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Hon Cameron Dick  
Minister for State Development, Manufacturing, Infrastructure and Planning  
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Dear Minister

**Subject: Proposed residential development for Pelican Waters Golf Course**

OSCAR, as the peak body representing resident and community organisations on the Sunshine Coast, is writing to you on this issue due to two main concerns. The first relates to the lack of transparency and genuine community engagement on the part of the Sunshine Coast Regional Council; the second relates to the fact that this process represents yet another attempt on the Sunshine Coast to rezone Sport and Recreation land (a public green-space resource) to allow residential development (providing a commercial benefit to private businesses) where no genuine public benefit has been demonstrated.

It appears that over the last 5 years the owner of the Pelican Waters Golf Course (PWGC) and the Sunshine Coast Regional Council (SCRC) have been working together to allow a Material Change of Use of the subject Golf Course to allow part of the golf course land to be re-developed as housing stock supposedly to ensure the financial viability of the golf club. A brief history of the events is outlined on page 3 of this letter.

This is an issue that goes to the heart of integrity of local planning processes and represents the inappropriate use of planning scheme provisions by local government and a developer.

The issue begins in 2004 when the ownership of the new and emerging Pelican Waters Golf Club changed hands at a reported purchase price of approximately AUD\$14 million; a figure that was considered by many to be well above the true value of the golf course. The figure was significant because it probably contained expectations of potential development rights and was in the name of a company owned by the late Eddie Kornhauser of Victoria. We understand that ownership and control has now passed to his son.

In the period from 2004 to 2006 a company linked to the Kornhausers, known as Titanium, made applications to the Caloundra Shire Council to develop a substantial portion of the PWGC land for residential purposes. At that stage the process was open and transparent to the local residents. However, Caloundra Council ultimately rejected the Development Applications (DA) and Titanium pursued legal action in the local Planning and Environment Court, which was unsuccessful in a well-publicised decision in 2006. The court case and subsequent decision was well-known to local residents and was openly discussed.

Then, approximately five years ago, The Sunshine Coast Regional Council responded favourably to a proposal from Kornhausers to include the redevelopment of part of the PWGC in the newly released Draft Planning Scheme of 2014. The owners apparently claimed that the club was not financially viable and the sale of some of the land was required if the club was to continue to operate (This is stated in Council's Local Key Issues Paper No. 18: Pelican Waters Golf Club, issued in December 2013.).

The inclusion of such a redevelopment, which was more appropriately the subject of a transparent and consultative Development Application (DA), rather than as part of a Planning Scheme amendment is a

major factor in the objections that local residents and rate payers are voicing because they have now been denied the right to be consulted.

The use of a draft Planning Scheme for this purpose (albeit legal) is highly deceptive and must be considered an inappropriate use of the Planning Scheme process by all concerned when a DA process would have been appropriate and more transparent to the community.

The Planning Scheme process only affords the local community the opportunity to comment at a preliminary stage when details are sketchy and not fully developed and certainly not formally committed to, and stifle residents' opportunities to comment as changes to the plan emerge. It gags debate and is contrary to the aims of the SEQ Regional Plan, which specifies community consultation as a factor in its development. It is a denial of Natural Justice under Administrative Law because it denies the opportunity of the residents to be heard throughout the many years of the process.

In summary, the proposed Change of Use and redevelopment of Pelican Waters Golf Club is not in the interests of Queensland, it is not in the interests of SEQ and it is not in the interests of the Sunshine Coast and it certainly not in the interests of the residents of Pelican Waters. The only beneficiary is the absentee landlord owner of the PWGC. In fact, other nearby businesses will be adversely affected if this redevelopment of PWGC is allowed to proceed as currently proposed.

The behaviour of the SCRC in this matter is of concern. Council has agreed to inappropriately use the Planning Scheme process to conceal and manage a rezoning application that would have been more appropriately handled by a transparent DA process requiring public notification. In so doing, Council has not acted in the best interests of local residents and businesses and has stifled input from affected local residents.

