



1. Introduction
2. Strategic planning and development assessment
3. Historical note
4. A Plan for Growing Sydney 2014
5. Membership and functions
6. Stakeholder and community views
7. The Commission and the current planning administrative framework
8. Comparing the Greater Sydney Commission
9. Issues and principles
10. Conclusion

The Greater Sydney Commission

by Gareth Griffith

1. Introduction

In June 2014 Premier Mike Baird and then Planning Minister Prue Goward announced plans to establish a Greater Sydney Commission, described as a single agency to “streamline the way the NSW Government’s infrastructure and urban planning priorities are delivered”.¹

The proposal fits into a larger political and policy picture, one that encompasses the reform of local government in NSW and the revamping of metropolitan planning. On becoming Planning Minister after the 2015 election, Rob Stokes foreshadowed an “overhaul” of planning, including the removal of “unnecessarily confusing rules that add nothing but complexity to the planning system”. Mr Stokes was reported to have said that “despite studying the planning system since ‘last century’, he did not understand NSW planning laws”, which needed “to be simplified”.²

A key strategic planning document is [A Plan for Growing Sydney](#), released in December 2014 by the Department of Planning and the Environment. This sketched out the roles and functions of the proposed Greater Sydney Commission. Further details about the Commission’s organisation were released prior to the 2015 State election.³ However, it was not until September 2015 that the Planning Minister announced a formal structure for the Commission, including representatives from State and local government, along with independent experts.⁴ Addressing the Legislative Assembly on 8 September 2015, the Minister said:

The authority will consist of 13 board members, including six district commissioners chosen by the elected officials from Sydney’s local councils. This partnership model will give councils the opportunity to play a major role in the decisions that shape their broader districts. For the first time, an authority will be established that effectively brings together State Government, local government and independent experts to deliver, drive, develop and decide on the strategic planning priorities for greater Sydney. In doing so the Greater Sydney Commission will ensure that as Sydney grows it will become a more liveable, more productive and more just city.⁵

On 14 September 2015 the Premier released [NSW: Making it Happen](#) outlining 30 key reforms for the State, including 12 State priorities.⁶ Among these were “building infrastructure” and “faster housing approvals”, specifically “determining 90 per cent of housing development applications within a 40 day timeline”. Viewed in this context, the Greater Sydney Commission is to play a central role in shaping and delivering the city’s metropolitan future.

This e-brief looks at the background to the proposed Greater Sydney Commission and discusses its proposed structure and functions in light of stakeholder comments and arrangements in place for comparable bodies, notably Melbourne’s Metropolitan Planning Authority.

2. Strategic planning and development assessment

Framing the discussion of planning generally, it can be noted that, in the context of land use, the term planning is often separated into two components: (a) strategic planning; and (b) development assessment.

The essential purpose of “big picture” strategic planning is to identify current and future land uses and to set out the planning controls applicable to particular parts of the State. Strategic planning is primarily undertaken through environmental planning instruments (i.e. Local Environmental Plans, Development Control Plans and State Environmental Planning Policies) and regional strategies. [A Plan for Growing Sydney](#) is one example of a regional strategic plan. According to the 2012 Independent Review of the planning system in NSW:

Strategic planning identifies longer term trends in land-use and population patterns. It allows the pattern and intensity of economic growth to be plotted, and broadly identifies the ecological and social protections that need to accompany this growth. One of the underlying benefits of strategic planning is the opportunity to involve communities in broad policy issues early in the planning cycle, preparing them for structural development change. If conducted properly, it can lessen the concern about individual development proposals and objections to them, where they are consistent with planned strategic outcomes.⁷

Development assessment, on the other hand, is concerned with specific development applications. These can be for major infrastructure or other State significant projects, including road building or coal mines, as well as for a range of lesser proposals, from house extensions to the building of apartment blocks or shopping centres. The vast majority of development assessments are made at the local council level, further to Divisions 1 and 2 of Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).⁸

From the discussion below, the proposed functions of the Greater Sydney Commission would seem to include both strategic planning and development assessment, at least to the extent that the Commission will take over the functions of the relevant Joint Regional Planning Panels. It is also to have a monitoring and evaluation role.

