



*Timber recycles carbon*



**Timber Queensland Submission on:**

**Performance Benchmarking of Australian Business  
Regulation: Planning, Zoning and Development  
Assessments**

**Timber Queensland Limited  
P O Box 2014  
Fortitude Valley Qld 4006  
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Timber Queensland is the state industry body representing the interests of the full timber value chain; from forest growers, through timber processors and fabricators, to builders and associated building professionals. We welcome the opportunity to make this submission to the Productivity Commission on Planning, Zoning and Development Assessments.

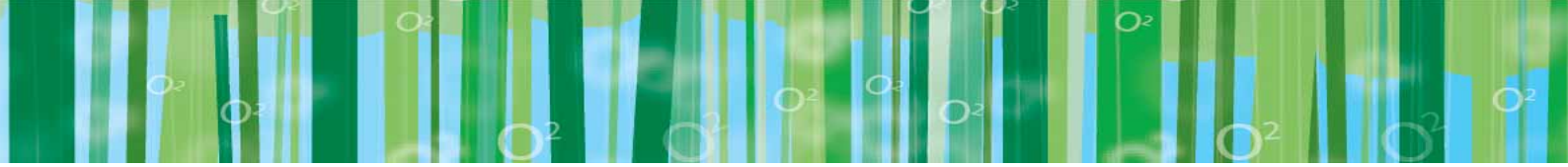
This submission will focus solely on the timber industry's concerns about the use of planning regulation to unfairly impact on new plantation developments in Queensland. Despite a range of operational issues surrounding implementation of the development assessment process that impacts plantation developments in Queensland, of greatest concern is the inappropriate level of assessment in some jurisdictions, giving rise to vexatious appeals by other existing industries concerned about their traditional land base being used for other legitimate agricultural pursuits.

## **Background**

Over the last decade, the plantation sector identified opportunities for the development of a new high value plantation industry in North Queensland, based on the optimal rainfall and availability of suitable soils in this region. This led to a number of plantation companies purchasing land in the area, which included land that had previously been used for sugar cane.

Total expansion of the North Queensland plantation estate has been in the order of 10,000 ha since 2000. This expansion has been on a combination of former grazing land and former cane land. A number of plantation companies have previously indicated their intention to continue to actively build on this estate, however recent financial issues within the plantation sector mean that further expansion will for the time being at least, be limited.

Timber Queensland understands that the sugar milling sector in North Queensland holds general concerns about the long term viability of some sugar mills; a result of many factors, including the market driven conversion of traditional 'cane land' to other uses such as urban development, horticulture and plantation forestry.



There have been numerous public statements by the sugar milling sector and lobbying of local councils raising various concerns about plantation forestry that appear to arise from the fundamental concern about competition for land. This appears to have had some influence on selected local councils in Queensland, particularly the former Cardwell Shire Council.

## Case Study

The Planning Scheme in the Cardwell Shire, where there was a moderate degree of activity from plantation companies, was amended during the planning scheme development process to change the level of assessment for 'forestry' from self-assessable to impact assessable.

It is noted that self-assessable development does not require a formal development application or a development permit (if it meets relevant self-assessable codes) which essentially results in the development being an 'as of right' use. By establishing plantation forestry as impact assessable, it gives rise to formal and far more complex approval process. Apart from the excessive investigations and documentation required for this low impact agricultural pursuit, impact assessable development also establishes third party appeal rights (which are not available through self-assessable development), which have been used by the sugar milling sector to frustrate the approval process for new plantations. These concerns have given rise to at least three hearings on the matter.

One case heard in the Planning and Environment Court, was brought by the plantation company ITC Timberlands against the Cassowary RC, with the Minister for Infrastructure and Planning and interestingly, Tully Sugar as co-respondents, and concerned the process used to amend the Cardwell Shire Planning Scheme. ITC were concerned that the assessment level for plantation forestry in the Cardwell Planning Scheme was modified after the public consultation process and without public notification or ITC's knowledge. The change to the assessment level had a material affect on their business. The finding was in favour of the Cassowary Coast RC, finding that the amendments were not sufficiently different to warrant recommencing the planning scheme consultation process.

