



Hon Stirling Hinchliffe MP
Member for Stafford



Queensland
Government

Our ref: 09/435

Minister for Infrastructure and Planning

23 APR 2009

Mr Bill Grant
Chair
Board of Urban Land Development Authority
PO Box 3643
South Brisbane BC QLD 4101

Dear Mr Grant

I refer to correspondence of 5 January 2009, from Mr Paul Eagles, Chief Executive Officer (CEO), Urban Land Development Authority (the Authority) to the Honourable Paul Lucas MP, Deputy Premier and former Minister for Infrastructure and Planning, seeking consideration of the proposed Bowen Hills and Northshore Hamilton Development Schemes in accordance with sections 30 and 31 of the *Urban Land Development Authority Act 2007* (the Act).

In considering the request from the Authority, I note the Authority's Board approved the report prepared in accordance with section 29 of the Act and amendments to the Bowen Hills and Northshore Hamilton Development Schemes at its meeting of the 15 December 2008. I also note the advice from the CEO that the Authority has met the requirements of sections 27, 28, 29 and 30 of the Act in making and submitting the development schemes for my approval.

As you would appreciate the time period for making the amendments expired during the caretaker period for the recently held State General Election. As the requests from affected owners to the former Minister for Infrastructure and Planning had been carefully considered at the time of the caretaker period taking effect, I have decided that, in the interests of all stakeholders, to progress the process to finalising the development schemes as expeditiously as possible.

In that regard, I have decided that I will utilise the powers available to me under section 130 of the Act and direct the Authority to make amendments to the submitted schemes.


In addition I consider that the development schemes for the proposed Bowen Hills and Northshore Hamilton Urban Development Areas (UDAs) should be amended to better reflect the need to protect future transport corridors within these areas.

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In order to address each of these issues please find enclosed a direction issued under section 130 of the Act requiring the Authority to resubmit amended development schemes under section 29 of the Act.

I trust this information is of assistance. If you require any further information, please contact Mr Andrew McEwan, Director, Specialist and Infrastructure Planning Division, Planning Group, Department of Infrastructure and Planning, on 323 71261 who will be pleased to assist.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stirling Hinchliffe', with a long, sweeping underline that extends to the right.

Stirling Hinchliffe MP
Minister for Infrastructure and Planning

**NOTICE OF MINISTERIAL DIRECTION MADE UNDER THE URBAN LAND
DEVELOPMENT AUTHORITY ACT 2007**

Pursuant to section 130 of the *Urban Land Development Authority Act 2007* (the Act), I hereby give the Urban Land Development Authority (the Authority) a written direction about the performance of its functions.

Background:

The Bowen Hills and the Northshore Hamilton Urban Development Areas (UDAs) were declared under the *Urban Land Development Authority Regulation 2008*, on 30 March 2008.

On 20 October 2008, the Authority publicly notified proposed development schemes for the Bowen Hills and the Northshore Hamilton UDAs pursuant to section 25 of the Act. The public notification period for both UDAs ended on 2 December 2008.

59 submissions were received for the proposed Northshore Hamilton development scheme by the close of the submission period with 8 late submissions received.

40 submissions were received for the proposed Bowen Hills development scheme by the close of the submission period with 6 late submissions received including a submission from Queensland Transport seeking an amendment to ensure that future transport corridors would be protected from out of sequence or inconsistent development proposals.

The Authority, in accordance with the requirements of sections 27 and 28 of the Act, received submissions, reviewed the submissions and amended the proposed development schemes for Bowen Hills and Northshore Hamilton UDAs.

On 5 January 2009, the Authority, in accordance with section 29 of the Act, made the development schemes and submitted the amended development schemes to the Minister, together with the report on submissions.

On 5 January 2009, in accordance with section 30 of the Act, the Authority provided each submitter with a notice stating that the development schemes had been made and submitted to the Minister and that if the submitter was an affected owner, they may, within 20 business days after receiving the notice, ask the Minister to amend the scheme to protect the owner's interests.

During the 20 business day period, which ended on the 4 February 2009 the Minister received:

- nine requests relating to the proposed Bowen Hills development scheme;
- 10 requests relating to the proposed Northshore Hamilton development scheme;

from affected owners asking the Minister to amend the proposed development schemes to protect their interests.