3. Historical note

Taking an historical view of metropolitan planning regimes in Sydney, Minister Stokes commented:

Over the last century there have been countless attempts to deliver metropolitan governance across greater Sydney, in an effort to plan strategically for its future. The first proposal came through a conference of mayors in 1898, followed by a number of bills to create the Greater Sydney Commission that went to Parliament in 1915, 1918, 1927 and 1931, before the County of Cumberland Council was established after World War II. The Cumberland scheme ultimately failed, after a troubled history, because it was too disconnected from the process of government. In 1963 the State Planning Authority was formed. It stumbled because it was too centralised and technocratic. Although the schemes were short lived, we have a lot to learn from the way they approached planning for an interconnected Sydney.⁹

Along similar lines, the NSW Parliamentary Research Service noted in the briefing book, [Key Issues for the 56th Parliament](#):

If concerns about the administration of metropolitan Sydney are particularly intense at present, they are by no means new. At least since the 1890s some variation on a Sydney-wide administrative structure with broad planning and other functions has been suggested. For example, the Greater Sydney Bill of 1931 proposed a rationalisation of existing councils and a second-tier directly elected Greater Sydney Council, reaching out to Camden and charged with regional planning and other functions.

Established in 1945 and elected by local councillors was the Cumberland County Council, with the sole task of developing a planning strategy for the Sydney region. Writing in 1978, in *The Government of New South Wales*, RS Parker commented that the Council's insistence on maintaining a "green belt" made it "increasingly unpopular with landowners and local authorities". It was abolished in 1963, replaced initially by the State Planning Authority, a body with State-wide jurisdiction.¹⁰

4. A Plan for Growing Sydney 2014

In more recent times calls for a body to oversight and guide metropolitan planning in Sydney have emerged in the context of a city that is growing in size, both geographically and in terms of population. In the next 20 years, Sydney's population is projected to grow by 1.6 million; 900,000 of this growth is projected to occur in Western Sydney, with all the implications that has for public policy, including the areas of housing, education, transport and planning.¹¹

If recognition of the need for strategic metropolitan planning is not new, the issue has certainly been the subject of intense debate and research over the past decade or so. At the governmental level, this has resulted in a series of reports, including in NSW the [Metropolitan Plan for Sydney 2036](#), released by the Keneally Government in December 2010. Four years on, this was superseded by [A Plan for Growing Sydney](#), which is to be read in conjunction with the NSW Government's [Long Term Transport Master Plan](#) and [Rebuilding NSW - State Infrastructure Strategy 2014](#). [A Plan for Growing Sydney](#) acknowledges the challenges ahead, stating:

It's clear that Sydney's population is growing much faster than it did over the last 20 years. To meet the needs of a bigger population, we need a plan to manage growth – how to accommodate the 664,000 new homes that we will need, how to provide the conditions for growth in jobs, how to create places that people will enjoy living in and to protect our unique natural environment.

[A Plan for Growing Sydney:](#)

sets priorities and provides a direction for metropolitan planning. It specifically identifies where to focus new housing and jobs, and how to target growth in strategic centres and transport gateways, close to transport, to deliver social and economic outcomes. It sets the direction for subregional planning.

Central to [A Plan for Growing Sydney's](#) vision of an integrated and coordinated approach to infrastructure and urban planning is the “lead delivery agency”, the Greater Sydney Commission. It is said that the proposed Greater Sydney Commission “will coordinate and drive the delivery of all the actions in *A Plan for Growing Sydney*”.¹² This will include advising the “Government on a final monitoring framework” for the Plan's four goals for Sydney: (a) Sydney's competitive economy; (b) Sydney's housing choices; (c) Sydney's great places to live; and (d) Sydney's sustainable and resilient environment.