We respectfully request that you, as Minister responsible for Planning:

- Withdraw and rescinds any approval or endorsement of the Sunshine Coast Planning Scheme 2014 relating to the Material Change of Use for all or part of the Pelican Waters Golf Club (PWGC).
- Request a review of Council's procedures and reasons for including such a change in a wider ranging Planning Scheme amendment (making development proposals *code assessable*) in lieu of a DA process (where development would be *impact assessable* and therefore subject to more open public comment).
- Note that such action by Council clearly damages the integrity of the planning scheme process, and is not in accordance with the aims and objectives of the SEQ Regional Plan, and
- Note that it denies the rights of local residents to be heard and is, therefore, a denial of Natural Justice under Administrative Law.

I look forward to a favourable response on your part.

Yours sincerely



Greg Smith  
President

cc Premier and Minister for Trade  
Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs

# Attachment A

## A BRIEF HISTORY

- 1) Pelican Waters Golf Club was developed as an icon and a significant part of the development of the Pelican Waters precinct around 1990's and early 2000's.
  - a) In 2002, prospective purchasers were advised that the golf club was intended to be a 27-hole course of which the first 18 holes had been developed.
  - b) The existence of the golf club was a significant factor in decisions to buy into the area.
  - c) Golf course patronage grew slowly at first supported by a number of residents who signed up as members.
  - d) The original owners decided to sell and the course was purchased around 2004 by a private land development company owned by the Late Eddie Kornhauser of Victoria. The Kornhauser reputation was linked to real estate development on the Gold Coast.
- 2) Titanium (presumably on behalf of the owners) then submitted a Development Application (DA) to Caloundra City Council to develop portion of the unused land on Pelican Waters Golf. The project was named "Lakes Edge".
  - a) It appears that the application was proceeding smoothly as a DA with public consultations and the development appears to have been gaining support from Council subject to certain conditions being imposed.
  - b) However, Titanium (it appears) became impatient and commenced unapproved land clearing contrary to conditions and attempted to deny Council inspectors the right to enter the subject land by use of security guards. Council apparently used a helicopter and photographed the clearing works and issued an injunction to stop work.
  - c) A subsequent court case in the Planning and Environment Court brought by Council in 2006 was determined against Titanium and the project was halted.
  - d) The activities of the JV Titanium were then apparently halted at Pelican Waters Golf Club and a Kornhauser-owned company apparently assumed control again.
- 3) In around 2011/12, the Sunshine Coast Council commenced a process to develop its Draft Planning Scheme 2014, apparently in response to State Government SEQ Regional Plan requirements.
- 4) It would appear that when the Planning Scheme was submitted to Government for Ministerial approval that many of the facts were not disclosed and others possibly misrepresented in official correspondence submitted in 2014. Matters of public concern appear to have been down played and minimised in significance in the final submission to Government.
- 5) At some early stage the Kornhauser's company (Owners) is reported to have submitted to Council its request for the development of part or all of the golf course stating that golf club operations were not financially viable. The Owners sought a Material Change of Use of part of the golf course to allow residential development on what was a recreational space (golf course) in order to enhance the financial state of the club.
  - a) Why was Council persuaded to support the financial viability of any business? It didn't consider the adverse impacts upon other businesses such as the adjacent Sebel Hotel.
  - b) It might be noted that the change of use of the golf course does not appear anywhere in the title of the Planning Scheme and was not specifically notified to residents for comment in 2012. Only those residents with a keen understanding of local matters and who were alert to the intended process made submissions. From official documents it appears that 43 submissions were made about the golf course out of a total of over 2000 submissions about the Planning Scheme generally.
    - i) Lack of awareness was clearly one issue in the small response:
      - (1) Residents were expecting that at some time in the future any future development proposal would be publicly circulated because the residents did not know nor appreciate that the Planning Scheme would make the process opaque to the public or the outcome almost impossible to overturn legally. No-one from Council informed them either.
      - (2) It would require a political intervention and the use of Ministerial intervention to stop the process and demand a public consultation process on what is a straightforward DA for Material Change of Use.
      - (3) A belief by local residents that the proposal was not likely to gain approval because a previous application to develop golf course land had been rejected by Council was a significant factor in their thinking.