

# Friends of Narrabeen Lagoon Catchment



P.O. Box 845, Narrabeen NSW 2101

[www.narrabeenlagoon.org.au](http://www.narrabeenlagoon.org.au)

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30 July 2019

**The Premier of New South Wales  
Gladys Berejiklian MP  
52 Martin Place  
Sydney  
NSW 2000**

**The Hon Rob Stokes, MP,  
NSW Minister for Planning**

**RE: The operation of the Land and Environment Court and the role of SEPPs**

**Dear Premier and Minister,**

We request that an enquiry is made into the operation of the Land and Environment Court.

The NSW Government's Department of Planning has made State and Regional Plans in consultation with the public over many years. Local Government Authorities, also in collaboration with their communities, have prepared Local Environment Plans and local zonings which then have been approved by the Department of Planning. Care has been taken to ensure that local plans comply with regional plans.

Planning Panels have been established to uphold the prepared plans mentioned above.

However, developers who wish to build in contravention of these plans or zonings have established a system whereby they lodge a modest development that almost complies and negotiate its approval either locally or, if that fails, through a ruling from the Land and Environment Court. Subsequently through a series of increasingly non-complying modification applications, they negotiate developments that more seriously contravene the intention of the planning instruments in place for that site.

We contend that, if the reason for a refusal from a Local Government Authority or a Planning Panel is that the proposal does not comply with established plans or zonings that the Land and Environment Court ought not to be permitted to hear the case.

In 2018, 94% of the cases that went to the Land and Environment Court were approved – overruling the Local Government Authorities and/or the Planning Panels. The Court may well have insisted on modifications to the proposals but the fact is, that the proposals mostly were in contravention of approved plans or zonings in the first place and ought not to have even been considered by the Court.

We consider that the Land and Environment Court, in acting this way, are making a mockery of the Department of Planning and of the principle of democracy. They are disregarding the many,

many years of collaboration in which members of the community carefully considered and contributed to preparing the plans that are subsequently being over-ruled by the Court.

We also ask that the terms of reference for any enquiry into the operation of the Land and Environment Court also examine the operation of State Environment Planning Policies (SEPPs) that over-ride established zones or Local Government Environment Plans and that, if deemed necessary, the enquiry recommend that the Department of Planning adopt clearer legal guidance for the legitimate use of SEPPs. We ask that if a Planning Panel or Local Government Authority refuses a proposal because it contravenes the legally established legitimate use for a SEPP, that it does not qualify for a hearing in the Land and Environment Court.

We would like to ask that if a developer has already had a proposal approved only by a ruling in the Land and Environment Court that any subsequent modification proposals that are refused by a Local Government Authority or a Planning Panel be ineligible for consideration by the Land and Environment Court.

Thank you,

Yours Sincerely,

A handwritten signature in black ink that reads "J. C. Bennett". The signature is written in a cursive style with a large initial "J" and "B".

Judith Bennett  
President Friends of Narrabeen Lagoon Catchment