In more detail, it is explained that:

The Greater Sydney Commission is a dedicated new body, tasked with the responsibility to drive the implementation of the Plan. It is the first time an independent entity will take ownership of the delivery of a metropolitan plan. This will effect a step change in the way the Government's urban infrastructure and planning priorities are delivered across Sydney. The Commission will work with councils and state agencies to ensure that growth is aligned with infrastructure and delivered in the right places at the right time.

As outlined in [A Plan for Growing Sydney](#), the Greater Sydney Commission is to play a multi-faceted role, as an instrument of the Executive to deliver the key goals of the Plan, as well as in a monitoring and reporting role. In terms of the Commission's proposed monitoring and reporting role, its “key components” were defined to be:

an Annual Update Report which provides advice to the Government on the progress and delivery of the actions in the Plan and will be reported to Parliament;

an Outcomes Report every three years – which provides detailed reporting against the outcomes in the Plan and recommends adjustments to the Plan or changes in the infrastructure priorities, if required; and

a Review of the Plan every five years or as required to update and revise the Plan if necessary.

In terms of the delivery of key goals, specific roles are expressly proposed for the Commission in the following areas:

The Greater Sydney Commission

Goal 1: A competitive economy with world-class services and transport

Action 1.7.3: Government will work with the Greater Sydney Commission to develop job targets for strategic centres:

- by developing job targets for all strategic centres in consultation with local councils;
- by monitoring the delivery of jobs relative to the targets;
- by identifying and removing barriers to jobs delivery at a local level in strategic centres; and
- by developing job targets for Sydney's four transport gateways, taking into consideration the specialised economic roles and requirements of these precincts.¹³

Action 1.10.1: Assist the Department of Education and Communities, the Catholic Education Commission and the Association of Independent Schools of NSW to identify and plan for new school sites throughout Sydney

- The Greater Sydney Commission will work with the Department of Education and Communities to assist this process and examine how we plan for schools in Sydney including innovative school models.

Action 1.10.3: Plan for expansion of health facilities to service Sydney's growing population

- The Greater Sydney Commission will work with NSW Health to identify planning needs to support future health facilities required for Sydney's growing population.

Goal 2: A city of housing choice with homes that meet our needs and lifestyles

Action 2.1.1: Accelerating housing supply and local housing choice

- The Government will direct the Greater Sydney Commission to work with councils over the long-term with a requirement that councils review housing needs when preparing their Local Environmental Plans.¹⁴
- The Government to direct the Greater Sydney Commission to monitor housing supply and choice and report back to Government on further actions which can stimulate housing development.
- The Government to direct the Greater Sydney Commission to facilitate five yearly updates of the local housing targets.¹⁵

Action 2.2.1 further notes that the Government will "use the Greater Sydney Commission to support council-led urban infill projects".¹⁶ "Infill development" is defined to mean "new development in areas already used for urban purposes". It is said that infill development can "range from granny flats and dual occupancy developments to large scale, major mixed-use developments".

5. Membership and functions

As noted, in September 2015 the Planning Minister, Rob Stokes, announced a formal structure for the Commission, with more specific detail also provided in respect to the Commission's proposed functions. According to the [media release](#) of 8 September 2015, Mr Stokes said that:

for too long Sydney's urban planning has operated in silos of councils and government departments, without effective joined-up coordination for the infrastructure our city and suburbs need.¹⁷

In respect to organisational structure and membership, the NSW Planning and Environment [website](#) provides the following breakdown:

Membership

The Greater Sydney Commission will have 13 appointees, including:

- an independent Chair, who will report to the Minister for Planning
- an independent Environment Commissioner
- an independent Economic Commissioner
- an independent Social Commissioner
- six District Commissioners, nominated by Sydney councils to advocate their needs
- three key government heads from the Department of Planning and Environment, Transport for NSW and NSW Treasury.

