

TAMBORINE MOUNTAIN PROGRESS ASSOCIATION INC.
“Protecting the quality of living on Tamborine Mountain”

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The Research Director,
State Development, Infrastructure and Industry Committee,
Parliament House,
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Submission on the Sustainable Planning & Other Legislation Amendment Bill 2012

This Association contends that Amendment of s 457 (Costs) of the Sustainable Planning Act 2009 will not best serve communities reliant on their planning schemes for some degree of certainty of chosen lifestyles. Under the proposed Amendment, any balance between residents and developers will be lost. Ordinary citizens are unlikely to risk participating in Planning and Environment Court appeals if a possible loss would mean payment of costs for both sides. People's ability to defend what is most valuable to them would be severely restricted. On the other hand, the lure of large financial gain will counter balance the cost risk for cashed up developers.

Councils themselves would hardly deny a development application when it risked a court appeal by the developer and possibly double the costs. Developers are motivated by high profits, and Tamborine Mountain is a magnet for development applications often seen by residents as potential threats to their semi-rural lifestyle. Whose interests would the council seek to serve – the developer's or the community's?

Further, rather than watering down state and local planning schemes, these should be strengthened to protect not only community residents, but also the reputations of councils attempting to serve them.

We are looking at an open slather scenario.

The Tamborine Mountain Progress Association is a 100 year old community organization. As a relatively isolated community until recent times, local residents have learnt to watch over their own affairs and this characteristic is still prevalent in the community today. Unlike other small towns, nearly all residents arrive for one purpose only – their lifestyle. A large proportion is retired or semi-retired. It is no wonder a perceived threat to this lifestyle is frequently met with very large public responses. ***Unable to accept the risk of excessive extra P & E Court costs, the community's ability to defend its chosen lifestyle will be severely limited.***

Over the past two decades the Association has participated on behalf of the community in numerous cases in the Planning and Environment Court, both with and against the local council.

Matters have been aggravated recently. State amalgamations of councils saw varied communities with their own distinctive aspirations and concerns lumped together under even more distanced bureaucracies. Scenic Rim was no exception. A wide assortment of councillors cannot all be expected to have personal understanding of individual community expectations. ***Full resident input is vital to maintain a balance between communities and the developers who seek to breach their local area plans. These plans are the best formal indicators of a community's aspirations.***

Council planning decisions often do not accord with community expectations.

Over a number of years, massive resident objections to perceived lifestyle threatening development applications on proper planning grounds have clashed with the personally preferred codes selected by council planners. That this disagreement is the norm rather than the exception, suggests to the community that the council bureaucracy is an ally of developers. *If development approval is granted, the last line of defence for residents has been the Planning and Environment court.*

Mistakes happen. If a council is clearly on the wrong track, people should be able to mount a challenge.

- This was evidenced recently on Tamborine Mountain when this organization spearheaded an appeal against the decisions made by council in the Hyacinth case. (*Tamborine Mountain Progress Assn. Inc. v Scenic Rim Regional Council and Anor 2009*) Funds came in from across the community, mostly from non organization members. The challenge was mounted after extensive consultation with independent experts. Outside lawyers, working at reduced rates, helped contain costs.
- The judge found that a series of “minor changes” used to radically change an original rezoning were unlawful and indeed found council’s actions to be “inexplicable and incomprehensible”.
- Had council listened to the community, it would have saved nearly \$300,000 of rate payer money. As it happened, council increased its costs by embarking on a face saving useless exercise.

The Hyacinth development application illustrates a public perception that (some) councils are allies of developers.

- People today are more politically savvy with an apparent decline in respect for politicians. At the beginning of the Hyacinth saga, at the markets adjoining the proposed development, two hundred and fifty visitors, nearly all from the Gold Coast and Brisbane, signed objections to the development proposal. Clearly there was something wrong with the proposed development and it certainly didn’t fit the mountain character that attracted the visitors. About half these people made some voluntary comment or sign such as “something’s rotten in the State of Denmark”. These submissions were forwarded to state government. (A further 600 objections were forwarded to Council.)

Mistakes happen in council due to lack of local knowledge.

- A council planning officer, under delegated authority, approved a one third increase in a dense subdivision application for Canungra, which then effectively doubled the town’s population. Well into the Planning and Environment Court appeal process, it was realized that the planning officer did not know that Canungra’s “reticulated water” came from the local small creek known to dry out from time to time in drought. As the development approval is now set in concrete, this looks to be a future problem for state government.

A “body corporate” council status would indeed mask blunders and ineptitude, at least temporarily. Removing effective checks and balances by communities would do neither them nor councils any favours. The unprecedented high turnover of council mayors at the last council elections in April suggests community disquiet is spread across the state. *Limiting public participation in matters regarding their environment will produce an even larger unhappy electorate.*

The proposed amendments to the Sustainable Planning Act should not be implemented.

Jeanette Lockey.
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