



NERANG COMMUNITY
ASSOCIATION INC

Giving our community a voice since 1994.

Research Director
Infrastructure, Planning and Natural Resources Committee
Parliament House
George Street
Brisbane QLD 4000

By email to: ipnrc@parliament.qld.gov.au

Dear Sir/Madam,

Re: Submission on the Draft *Planning and Development (Planning for Prosperity) Bill 2015* and *Planning and Development (Planning Court) Bill 2015*

The Nerang Community Association (NCA) is an apolitical, broad-based residents' group formed some twenty-one years ago to give the residents of postcode 4211 (Nerang and environs) a voice in the decision making of their area. We work with the three-tiers of government and in particular the Gold Coast City Council. Amongst our sub-committees (roads, traffic and transport; youth and community; environment and heritage; parks and gardens; Riverside Community Group; Friends of the Maid of Sker; Friends of Shepherd Hill Lane; Friends of Coolbunbin Creek; Nerang Celebrates (our community's annual Christmas celebration) is our planning committee.

This committee seeks to ensure that good planning principles are applied to development in the area. We are conscious of job provision, but firmly believe that good development provides just as many jobs as poor development and is ultimately more cost effective for the community in the medium to long-term. Where possible, we have worked co-operatively with developers and, for example, for a slightly smaller yield lot-wise, together we have achieved well-planned estates that have attracted a higher lot price at sale time.

The NCA has seen it all. From building on greater than forty per cent slopes, roads constructed on very steep slopes that will require extensive maintenance because of the very nature of their construction and our climate, to attempts at wiping out environmentally-valuable creek courses and well-functioning wildlife corridors for endangered native animals (including koalas) and birds. All to achieve several additional lots to give a greater yield, yet overlooking

the desire of purchasers to live in well-planned, safe and community-focused residential areas.

Clearly, this statement over simplifies, but when residents and community groups have to take court action to protect their neighbourhoods against inappropriate development and uphold sound town planning principles - principles that should be enshrined in our Planning Schemes and complied with to the hilt by the supervising local authority - the system is simply not working as it should.

If residents care enough to want to ensure good planning for their area, it should be a democratic right to apply to the court to assess the appropriateness or otherwise of a proposed development. "Big stick intimidation" (via costs may be awarded) is not conducive to good planning outcomes.

We spend millions of ratepayers' dollars on a planning scheme for a Local Authority area only to see the planning scheme abandoned to loose interpretations. Bad planning decisions have extremely detrimental impacts on residents' lifestyles, quiet enjoyment of their properties and health and wellbeing of residents.

It is already particularly hard for individuals and community groups to take action in the planning court. And there are already considerable costs to do so. The Integrated Planning Act provisions certainty that appears to be lost with SPA.

It is clear communities can no longer rely on the Planning Scheme via the Sustainable Planning Act to deliver outcomes that once would have been taken for granted. In fact, it appears to those of us at the planning coalface, that SPA, legislation we all hoped would create sustainability in the real sense has sadly created the opposite. Unfortunately, once one inappropriate development is approved, there is little chance of stopping other bad developing following once the precedent is set. This can completely ruin the amenity and liveability of an area.

To take away a resident's right to object to inappropriate development is a grievous attack on our democratic rights. When we make the Planning and Environment court structure cost prohibitive for individuals and community groups, we are usurping the basic right.

Planning and Environment Court should, by its very nature, be user friendly and protect communities from inappropriate development.

When it happens, bad development is not sustainable and the maintenance cost to ratepayers when the developer has walked away is an unfair impost.

It works both ways. If a developer is conforming to the Planning Scheme there is little likelihood of any court appeal. When Planning legislation is strengthened to allow equity for both residents and developers, there is surety that a neighbourhood will not be ruined by inappropriate development and the developer knows the rules and can work within them to ensure his development conforms.

Everyone – developers and the community - should have a guarantee that the investment they make is sound. Most planning-focused discussions (investors and residents) we have had lament this lack of surety. Even professional town planners are challenged.