The Commission will be supported by a Finance and Governance Committee, Infrastructure Delivery Committee, Strategic Planning Committee and Sydney Planning Panel.

The Sydney Planning Panel will take on the functions of the current Sydney Joint Regional Planning Panels.

The Commission will also be supported by a CEO and small staff agency.

As for the Commission's role, the Department's [website](#) explains:

Role of the Commission

The Greater Sydney Commission will be responsible for:

- finalising district plans for each of Sydney's six districts
- conducting regular reviews of councils' Local Environmental Plans
- conducting all decision-making and plan-making on rezoning proposals currently undertaken by the Minister (or delegate)
- taking on the current assessment and plan making functions of the Sydney [Joint Regional Planning Panels](#), including pre-gateway reviews
- monitoring and reporting to Government on implementation of actions in *A Plan for Growing Sydney*
- requiring councils to give effect to regional growth plans and district plans when amending their local plans.

From this it can be said that the Commission is to perform three distinct types of functions, with a focus on the second of the following:

- monitoring, evaluation and oversight;
- strategic planning, including decision making on re-zoning; and
- development assessment.

Making the case for the Commission in Parliament, the Planning Minister said:

The authority will have three commissioners specifically tasked with considering some of the bigger, broader issues across Sydney: social, economic and environmental issues. These commissioners will be able to provide balanced advice on how to deliver sustainable development across greater Sydney. The authority will be the decision-maker on rezoning proposals and will also be the sole decision-maker on many significant development assessments across Sydney, speeding up the process of getting good-quality development. The Greater Sydney Commission will also work closely with government departments and agencies to deliver holistic thinking, integrating future transport corridors, social infrastructure and new housing across districts. Through this new commission our Government is committed to continuing our track record of boosting housing supply and better planning in Sydney and across New South Wales.¹⁸

6. Stakeholder and community views

Legislation to establish the Greater Sydney Commission is to follow later in 2015. At this stage, several stakeholder groups, political parties and individuals have responded to the proposal, including from business, local government and State politics.

NSW Labor. Following the release of [A Plan for Growing Sydney](#), Luke Foley (then Shadow Environment Minister) made the case for a powerful and independent Greater Sydney Commission. Addressing the Committee of Sydney, he said that the Baird Government would deliver a “pale and timid Commission, limited in its scope and ambition, under the control of Planning Department bureaucrats”. Mr Foley said:

We should not miss this opportunity to create a genuinely powerful body to take charge of Sydney’s future. It should sit at the heart of government, an independent and accountable body reporting daily to the premier and annually to both houses of parliament.

I want to see a Greater Sydney Commission governed by a high-level board, with a majority of its members drawn from outside government. We should reach out to outstanding leaders who call Sydney home and ask them to contribute their skills and talents to the shaping of this city’s future.¹⁹

Mr Foley proceeded to argue that the Commission “should initially concentrate on three priority projects”. The first was “a town centres strategy, focused on reviving the central business districts of Penrith, Liverpool, Campbelltown and Gosford”. He went on to say that the Commission should focus on planning the “growth of our health and education sectors”, stating (in part):

We need to identify land use requirements for health and education precincts throughout Sydney in suburbs like Camperdown, Randwick, Westmead, Rydalmere, St Leonards, Macquarie Park, Frenchs Forest, Campbelltown and Penrith.

A third priority identified for the Commission by Mr Foley was the contribution it could make to job creation in Western Sydney:

Creating thousands of new jobs in Western Sydney over the next 20 years is the most important single thing that can help all of Sydney manage

growth sustainably. The M2, M4, M5 and railway will never accommodate the population tsunami expected for Western Sydney.

