



Gecko - Gold Coast and Hinterland Environment Council Assn Inc.

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Research Director
Infrastructure, Planning and Natural Resources Committee
Parliament House
George Street
Brisbane QLD 4000
By email to: ipnrc@parliament.qld.gov.au

Dear Research Director

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

Gecko- Gold Coast and Hinterland Environment Council Assoc. Inc. (Gecko) is a not-for-profit environment association founded in 1989 and has been active for the past 25 years in protecting the environmental values and ecological sustainability of the Gold Coast, Queensland and, when appropriate, nationally. Our Mission statement is: -*"To actively promote, conserve and restore the natural environment and improve the sustainability of the built environment of the Gold Coast region in partnership with our member groups and the wider community."*

Thank you for the opportunity to make a submission on these Private Member Bills. The environment and all members of the community are impacted by the implementation of planning decisions based on the Planning legislation framework. Gecko believes strongly that planning for our State and cities must engage the community as well as those industries involved in development and property. As such, Planning legislative frameworks must provide for:

- transparent and accountable decision making processes, with clear and firm criteria not subject to discretion of bureaucrats or Ministers without good law based evidence;
- 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. This is a particular problem if regulations giving the detail of the Bill intentions are not available to the public at the time of submissions on the Bill.

Gecko is 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. It is also important to recognise that the current Government is in the process of developing planning reform legislation that will be out for public submission before the end of 2015 and to pass these private members bills before this time unreasonably complicates this reform process.

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 and has been a requirement for all State Governments to adhere to since 1992. Gecko supports 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’, which is not sufficiently defined for the average reader to determine if this concept includes ESD;
- 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 only through subordinate legislation or rules. It is unacceptable to reduce community rights to make submissions on legislation and development decisions and is clearly contrary to the concept of democracy. The community is often unaware of subordinate legislation or rules which further compounds the lack of opportunity for participation in decisions that affect them. Further, the drawing up of a regulatory framework subsequent to the passing of a Bill may not provide public consultation opportunities into the drafting of the framework. 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 and the right to make submissions on 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. The time frame for making submissions should afford the public a reasonable period within which to understand draft Bills and to make meaningful comment. A draft Bill years in planning cannot be properly examined over a period of a few weeks.

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. This is a good example of legislation being put out for public comment without the public having knowledge of all aspects of the legislation that will affect them. Public access to information must be a requirement provided in detail in the Act, not in rules which may be changed easily, which are not enforceable and often unknown to the community;
- 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.

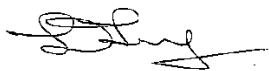
Public access to planning and development information is integral to a transparent and accountable planning system. Gecko does not support reform that weakens rules regarding access to information and allows for decisions regarding access to be made arbitrarily by a bureaucrat or other, especially when the criteria for the decisions is unknown to the public or very difficult to access.

Planning and Development (Planning Court) Bill 2015

Free and fair access to the court

Gecko completely rejects 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 and the cost of mounting a case is already formidable and not taken lightly by community members. 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.

Yours sincerely



Lois Levy. OAM
Vice President