**From:**
**To:** State Development Infrastructure and Industry Committee
**Cc:** .
**Subject:** submission
**Date:** Wednesday, 10 October 2012 8:39:45 PM

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Sustainable Planning and Other Legislation Amendment Bill 2012

I object to the removal of the "own costs" provisions for matters presented to the Planning and Environment Court.

The risk of crippling costs will reduce access to the court for average people, smaller councils and small business. Even a great case can fall over in a court, and losing everything built up over a lifetime is not a risk that many would take. Large developers and big business will be unphased by changes - they have a lot to gain, and can bear the loss if it happens.

I have recently been involved in an appeal to the Planning and Environment Court. The development I objected to was valued at several hundred million dollars, so the developer was prepared to expend considerable funds in the appeal. There is no way I could match their spending, or risk being charged even a small portion of their costs. Without the "own costs" provisions, my view would not have been presented to the Court. As it is, I feel that I have been heard, and the Court is better informed than would otherwise have been the case.

I agree that there may have been cases where the process has been abused, but the proposed change will introduce problems of its own e.g. smaller Councils will not bother refusing a development application, simply because they know that there is a risk of losing an appeal. Small business and individuals will certainly be less likely to use the Court.

It may be possible to meet the objectives of the changes by tightening up the definitions of "frivolous or vexatious" that the Court can use to award costs. Any failure to meet Court timelines should also be penalised. However, making the loser responsible for all costs, no matter how genuine their case was, is going too far.

I urge the Government to retain the "own costs" provisions in the Planning and Environment Court.

Yours faithfully

Mark Lawler