American academic Dr John Kasarda argues that airports will shape business location and urban development in the 21st century as much as highways did in the 20th century, railroads in the 19th and seaports in the 18th. The Greater Sydney Commission should drive the development of Western Sydney's greatest jobs generator — the Badgerys Creek Airport. Developing Western Sydney's airport to its full potential will be about so much more than laying down a runway.²⁰

Development sector: The proposal has been welcomed by the development sector and beyond. The Property Council's Glen Byers is reported to have said that the Commission "would ensure a forward-thinking approach to the city's growing population", while Patricia Forsythe of the Sydney Business Chamber is quoted as saying:

No-one has really owned the sub-regional plans - they're often put out there but then each council interprets them in a different way.....This is a new way of doing it, looking at the importance of strategic planning for Sydney.²¹

An Urban Taskforce Australia [media release](#) cited CEO Chris Johnson as saying (in part):

The announcement of the Greater Sydney Commission structure and role is a positive move towards a more holistic approach to planning Metropolitan Sydney..... While Sydney's six districts will be represented and specialist commissioners are proposed for the environment, the economy and the community the commission's ultimate success will depend upon how these representatives work together to deliver outcomes.

The incorporation of the Sydney Joint Regional Planning Panels into the Commission Planning Panel will ensure a co-ordinated approach to decision making however the advice provided to this Planning Panel must not only come from Sydney's 41 local councils. Strategic advice incorporating state and regional level objectives and priorities must inform and reinforce the decisions made by the Panel.

The ultimate success of the Greater Sydney Commission will depend on the people appointed to the Commissioner roles. The government must allocate appropriate salary levels to attract the best quality applicants to the important role of managing Sydney's growth. The CEO and the Chair of the Greater Sydney Commission must be quality people who can take on strong advocacy roles to determine and communicate the trade-offs that Sydney's growth will need to make in order to deliver strong economic growth, adequate housing supply and long term prosperity for the Sydney region.²²

Committee for Sydney: Dr Tim Williams, CEO for the Committee for Sydney, wrote enthusiastically in favour of the Greater Sydney Commission as an "idea whose time has come", one with "bi-partisan support" and which confirms international experience that "effective and successful cities have best-in-class Metro-scale governance and collaboration". He envisaged the Commission:

Bringing together for the first time state government agencies, local government and thought-leaders from across Sydney who will be among the four independent commissioners on this highly innovative and welcome structure, the GSC is a big reform with long-term consequences for the way Australia's global city — our city — is managed.

He added:

And it's not just the "great and the good" who seek this reform. Much of the community opposition to growth in Sydney is based in the very lack of government coordination which the GSC has been created to remedy.²³

Local government: Keith Rhoades, President of the Local Government Association, is reported to have commented:

We've been saying fix the planning laws first, see how it goes before we go rip tear bust into amalgamating councils and finding out later that the issue was the diversity in the planning laws that we currently have...As long as the process is transparent, that people in the area of a development are aware of what is planned so they can still have input into what is proposed.²⁴

Noted on the Local Government NSW [website](#) is the consultation process that got underway in January 2015, including a series of briefing sessions with local councils. It is reported that:

The Department provided some preliminary questions at its briefing sessions to facilitate discussion and has indicated it would welcome further input on these. The questions are:

1. How do we best incorporate sub-regional perspectives and Local Government expertise through membership of the Greater Sydney Commission?
2. How could the GSC effectively collaborate with sub-regions and individual councils within sub-regions?
3. Which immediate priorities should the GSC focus on?
4. How could the GSC work with communities across Sydney as they plan for the future of Sydney?
5. What opportunities are there for the GSC to contribute to infrastructure coordination?

Additional issues that LGNSW would encourage responses on include the following:

6. Should the sub-regional plan be a land use plan, a delivery plan, or both?
7. Which agency(ies) should be responsible for delivering the plan?
8. How should it be 'signed off' and by whom?
9. What should councils' role be in this process?
10. What mechanism(s) would ensure essential infrastructure is actually delivered by State agencies when required?
11. Should councils' Community Strategic Plans be used to support implementing the sub-regional plan?
12. How should the actions in *A Plan for Growing Sydney* be prioritised and implemented?
13. What should the role and powers of the Local Government Advisory Committees be?
14. What should the process be in resolving competing objectives and interests between councils within regions?

