PO Box 269 3 Porters Lane
Nambour QLD 4560

info@scec.org.au
T 07 5441 5747 F 07 5441 7478
www.scec.org.au

SUNSHINE COAST
Environment Council

VIA EMAIL (sdiic@parliament.qld.gov.au)
State Development, Infrastructure and Industry Committee
Queensland Parliament
Parliament House
Brisbane QLD 4000

Dear Sir/Madam,

Sustainable Planning and Other Legislation Amendment Bill 2012 (Qld)

The Sunshine Coast Environment Council (SCEC) is the peak environmental advocacy group on the Sunshine Coast representing over 40 community groups with a combined membership of around 15,000. On behalf of all our members I object in the in the strongest possible terms to changes proposed in the SPOLA Bill in relation to the awarding of costs in the Planning and Environment Court (P&E Court).

The Bill **WILL**:

- Deny all but the most wealthy the ability to take legitimate cases before the Queensland Planning and Environment Court, through fear of crippling costs orders;
- Tip the scales of negotiation and dispute resolution in favour of large Councils and developers who can afford the risk of going to trial; and
- With negligible consultation, overturn a 20+ year rule which has served an important public interest of community involvement in planning decisions which affect everyone.

The Bill **WILL NOT**:

- Reduce appeals by commercial competitors which have too much to gain to be dissuaded from "delay and obstruct" tactics, and are already at risk of costs orders;
- Reduce appeals that lack reasonable planning grounds as they are already rare and subject to the risk of costs orders;
- Improve early resolution of appeals which are already resolved 95% of the time before trial; or
- Meaningfully improve development assessment as less than 0.1% of development applications are delayed by third party trials.

The existing arrangements have each party bearing their own costs except for limited exceptions, such as where the P&E Court can rule that an appeal was "frivolous" or "vexatious". For most members of the community and most community organisation bearing cost is a sufficiently high hurdle to ensure they do not embark on a "frivolous" or "vexatious" appeal. Community groups are already reluctant to enter the complexities and expense of the Court process and do so as a last resort in order to protect their environment, amenity or lifestyle.

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However there are cases where the community feels so strongly about a particular topic that it is willing to engage in the complex and often lengthy and costly process of a legal appeal (court data shows that this is around 3% of development applications with 90% of these resolved prior to a full hearing). Where the community does so it exercises its right under the *Sustainable Planning Act 2009* (and its predecessors) which provides for "*opportunities for community involvement in decision making*".

The proposed legislation will shut the door on this opportunity by imposing a risk of bankruptcy on would be community litigants. This denies the community the opportunity to test the validity of planning decisions that threaten its identify, community values or the environment and in so doing erodes our democratic processes.

I urge you in the strongest possible terms to reject the proposed changes and amendment the Bill to ensure that the 'own cost' approach is retained to allow community involvement in the Court process to continue.

Sincerely,

Wiebe ter Bals
Executive Officer
12 October 2012