

Sonya Maley



State Development, Infrastructure and Industry Committee
Parliament House
Corner George and Alice Street
BRISBANE QLD 4000
By email transmission to sdiic@parliament.qld.gov.au

11 October 2012

Dear Sir/Madam

RE: Changes of cost jurisdiction in the Planning and Environment court.

I write this submission as an individual who has had first-hand experience as a lay person appellant in the Planning and Environment court. It is my firm belief that the proposed changes to a cost awarding court is fundamentally flawed and offer our case as evidence of why.

In 2010 I stepped into a Planning and Environment court room for the first time to challenge what my neighbours and I believed was a miscarriage of justice. I had no legal representation and have no legal background.

In that case, Council had acted against its council staff recommendation and approved a development that adversely impacted on our neighbourhood and made living next to it untenable. There had been an evident lack of due diligence applied to assessing the impacts from this development and our appeal was structured to force the Council into conducting appropriate investigations. We were willing to accept independent evidence provided by the experts and believed these opinions should have been sought prior to granting development approval.

In our case, the experts' advice validated our position and the Council was no longer able to support its position in the appeal process. It effectively changed sides and the developer did not pursue the matter through to trial. Our case demonstrated that; in planning and environment matters mistakes can be made.

In light of the proposed changes as they relate to awarding of costs, we now ask ourselves the question; would we have pursued forcing the case if it had meant potentially incurring a crippling debt?

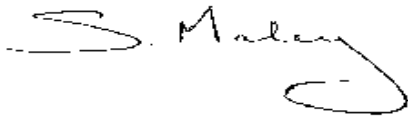
Currently, the P+E court encourages and nurtures those with limited understanding of law and legal procedure like me to seek natural justice (independent of lawyers) without fear of losing the family farm or fortune.

The proposed changes will undoubtedly exclude those lacking significant financial capacity to engage professional legal representation in the first place or to pay up should they lose. The prospect of prospective appellants facing financial ruin will, without doubt, unfairly limit the availability of natural justice for all. Your proposal will effectively deny that right by virtue of the fact that there is generally an unequal position of wealth represented in these cases. The legal bill for the case I was involved with would be in excess of \$300,000 for both council and the developer with the many experts, barristers, solicitors and paralegals involved.

The argument that other courts award costs holds little weight. P+E matters typically have one who stands to financially gain and the other who simply wants to retain their natural amenity and way of life. These proposed changes effectively support those who have the most dollars to gamble – typically the developer.

I urge you to reconsider this particular proposed amendment and consider its implications in more depth. It would destroy the fundamental right for most ordinary citizens to speak out and challenge inaccurate and unjust decisions without fear of being lumbered with a life-long debt should they not succeed.

Yours faithfully

A handwritten signature in black ink, appearing to read "S. Maley". The signature is fluid and cursive, with a large loop at the end of the last name.

Sonya Maley

Cooroy bells will chime no more

<http://www.noosanews.com.au/news/bells-will-chime-no-more-cooroy-function-centre/781445/>

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- Peter Gardiner
- 1st Mar 2011 2:00 AM

STORY TOOLS

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There will be no more weddings at the Plantation following a court ruling on the matter.

WEDDING bells will ring again at a controversial Cooroy function centre, but an intriguing legal finding means they will be silenced forever before the end of April.

And a Planning and Environment Court ruling last Wednesday means it will be a case of three weddings and a wake for long-suffering Cooroy residents to celebrate the demise of The Plantation.

Management of the controversial function centre, which expanded without council approval from a bed and breakfast, has agreed to its demise as after April 24.

Justice John Robertson made an official order that The Plantation will be allowed to have three pre-booked weddings under strict conditions to protect the amenity of their neighbours.

This includes the nuptials of Sydney-based Joel Snellenburg and high school sweetheart Belinda Owens.

They will walk down the aisle on March 12 at the Mary River Road centre.

Two more couples and their wedding guests will be hosted there on April 16 and April 23. It is believed that a total of 17 outstanding weddings were booked, despite a court order last September setting a December deadline for such. However 14 apparently cancelled because of the uncertainty.

Back in September the court found that The Plantation's use as a function centre was unlawful after council had taken action against the centre because it had failed to implement the approval conditions that included steps to minimise noise impacts.

Town planning consultant for the opposing residents, Paul Summers, was scathing about the council, and singled out local councillor Lew Brennan, who had successfully argued to have a council staff recommendation for the centre's approval ignored.

Cr Brennan at the time cited a compelling economic benefit to Cooroy from The Plantation bookings.

Mr Summers believed it was only the persistence of the individuals like Sonya Maley, who took on council and The Plantation management, which resulted in the centre's honeymoon period finally ending via the court approval form only three more weddings.

"This has been an extraordinary case and Sonya Maley's persistence and strength in the face of adversity brought the result," he told the Noosa News after the court order.

"It does put into question Cr Brennan's advocacy for this use, particularly in the light that the staff was arguing on purely technical (noise) issues and of course when it comes to acoustics, the issues are very technical.

"Fortunately for the residents, the council officers involved in the running of the case were unable to find evidence to support Cr Brennan's arguments and the council had to change sides (during the proceedings).

"The sad thing is, had Cr Brennan sought to gain evidence (supporting the application) before arguing for an approval, the extensive funds and efforts in bringing an appropriate decision about would not have been wasted."

Ms Maley said that a recent Sunshine Coast Daily article had reported Cr Debbie Blumel "grumbling" about how much council spends on legal fees associated with development applications.

"It's easy to reduce legal fees councillor, listen to your staff," Ms Maley said.

Cr Brennan said he argued for the function centre based on major support from the town of Cooroy and the local chamber of commerce and he felt there was still a need for the sort of business The Plantation generated in the area. He believed the centre's location had been suitable as there was only one street of residential.

"I took the time to speak with the one family really affected and understand their concerns," Cr Brennan said.

The Plantation is required to post a \$10,000 bond that will be returned once the centre has complied with a string of conditions.

The order states: "The development (the three weddings) must be undertaken and operated in a manner that causes no detrimental impact upon the amenity of the neighbourhood by reason of the creation of noise, lighting nuisance or other emissions."

The Plantation will be allowed to function as an accommodation centre more in keeping with its original bed and breakfast role after the April cut-off and the court approved the addition of eight onsite guest rooms.

“It does put into question Cr Brennan’s advocacy for this use” Paul Summers