15. Should councils be able to object to aspects of a draft sub-regional plan before it goes before the GSC?
16. How should councils that neighbour the stated sub-regions be involved?

Better Planning Network: Picking up on this community participation theme, for Jeanette Brokman of the Better Planning Network, a peak body for community groups, the proposed Commission “fundamentally shifts” planning “from the community to a government-appointed panel”. She was reported to have said that “This paradigm shift abandons any hope that planning will return to local communities”.²⁵

Greens NSW: Developing the same theme, Greens NSW MLC David Shoebridge expressed his deep-seated reservations about the proposed Commission, highlighting its lack of democratic credentials. He commented:

Everyone agrees that Sydney needs more co-ordinated regional planning, but putting a bunch of unelected technocrats in charge is neither democratic nor sustainable...The Greens support a democratic model where regional planning is undertaken by joint organisations of councils backed up with fresh legislative powers, not just another state-dominated planning body...The GSC is an extremely long way from the Coalition’s promise of returning planning powers to the community.²⁶

Speaking in the Legislative Council on 17 September 2015 Mr Shoebridge said (in part):

The Greater Sydney Commission will take over many of the Minister’s planning powers for the Sydney region. This has a serious political advantage—at least in the eyes of the Baird Government. It takes the political heat out of controversial planning decisions by making the commission, not the Minister, responsible for the most controversial one. It ensures that a baker’s dozen of ministerial appointees deliver the decisions the Government wants for its big business developer supporters because none of the State Government’s 13 appointees to the Greater Sydney Commission will be elected or accountable to the millions of residents whose suburbs, shopping strips, parks and neighbourhoods will be in their sights.²⁷

He went on to place the proposed Greater Sydney Commission in the context of the broader NSW planning system, which includes a Planning Commission with State-wide powers, a body he described as “little more than a rubber stamp for developers”. Mr Shoebridge continued:

Remember that the Greater Sydney Commission is essentially one large, unaccountable and unelected joint regional planning panel for Sydney and the Planning Assessment Commission is its bigger cousin on a State level. It is increasingly hard to find decisions in planning, individual or strategic, made by people who are elected and thereby accountable—it is bureaucrats and appointees at almost every level.

7. The Commission and the current planning administrative framework

The Greater Sydney Commission will operate in the context of an already established planning system, which itself is the subject of a review announced in June 2015.²⁸ In terms of the current planning administrative

framework, the Commission's role needs to be articulated by reference to key elements of that system, as these relate to both strategic planning and development assessment. In some cases the Commission is to replace an existing feature of the planning regime, notably the Sydney [Joint Regional Planning Panels](#); in other cases, as with the Planning Assessment Commission, the Greater Sydney Commission is to work alongside and in conjunction with that body.

There are a total of 6 Joint Regional Planning Panels across NSW, with 2 operating in the Sydney region: the Sydney East Joint Planning Panel²⁹ and the Sydney West Joint Planning Panel.³⁰ The City of Sydney LGA is not included in a regional panel region. Rather, the Central Sydney Planning Committee (CSPC) has the responsibility to determine major development as defined in the *City of Sydney Act 1988*, and also has a role in plan making and the preparation of planning controls. Whether a truncated version of the CSPC will continue to function after the establishment of the Greater Sydney Commission is unclear.

