



Submission No. 008
11.1.13

Submission to:

The Infrastructure, Planning and Natural Resources Committee

Regarding the

- Planning and Development (Planning for Prosperity) Bill 2015
 - Planning and Development (Planning Court) Bill 2015
 - Planning and Development (Planning for Prosperity – Consequential Amendments) and Other Legislation Amendment Bill 2015
- Regarding Committee Inquiry on:

Overview and Background

The Noosa Shire Residents and Ratepayers Association has been actively advocating for the sustainable development of the Noosa area for over 40 years. It is likely that the group may never have commenced and Noosa would not have its now world renown tourist image had the objectionable elements of these Bills be in force at the time of our establishment.

Our group was formed as a result of the very first community protests about planned high-rise development on Hastings St behind Noosa Main Beach. A resident Marjorie Harrold took the matter to court; something that would be far too risky if these bills and the current Court Cost rulings introduced by the SPOLA amendments existed in the 1970s.

However, deterring active community involvement in the defence of Planning Schemes and community values are only one of the concerns we have with the Private Members Bills as they contain a number of impediments to effective and participatory statutory planning and development control to achieve sustainability goals. Our organisation believes the Bills implicitly threaten the ability of the community and our local Council to develop a new planning scheme that protects the natural assets and development principles that underpin the current Noosa Plan and defend appeals that seek to achieve compliance with our agreed assessment of natural, social and economic carrying capacity of the Shire. The specific areas of concern are outlined below.

Specific Concerns in regard to the Bills

The issues of concern include:

- The reduction of the statutory advertising periods and requirements will give local communities and groups such as ours insufficient time to develop informed opinions and submissions;
- The reduction in the time period for council assessment which will arguably lead to poorer scrutiny of applications
- the broadening of Ministerial powers will enable the state government to override local councils
- the court cost settings in the Bill.

The proposed Planning & Development Bill maintains the criteria for making a court ordering costs against a party introduced with the SPOLA Bill in 2012. These provisions placed significant financial risks to all unsuccessful parties, but was a massive deterrent to community groups defending their local planning scheme. The new Bill appears to take the disincentive further by including a proposed "power to order costs against someone who has an interest in the proceeding but is not a party to the proceeding. These rules do not serve the public interest of enabling the community, submitters, local governments and developers to dispute planning decisions due to the risk and uncertainty of the Court awarding costs against them.

The Noosa community has recently had to pay the cost of the current developer friendly court costs initiative of the previous government when costs were awarded against Council in the Masters case, despite the judge acknowledging that there were pertinent planning issues raised by Council. This would have been unheard of three years ago. The previous legislative settings whereby only frivolous and vexatious appellants faced the risks of meeting their opponent's court costs are more equitable and preferable.

More generally our group has concerns that the principle tenets and direction of the Bills are such that they are likely to facilitate arbitrary enlargements of the Urban Footprint through a weakened regional planning regime. Our organisation is concerned that these reforms therefore have the potential to threaten the underlying principles of the Noosa Plan which is based on fitting development within a sustainable carrying capacity. Developing a new Planning Scheme which protects the natural values and principles which we hold dear, while providing flexibility for developments that meet the needs of our new economy and a changing demography will be a top priority for the next Council. We therefore argue that the government must ensure that planning reform and new legislation helps not hinders this process.

I have three decades of experience as a planner in local and state government and a doctorate in sustainable systems, and I argue on behalf of my organisation that when these proposed changes are combined with the already watered down State Planning Policies the carry capacity concept, popularly known as a 'population cap' embedded within in its Planning Scheme will face massive pressure.

Recommendations

NSRRA calls on the government to strengthen, not weaken, the planning system to protect communities and the environment from shoddy development. We oppose the direction of the Private Members Bills and recommend that any planning reforms:

1. Retain well-founded principles of Ecological Sustainable Development as the overriding aim of the planning system.
2. Returning the Planning & Environment Court cost rules to what existed prior to the changes made under SPOLA legislation.
3. Maintaining existing public advertising of development applications and statutory time frames for advertising and assessment.
4. Rule out any move to private certification of planning applications.
5. Maintain local Councils primary role in designating community infrastructure.
6. Not increase the Ministers powers in the assessment of planning applications in anyway.

Yours Faithfully,



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