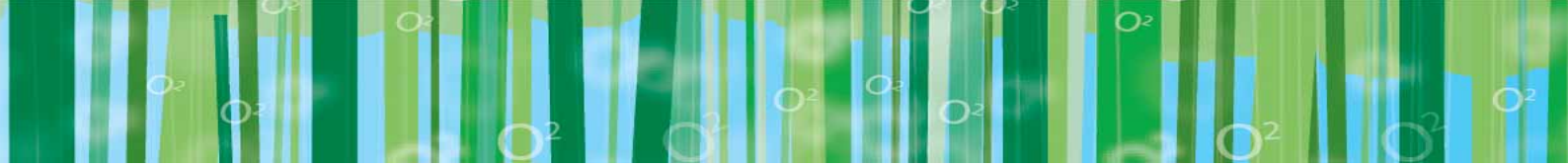
(See judgement at: <http://archive.sclqld.org.au/qjudgment/2009/QPEC09-096.pdf>).

Two other hearings were brought by Tully Sugar, appealing decisions by the Cassowary Coast Regional Council that actually approved plantation developments under the former Cardwell Shire Planning Scheme. One of the appeals did not proceed due to the plantation company going into receivership in the midst of proceedings. The other found in favour of the Cassowary RC, recognising that plantation forestry was a form of agriculture, and that a forestry land use was in fact consistent with the planning scheme and the Far North Queensland Regional Plan 2009-2031.

(See judgement at: <http://archive.sclqld.org.au/qjudgment/2010/QPEC10-041.pdf>).

These cases demonstrate the concern of the plantation sector about the inappropriate use of planning instruments by local governments in Queensland to unduly constrain plantation forestry. They represent an obvious influence of an established industry seeking to make it more difficult for a new and innovative industry to compete for land.

The excessive level of assessment not only adds significant and unwarranted costs to the DA process for a benign land use change, the third party appeal rights have inflicted considerable delay, expense and uncertainty to the approval process.



One of the outcomes of this process is a natural tendency for plantation companies to avoid plantation developments in this local government area. Clearly new industries will avoid areas where the planning processes are complex, costly and uncertain; which is exactly the objective of the existing industries.

## **The Future**

The above cases were conducted in relation to a planning scheme made under the *Integrated Planning Act 1997*, which has now been superseded by the *Sustainable Planning Act 2009* (SPA). All local governments in Queensland will be required to develop new planning schemes that are consistent with the new Act.

The Queensland Government is in the process of finalising a Queensland Timber Plantations 2020 Strategy that will seek to address the level of assessment that local governments can apply to plantation forestry as they make their new planning schemes under the SPA.

Despite the intentions of the Queensland Government, Timber Queensland remains concerned that this process may not deliver adequate outcomes to the plantation sector in terms of the level of assessment or the complexity of the DA process.

We also understand that opportunities to use other mechanisms within the Queensland planning regulations, such as Precincts under the Queensland Planning Provisions, are being actively pursued by some established industries as an alternative means to achieve preferential outcomes in terms of possible land uses. Despite Precincts being introduced into the planning regulations to facilitate development of rural businesses and industries, its use here would have the effect of constraining development.

Timber Queensland is also concerned about the timing of any new provisions being adopted, given that local Governments will have a number of years to develop new planning schemes that are compliant with the SPA. Under the circumstances, the current planning provisions are likely to remain in force for some time yet.

Expansion of the plantation sector in Queensland will continue to be constrained unless planning processes are appropriate to the level of their potential impact, simple, certain and cost effective.

I trust this highlights some very real concerns that relate directly to the purpose of your review. Should you require further details on this matter, Timber Queensland would be happy to assist, and could facilitate involvement of some of the parties that have been directly involved in the above cases.

For further information, contact:

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