11 October 2012

VIA E-MAIL (sdiic@parliament.qld.gov.au)
State Development, Infrastructure and Industry Committee
Queensland Parliament
Parliament House
Brisbane QLD4000

Dear Sir/Madam,

**Submission re: Sustainable Planning and Other Legislation Amendment Bill 2012 (SPOLA)(Qld)**

The signatories to this submission, Australian citizens resident in Queensland, are concerned about the potential impact of some of the proposals contained in the SPOLA Bill. Although we are members of several community groups (e.g. Noosa Residents and Ratepayers Association Inc.) which we understand will be forwarding submissions to the Committee, our concerns are such that we feel obliged to write a personal submission.

Our key concerns are as follows:

1. While we sympathise with the stated intention to 'make improvements' to the planning system, reduce 'red tape' and achieve a 'more streamlined and simplified' planning and development system, we note that good planning not only needs to be efficient but should also to reflect the interests and concerns of local communities. Genuine community groups, honestly trying to protect their environment or other public interest within their community, should surely be given space to advance their arguments.

2. We understand that while the SPOLA Bill will give the P & E Court a broad discretion to award costs, the general rule will be that 'costs follow the event'. The effect will be to bring the P & E Court in-line with the usual rule in civil litigation that the losing party pays the winning party's costs. This stance differs significantly from that currently in place. We understand that for the past two decades the general rule in relation to costs in the Planning and Environment Court has been that each party bears its own costs. We note that while the Court has had the discretion to award costs in certain circumstances (e.g. if it determines that the proceedings are 'frivolous or vexatious'), this discretion has been sparingly exercised. In effect the existing 'each party bears its own costs' rule allows public access to justice in the P & E Court.

3. We note that community interest groups are usually funded by individuals. Even under the existing system such groups struggle to meet their own legal costs, often having to rely on pro bono legal practitioners and voluntary expert witnesses. We understand that under the SPOLA Bill such groups will not only be responsible for their own costs (as at present) but will also face the possibility of having to pay the

costs of (say) a developer whose application they are opposing on public interest grounds and possibly also the costs incurred by local government. It seems to us that under the SPOLA Bill such community interest groups will be less able and less willing to litigate in the public interest. To put it more bluntly, the SPOLA Bill appears likely to give much more power to those with 'deep pockets' to the possible detriment of local communities.

Thank you for the opportunity to make this submission. We note that the Committee has the right to consider whether to accept a submission, based on its relevance and content, and if it is accepted whether to publish it.

Yours faithfully,

Dr. Keith Trace Mrs Rosalind Trace