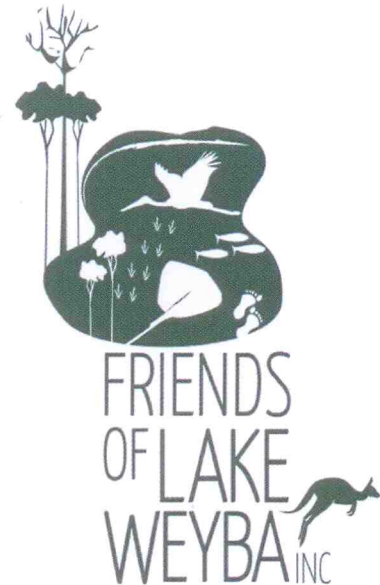


12 October 2012

State Development, Infrastructure and Industry
Committee
Parliament House
Corner George and Alice Streets
BRISBANE QLD 4000

By email to: SDIIC@parliament.qld.gov.au

Dear Sir/Madam



RE SUBMISSION ON CHANGES PROPOSED BY SUSTAINABLE PLANNING AND
OTHER LEGISLATION ADMENDMENT BILL 2012

Friends of Lake Weyba Inc. thanks you for the opportunity to make a submission on the proposed changes to several Acts contemplated by the Bill referred to above.

The Association specifically objects to the amendment which would see costs "follow the event" in a matter heard in the Planning and Environment Court.

The Planning and Environment Court is a specialist court allowing public, accountable and transparent access to justice and presides over matters relating to town planning, development and the environment, and not matters of a civil or commercial nature. Therefore the "follow the event" rule which applies in civil courts should not apply in the Planning and Environment Court, as it is unjust as it will deny the community access to justice.

The proposed change relating to costs is unwarranted given that 95% of matters are resolved by mediation, with less than 1% of development applications proceeding to trial. In our Association's opinion, the existing position where, in most cases, each party bears its own costs seems to have worked effectively for many years and remains the best option as it is fundamental to allowing public access to justice in the Planning and Environment Court.

A complete reversal of the existing rule is not the answer when the outcomes currently achieved by the Planning and Environment Court are recognised internationally for high rates of resolution.

Matters heard in the Planning and Environment Court affect the community as a whole and as such the community, either individually or as a group, should have the right to be a party to an action in that Court without fear of being burdened by a hefty costs award against that person or group.

Similarly, could the fear of a hefty cost award against it, constrain a local government from attempting to uphold its town planning, development or environmental policies in

the Planning and Environment Court? If for a minute it could be thought the answer would be yes, then the legislation should not be changed. It is the obligation of the local authority to uphold its town planning, development and environmental policies for the benefit of its ratepayers.

The court presently has power to deter frivolous or vexatious litigants. The proposed change takes away judicial discretion **not** to award costs which should apply where sound planning and environmental grounds are raised by a genuine, well intentioned litigant. It advantages the party with a vested financial interest, and disadvantages the party seeking to protect environmental or public concerns within a community.

Our association, Friends of Lake Weyba, has been formed to sustain and enhance the natural and social qualities of the Lake Weyba area as a natural and social asset for the local and wider Noosa community, and the surrounding region, and as such it may be that on occasion our Association may need to object to an appeal lodged by a developer and support the decision made by the local authority. This would not be an option if there was any possibility of costs being awarded against the community group.

In addition, the Association also objects to the proposed removal of master-planning provisions. In the Association's opinion, any change in legislation should provide that existing Master-plans and associated infrastructure agreements should remain in force as the financial burden on local government and its ratepayers would be unsustainable should the infrastructure commitments be unenforceable on currently approved developments.

Yours faithfully

C Tainsh – Secretary
For and on behalf of the
Management Committee

FRIENDS
OF LAKE
WEYBA  INC

CC – Hon Campbell Newman – By email

CC – Hon Jeff Seeney – By email

CC - Hon Glen Elmes MP By email - noosa@parliament.qld.gov.au