11 Oct 2012

State Development, Infrastructure and Industry Committee
Queensland Parliament
Parliament House
Brisbane QLD 4000
(sent by e-mail to sdic@ parliament.qld.gov au)

Dear Sir/Madam,

Sustainable Planning and Other Legislation Amendment Bill 2012 (Qld.)

We are residents of the Noosa hinterland and have developed, along with countless others, a passionate commitment to preventing this area, and the Noosa precinct itself, from being spoilt, for everyone, by excessive or inappropriate development.

We are active members of and participants in various local community groups…whose prime purpose is the protection, and continued improvement, of the local environment. The main threat to that environment comes from inappropriate development.

Accordingly, we are alarmed by one of the proposed legislative amendments to the time-honoured Planning and Environment Court process, namely the proposed protocol regarding legal costs arising from appeals against planning decisions.

The proposed change to the costs protocol would, we understand, extinguish twenty-two years of a system which is palpably and undeniably fair. It simply cannot be argued that Court appeals against development decisions should be standardized to align with the “costs follow the event” protocol in other court cases. Clearly P&E appeals often involve not just two individual parties, each with a vested financial interest in the outcome and equally matched financially. Rather, they usually reflect significant community concern affecting an indeterminate number of people.

The proposed change to the P&E costs protocol would represent a serious and unreasonable deviation from the established practice which is inherently fair. The result would be to strip away the opportunity for individual community group co-respondents to give some valuable input to the Court and to stake a claim to their cause.

The change would be transparently unjust simply because only those with pockets deep enough to match those of the development proponent would be in a position financially to put their case to the Court. Such a result, clearly favouring well resourced developers would be manifestly unfair and discriminatory as it would restrict access to justice. This simply must not be allowed to occur!

It should be noted that Local Councils, under challenge to protect their own Planning Schemes will likely be reluctant to stand up because of the risk of an adverse costs order against it, possibly amounting to millions of dollars.

Also, it should be appreciated that the appellant is, in some cases, the Local Council and the sentiments of the local community, expressed by joining in as co-respondents, should be seen as very helpful to the Court in coming tp a decision that is fair and reasonable.

Moreover, the State of Queensland may itself be an appellant to a planning decision and may find itself facing the very deep pockets of a billionaire resource developer.

To us and others there seems to be no sensible reason to “change the playing field” regarding fair access to planning decision justice and to give greater advantage to the development industry. What conclusion can we all draw other than that the LNP government wishes to change the balance of fair play in favour of developers? Does the word “sustainable” in the Sustainable Planning Act have no meaning for the new Queensland Government?

We respectfully urge you to re-think the costs changes aspect of the proposed legislation, discard them and leave the existing protocol in place.

Yours truly,

Paul & Adrienne Prentice.