

Worst fears realised for community access to the Planning & Environment Court

The Queensland Government has introduced a bill into parliament that will significantly undermine the ability of local residents to have their day in Court, according to the Environmental Defenders Office (EDO Qld).

“The bill currently before Parliament would change the long standing rule in the Planning and Environment Court that parties bear their own costs (the ‘own costs’ rule) such that anyone going to Court wears the risk of paying the legal costs of their opponent as well as their own,” EDO Qld Senior Solicitor Sean Ryan said.

“This will effectively prevent appeals by all but the very wealthy because most individuals and community groups, no matter how worthy their legal case, simply won’t be able to afford the risk of crippling costs if they lose.

“The current own costs rule serves an important public interest in allowing average citizens to challenge planning decisions which affect the whole of the community.

“This public interest has been ignored by the Government which instead focused on the how the benefits to development.

“There over 17,000 developments approved each year and only a handful of third party appeals by the community make it to trial each year. So probably less than 1 in 1000 developments are held up by community litigants and it is difficult to see any substantial benefit to the development industry as a whole from stamping out these appeals.

“But if you are a young family and a 10-story building is approved in your street when the planning scheme only provides for three stories then the proposed change to the cost rules make a huge difference. It means that your family home would be on the line even if you have a good chance of winning.

“If the Government wanted to stop appeals by commercial competitors then they should restrict the cost rule change to commercial competitors rather than throw the baby out with the bathwater.”

EDO (Qld) is an independent, non-profit community legal centre providing legal advice and legal representation to individuals, community groups and conservation groups seeking to protect the environment in the public interest.

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