

State Development, Infrastructure and Industry Committee
Parliament House
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11th October, 2012

Submission Sustainable Planning and Other Legislation Amendment Bill 2012

I am concerned that the Queensland State government is proposing removing the very reasonable conditions currently in place under the Sustainable Planning Act 2009 (s457) which guide Queensland Planning & Environment Court (QPEC) judges in the matter of awarding costs.

The long-standing conventions in QPEC concerning the awarding of costs have served the community well. They have allowed individuals, community groups, developers, local governments and concurrent agencies to challenge perceived inappropriate or incorrect development decisions without fear of being bankrupted by massive legal costs if their appeal is unsuccessful.

There are many instances where the public good has been served by a QPEC court action, despite the appellant losing the appeal. In my own case, as an active member of a community group which recently made an unsuccessful appeal to QPEC against a Council planning approval, I can see ample evidence that the subsequent development should now be a more responsible project, due almost entirely to the exposure of evidence on both sides during the QPEC hearing.


The Council approval we appealed is one which effects a whole community, even extending to partially effect a region. Despite the failure of our legal team to win the case in the face of a massive legal defence by the developer, the presiding judge made it clear that our appeal was not vexatious, trivial or designed to delay the development. He concluded that our well-founded interest and concern was, however, outweighed by a greater interest of the Council representing the region as a whole.

Lawyers for the developer “reserved their right” to seek an award for costs but did not proceed. We therefore set out to meet our own considerable legal costs (ongoing) while the three respondents met their own in accordance with QPEC convention.

The proposed changes to s457 of SPA will negate almost any likelihood of future community involvement in important decision making across the state. It will encourage planning decisions being based almost entirely on the size of legal budgets. If that is the intention of the legislation it is disgraceful and will almost inevitably result in widespread destruction of the environment and, ultimately, the economy which relies on the environment.

Your vote against these proposed changes is sought in the interest of fairness and justice for all.

Yours faithfully



Ian Bates