Further information provided by affected owners in support of their requests to the Minister provided further clarification on clarified matters raised in their original submissions to the Authority.

Under s31(1) of the Act the Minister may amend the submitted scheme in a way the Minister considers appropriate to protect an affected owner's interests. Section 31(2) of the Act states the amendment may be made only if—

- the affected owner has, within 20 business days after being given notice of the submitted scheme under section 30 of the Act, asked the Minister to amend it to protect the owner's interests; and
- the amendment is made within 40 business days after the submitted scheme was given to the Minister.

Under s32 of the Act, if the Minister considers an amendment of a submitted scheme significantly changes the submitted scheme, the Minister must give the Authority a written direction to re-comply with sections 25, 27, 28 and 29 of the Act for the submitted scheme as amended.

The timelines for these requirements were:

- for affected owners to have asked the Minister to amend the submitted scheme to protect the owner's interests by 4 February 2009.
- for the amendment to be made by 4 March 2009.

Under section 33 of the Act a proposed development scheme does not take effect until it has been approved under a regulation.

Prior to the recent election being called, the Department of Infrastructure and Planning (DIP) officers were in the process of preparing a briefing note recommending that the Minister amend the proposed development schemes to protect affected owner interests. The schedule to this notice summarises matters raised by submitters identified by DIP officers.

As a result of the election being called on 23 February 2009, and the operation of the caretaker convention, the Minister was prevented from amending the proposed development schemes to protect affected owner interests within the time frame allowed under the Act.

On 20 March 2009, a regulation was made under the Act to re-make interim land use plans for both the Northshore Hamilton and Bowen Hills UDAs.

Issuing a direction under section 130 of the Act requiring the Authority to reconsider submissions under section 27 of the Act will trigger a new 20 business day period for affected owners to ask the Minister to amend the development schemes to protect their interests.

Reasons:

On the basis of the above I have formed the view that:

- the Authority's functions under the Act include:
 - consideration of submissions regarding proposed development schemes under sections 26 and 27 of the Act;
 - amendment of proposed development schemes in any way it considers appropriate under section 28 of the Act;
 - making a development scheme and submitting it to the Minister under section 29 of the Act;
 - amending a development scheme under section 38 of the Act;
- as a result of the recent election and the Government's adherence to the principles of the caretaker convention the Minister was prevented from amending the proposed development schemes for the Northshore Hamilton and Bowen Hills UDAs to protect the interests of affected owners;
- exercise of the Minister's power under section 130 of the Act is justified by the existence of important matters that have not been addressed by the Authority including:

- the interests of affected owners and submitters including the matters identified in the schedule to this notice;
- the need to ensure that development does not constrain future provision of public transport infrastructure and does not adversely impact on the function or operation of existing or future public transport corridors future transport corridors are protected from out of sequence or inconsistent development proposals;
- further delay to the commencement of the development schemes for the Northshore Hamilton and Bowen Hills UDAs has the potential to compromise the purposes of the Act under section 3 of the Act;
- amending the proposed development scheme in such a way that resulted in a significant change would require the Authority to renotify the proposed development schemes under section 25 of the Act and would result in an unacceptable delay to the commencement of the proposed development schemes for the Northshore Hamilton and Bowen Hills UDAs.

For these reasons, I have decided to make the following direction to the Authority.

Direction:

Under section 130 of the Act I hereby direct the Authority to:-

1. under section 27 of the Act reconsider all submissions received by the Authority under section 26 of the Act, including all late submissions, in relation to the proposed development schemes for the Northshore Hamilton and Bowen Hills UDAs.
2. under section 28 of the Act amend the proposed development schemes for the Northshore Hamilton and Bowen Hills UDAs in any way the Authority considers appropriate to address the matters identified in the reasons above - provided that the Authority is satisfied that the changes required will not involve a significant change to the proposed developments schemes.
3. resubmit the proposed development schemes to the Minister under section 29 of the Act.
4. following commencement of the proposed development schemes for the Northshore Hamilton and Bowen Hills UDAs under section 33 of the Act – prepare amendments to the relevant development schemes under section 38 of the Act that the Authority considers appropriate to address matters referred to in direction 2. that the Authority considers would require a significant change.


Stirling Hinchliffe MP
Minister for Infrastructure and Planning

23rd April 2009