

From: Bill Costin [mailto:bill.costin@sorell.tas.gov.au]
Sent: Friday, 6 November 2009 2:55 PM
To: Kelly, Alison (SEN)
Subject: QUESTIONS ON NOTICE - NBN SENATE HEARING

Hello Alison,

Sorell Council has supported the LGAT Position with respect to Planning reform and has supported its' representation on the matter.

The following example of association to council communications is a direct extract from an LGAT update.

1. Planning Reform

This has already been reported on extensively and previous GMC and General Meetings.

The Premier used the State of the State address to highlight intended changes to the Land Use Planning and Approvals Act 1993 (LUPAA) arising from the State Government's review which commenced in March 2008. The Communication and Consultation to date in relation to this matter has been as follows:

- Local Government representation on the Review Steering Committee, Andrew Paul, General Manager of Clarence City Council, has been the LGAT representative*
- Public submission process to Review*
- Briefing of LGAT (President, Policy Director, PLGC Representative, Steering Committee Representative) one day prior to the State of the State Address*
- Presentation to General Managers at Workshop (18/19 March) by Peter Fischer*
- Discussion at General Meeting following presentation by Greg Alomes, RPDC*
- Release of a principles document*
- Regional consultation forums*
- Call for response submissions.*

The (former) President and CEO of the Association met with Minister Llewellyn to express concerns raised in the regional forums about the proposed amendments to planning legislation and the timeframes for consultation which were subsequently extended.

The Association provided a written submission in consultation with councils.

The first Bill (may) encompassed the Tasmania Planning Commission provisions and adjustment to section 59. The second Bill focused on Projects of Regional Significance (PORS). LGAT made submissions on both. In the main, the State Government does not support the position of Local Government. The third Bill will focus on call in powers and improved enforcement provisions. Comments are currently being sought.

The following [supported] position is an extract from the LGAT General Meeting Agenda of 12 August 2009

The suggestion has been made that there are perceptions that planning matters are being politicized and that councils are blurring their responsibilities as planning authority and advocate for the community. At the same time it is suggested there is no evidence to support these claims. In order to address these perceptions the State Government is proposing to expand the call in powers of the Planning Minister to take

planning powers away from councils. It is very disconcerting that State Government planning policy appears to be driven by perception and not by fact and that in responding in the way proposed potentially increases the politicization of the process rather than decreasing it.

There appears to be an over emphasis of the conflict of interest issue within the paper. It is contended that councils are able to effectively manage the separation of roles between operating as a planning authority and fulfilling the wishes of the community.

The assumption that whenever a council is the applicant or owns or has an interest in the affected land means that it has a "conflict of interest" and cannot make an independent and objective decision, is strongly refuted. Any such council decision is based upon the application of the planning scheme and the current proposals to change the legislation assume that council may (or will) determine matters contrary to

the scheme. This is clearly not the case. It should also be noted that councils are required to obtain qualified advice on all matters requiring a formal decision of council.

The independent and respected RPDC and RMPAT serve as final decision makers in instances where individuals perceive councils have politicized the planning assessment process. It should also be noted that the Judicial Review Act and the Local Government Act are designed to cover such an eventuality and it is difficult to understand why it is considered that an additional process is necessary to deal with this issue. If existing provisions are considered inadequate then they should be strengthened.

Regards
Bill

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