

To whom it may concern,

I would like to make some points about the proposed amendment to the Act as it relates to objectors being considered in the VCAT process, as well as the proposed changes to fees.

Whilst recognising that the amendments go some way to improving planning decisions and the potential faith the community might have in the planning and appeals process, I fear it falls short of the promises made by the Labor Government pre-election. It also leaves too much to the discretion of the decision makers in the planning process.

Objections are important in the democratic process of planning decisions. Local government is often the only tier of government that has a direct link to the community - councillors are far more accessible to the public than members of state or federal government, and the process of decision making, from council meetings to direct contact with councillors assures the community that their voices will be heard and considered.

All too often in the past we have seen planning applications rejected at the local government level, where councillors are much more in tune with local sentiment and local conditions, only to be overturned at VCAT. While the voices of objectors at the local level are often many compared to the voice of one developer, these voices are not considered in any effectual way at VCAT, where the voice of one overrules the voice of many. VCAT, which has no link to community, overrides the decisions made at a local level, where local concerns are taken into consideration and then acted upon. This is surely a slap in the face for democracy.

This erosion of democracy is heightened when we consider the costs associated with VCAT. Developers, who sometimes stand to make millions of dollars from a development can afford to pay these fees, whereas small community groups or individuals often cannot. VCAT should be affordable to all - if it is a fair part of the democratic process then it should be an affordable part of the democratic process. Otherwise, we are left with a situation where money buys rights. The huge increase to VCAT fees by the Liberal Government excluded many people from the appeals process, which is reflected in the drop in cases appealed at the tribunal since 2013. Further to this, VCAT must be more transparent - why hasn't VCAT published case statistics since 2009? Is there something that VCAT needs to hide here?

If VCAT is fair, transparent, affordable, and considers objections then, no matter what the decision is, it must be accepted. However, if the process alienates those who can't afford to have their matter heard and constantly overturns decisions made at the local level, it runs the risk of being accused of favouring those with money, and undermining democracy.

Therefore, I strongly feel that it should be mandatory to consider objections, rather than making those considerations "where appropriate". What does "where appropriate" mean? Who gets to decide on what "appropriate" is?

I concede that concerned groups could generate multiple standard form objections to boost the number of objections at application stage, a point raised by Allen's lawyers. However, if VCAT considers the content of the objections, not merely the number of objections, and the potential effect that the development could have on the objectors, as raised by them, then the amount of objections becomes less relevant than the content of the objection. I have no doubt that staff at VCAT have the ability to determine if the objection is genuine, rather than a generic objection to boost numbers. Therefore the content alongside the number of objections should be considered.

Furthermore, the concept of "community well-being and deleterious social impact" needs to be defined. This should be a consideration in ALL planning applications, not just at the discretion of the decision maker. ALL planning applications should have a positive impact on community, not just a potential positive impact on the developer. It should be mandatory to consider this impact in ALL planning applications.

In a liberal-democracy, it is hard to sell the idea that a Minister has discretionary powers. This is often seen as undermining democracy, and democratic process. We have seen this with ALL previous state governments. Certainly if VCAT is an appeals tribunal, it should not have the power of discretion to decide firstly if a decision at the local level should be overturned, nor should it be able to decide if certain things should be considered. There should be clear, defined lines of consideration that apply to ALL applications - ALL applications should be able to withstand this process.

I strongly believe that the amendment should include:

- a definition of the concept community well-being and deleterious social impact
- that this consideration should be mandatory to all planning applications
- that it should be mandatory, not discretionary to consider the number of objections, in context with the content of objections
- a more significant reduction in fees as they currently stand
- the VCAT process should be more transparent, in line with democratic principles, and publish planning case statistics each year.

Thank you for allowing me to make this submission.

Sincerely,

Julie Buxton