Thank you for the opportunity to make a submission on these Private Member Bills. Planning decisions impact on the environment and all Queenslanders. Planning legislative frameworks must provide for:

- transparent and accountable decision making processes, with clear and firm criteria not subject to discretion;
- statutory rights enabling the community to participate in planning decision making through submission and appeal rights; and
- statutory rights enabling easy public access to all necessary information to properly understand the likely impacts of a development proposal.

We are very concerned that these Bills do not provide for these essential elements of democratic planning legislation and we request that the Committee recommends that these Bills are not passed.

Planning and Development (Planning for Prosperity) Bill 2015

The importance of Ecologically Sustainable Development

Ecologically Sustainable Development (ESD) is the foundation of best-practice planning and development. We support that ESD has been included in the purpose of the Bill, however for ESD to be truly integrated into planning decision making in line with national and international standards:

- it should be the core purpose of the Bill – in line with the Sustainable Planning Act 2009 section 3, not simply a means of achieving the vague concept of ‘prosperity’;
- the principles of ESD must be provided for in the Bill;
- there must be a requirement that this purpose be advanced in decision making under the Act.

Community involvement in decision making

This Bill makes community participation in decision making discretionary and provided for through only subordinate legislation or rules. Community participation in decision making is essential to transparent and accountable planning and development and is necessary to ensure decisions are informed by local knowledge and reflect all relevant interests and have community support.. As stated by ICAC, NSW (2012): *The absence of third party appeals creates an opportunity for corrupt conduct to occur, as an important disincentive for corrupt decision-making is absent from the planning system.*

Public submission rights lead to appeal rights. The requirement for public notification of impact or ‘merit’ development applications must be obligatory and provided for in the Act, with details specified in the Act as to how and when this must be undertaken. Public notification must be required to be undertaken after the information request stage so that the community is as informed as possible when making submissions.

Public access to planning and development information

This Bill greatly weakens transparency in planning decision making by providing:

- requirements for public access to information through 'access rules' which have not yet been seen – public access to information must be a requirement provided in detail in the Act, not in rules which may be changed easily and which are not enforceable;
- a loose and discretionary approach to the type of information required to be made available to the public – the types of documents and information must be clearly listed in the Act; and
- no obligation for the information request stage to be undertaken prior to public notification; the public must be as informed as possible prior to making their submission, this saves all stakeholders time and money.

Public access to planning and development information is integral to a transparent and accountable planning system. We do not support reform that weakens rules regarding access to information and allows for decisions regarding access to be made arbitrarily.

Planning and Development (Planning Court) Bill 2015

Free and fair access to the court

We reject recent changes to cost rules under the planning legislation which open up the possibility of costs applications against submitters. There are already numerous hurdles hindering the public from utilising their rights to participate in development appeals. It is in the public interest, and the interests of transparency and accountability, to support community access to the court by maintaining the 'own costs' rule. The 'own costs' rule must be enshrined in our planning legislation in Queensland.

Clearly, if it were found that a party to an Appeal had acted in a frivolous or vexatious manner, then costs under those guidelines should be recovered.

As Chair of the Planning & Development committee of the Nerang Community Association, I have been involved in several planning and environment court matters and have liaised with and assisted developers before lodgement of their development applications in an effort to get a win-win outcome for the developer and the community. We believe when government/ local authority, business and the community work together, the outcomes are better for all.

I have been authorised by the Executive Committee and a general meeting of the Nerang Community Association to make this submission on the Draft *Planning and Development (Planning for Prosperity) Bill 2015* and *Planning and Development (Planning Court) Bill 2015*.

The Nerang Community Association would be happy to discuss further and may be contacted on 

Sincerely,

Lynn Ogden

Lynn Ogden
Secretary, &
Chair, Planning Committee

Nerang Community Association Inc

PO Box 711, Nerang, Qld;
