, bushfire and landslide on people, property, economic activity and the environment".

#### **PURPOSE OF THE POLICY**

Consistent with the above comments under the position statement, EIANZ SEQ Division recommends that the wording of the Purpose of the Policy be amended as follows: "This State Planning Policy ('the SPP') sets out the State's interest in ensuring that the natural hazards of flood, bushfire, and landslide are adequately considered when making **land use planning decisions and** decisions about development."

#### **APPLICATION OF THE POLICY**

EIANZ SEQ Division recommends that the wording of paragraph 2.1 under Application of the Policy be amended to cover codes developed to assess development applications as follows: "Under the **Sustainable Planning Act 2009 (SPA)**, the SPP has effect when **codes are developed**, when development applications are assessed, when planning schemes are made or amended and when land is designated for community infrastructure."

In the case of flooding, in light of the recent floods in the Brisbane area consideration should be given to the inclusion of proscribed "body corporate infrastructure" within the definition of "community infrastructure" as failure of transformers located within body corporate areas had flow-on effects for power users in adjacent areas. This would then lead to the appropriate location of such infrastructure in areas of hazard risk.

EIANZ SEQ Division sees merit in the intent of Sections **2.2, 2.3 and 2.4**

## USING THE POLICY

EIANZ SEQ Division recommends that the wording of Section 3.2 be amended to remove the suggestion that the SPP be restricted to assessment of development as follows: “This SPP addresses **land use and** development issues associated with minimising the potential adverse impacts of flood, bushfire and landslide. To achieve some of the SPP outcomes, development proposals may include works (e.g. filling, firebreaks or retaining structures) that would have unacceptable impacts on the natural environment, heritage or amenity values. Achieving the outcomes of this SPP is not an automatic justification for a development proposal being inconsistent with policies on amenity, conservation or other matters.”

## THE NEED TO MITIGATE THE ADVERSE IMPACTS OF NATURAL HAZARDS

EIANZ SEQ Division believes that this Section adequately justifies the State Government having the State Planning Policy.

## THE POLICY APPROACH

EIANZ SEQ Division believes there is merit in the identification of *natural hazard management areas*. However, it would like to see greater recognition of cumulative impacts of subsequent development in the definition and subsequent amendment of *natural hazard management areas*. A possible approach may be to define threshold caps of cumulative impact – ideally based on researched local and regional capacity limits - to which approvals may be given and thereafter approvals may only be given if impacts from past development are mitigated sufficiently. The EIANZ SEQ Division would like to see more work in this area.

EIANZ SEQ Division sees merit in the intent of Outcomes 1, 3, 4, 5 and 6 but seeks rewording of outcome 2 for reasons indicated later.

With respect to paragraph 6.6 while the delineation of flood hazard has merit, EIANZ SEQ Division is of the view that it is insufficient. The SPP for flooding should not depend on a Local Government adopting a flood event. EIANZ SEQ Division believes that areas in which a recorded flood event has occurred should be defined as an interim *natural hazard management area* until Local Governments have adopted a flood event. It is suggested that 6.6 be reworded: “The natural hazard management area for flood hazard is dependent on a Local Government adopting a flood event for the management of development in a particular locality and identifying the affected area in the planning scheme. **In the absence of such adoption the SPP applies to areas that have experienced the largest recorded flood event as an interim measure** for development assessment in relation to flood hazard in that locality.” The largest recorded flood is suggested under the considerations of a precautionary approach until work is completed by the Local Government on adopting a flood event.

EIANZ SEQ Division recommends that the wording of Section 6.7 be amended to make it a requirement to consider the likely cumulative impact of the development on subsequent development. as follows “6.7 When assessing applications for development, the assessment manager will need to confirm whether the proposed development is located within a natural hazard management area. The assessment manager will also need to confirm the severity of hazard where such information is available **and the likely cumulative impact of the development on other current and subsequent development within a natural hazard management area.**” This has relevance also the last dot point under Outcome 5; the wording of Annex 4 and suggested solutions within the SPP Guideline 1/03.

## MAKING AND AMENDING A PLANNING SCHEME

While reference is made to the SPP Guideline to making and amending a planning scheme, EIANZ SEQ Division is of the view that the Guideline is unnecessarily general and does not provide adequate practical assistance to Local Governments to achieve Outcomes 5 and 6. For example, 7.5 relates to “**planning scheme strategies** that prevent material increases in the extent or the severity of natural hazards. In relation to flooding, the planning scheme should aim to maintain the flood carrying capacity of rivers, streams and floodways, and the flood storage function of floodplains and waterways. For bushfire hazard, the planning scheme should include strategies that would prevent development (such as plantation forestry) from increasing bushfire risk for existing and planned communities and facilities.” It is suggested reference to strategies is inadequate and that more specific detail appear warranted.

The Guideline should provide guidance on how codes can deal with cumulative impacts and the likelihood that other statutory instruments are likely to be used if unacceptable risks arise as a result of cumulative impacts.

## GLOSSARY

**Floodplain:** be amended by the deletion of “adjacent” as it implies that floods are restricted to areas adjacent to a creek, river, estuary, lake, dam or artificial channel. This has relevance when considering Specific Outcome 2 under Flooding within Annex 4.