[Joint Regional Planning Panels](#) are established under Part 2A and Schedule 4 of the EP&A Act primarily to determine regionally (but not State) significant development. According to the Department's [website](#), under Schedule 4A of the Act regional panels determine the following types of regional development:

- development with a capital investment value (CIV) over \$20 million,
- development with a CIV over \$5 million which is:
 - council related,
 - lodged by or on behalf of the Crown (State of NSW),
 - private infrastructure and community facilities, or
 - eco-tourist facilities,
- extractive industries, waste facilities and marinas that are designated development,
- certain coastal subdivisions,
- development with a CIV between \$10 million and \$20 million which are referred to the regional panel by the applicant after 120 days,
- modifications to regional development under Section 96 (2) of the EP&A Act, and
- crown development applications (with a CIV under \$5 million) referred to the regional panel by the applicant or local council after 70 days from lodgement as undetermined, including where recommended conditions are in dispute.

In addition to this determinative decision making role, where appointed under Part 3, Division 4 of the EP&A Act by the Minister, these regional panels also act as the relevant planning authority for the purpose of preparing a Local Environmental Plan (LEP).³¹ The legislative scheme provides that a Joint Regional Planning Panel can act as the relevant planning authority for the preparation of a LEP, where for example the Minister is of the opinion that the proposed LEP is of regional environmental planning significance (s 54(2)(a) EP&A Act); further, under the "gateway" procedures for LEPs, which are designed to provide greater flexibility and efficiency, a Joint Regional Planning Panel can also act as a review body for a LEP (s 56(5)). Presumably, a regional panel would not review a LEP it had prepared.

A brief overview of the Planning Assessment Commission (PAC) is presented in its [2013-2014 Annual Report](#), as follows:

The NSW Planning Assessment Commission is a statutory body established under the *Environmental Planning and Assessment Act 1979* (EP&A Act) in November 2008. The Act provides that the Commission consists of up to nine members including a chair.

Commission members are appointed by the Minister for Planning and selected from a broad range of disciplines with experience in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism or government and public administration.

.....

The key functions of the Commission are:

- to determine State significant development and infrastructure applications and transitional Part 3A applications where Ministerial delegation applies
- to carry out a review of any aspect of a State significant development including the holding of public hearings as requested by the Minister or Secretary
- to provide independent expert advice on a range of planning and development matters when requested.³²

The Annual Report further notes that:

89 applications were determined by the Commission during 2013-14. Of these, 30 were transitional Part 3A concept plan or project applications, 52 were Part 3A modification applications for already approved developments, six were State Significant Development applications and one was a Part 4 application.³³

Seven of the 89 applications determined during 2013-14 were refused by the Commission and 36 were approved as recommended by the Department. The remaining 46 were approved but with modification and/or amended conditions that the Commission considered necessary to achieve better environmental and urban design outcomes.

.....

The Commission also provided independent expert advice on five planning matters and major development proposals including whether to call-in projects as State Significant Development under Section 89C of the EP&A Act.³⁴

The Planning Assessment Commission is primarily a decision making and advisory body for development assessment purposes. Unlike the proposed Greater Sydney Commission, it does not appear to play an active part in the setting and formulation of long term strategic planning policy. In terms of “application type”, 45 of the 89 projects determined by the PAC in 2013-14 (51%) were categorised as “residential, retail and/or commercial (Metro Sydney)”.³⁵ Whether all such determinations will be made in future by the Greater Sydney Commission, acting as a one-stop shop for major planning decisions in Sydney, remains to be seen. The present advice is that the proposed Commission will conduct “all decision-making and plan-making on rezoning proposals currently undertaken by the Minister (or delegate)”.

The Greater Sydney Commission

In terms of geographical administration, for the purposes of the Greater Sydney Commission, Sydney is to be divided into the following six districts, presumably along local government lines:

- north
- central
- south
- south-west
- west and
- west central³⁶

One issue is the extent to which these districts correspond to other administrative sub-regions, created for distinct functional purposes, such as health and education. They do not appear to mirror Sydney's [local health districts](#), for example; although there may be good operational reasons for that, where for instance those districts are organised around the locations of major hospitals. Nonetheless, in principle at least there seems to be a case for complementarity to apply wherever possible across the full range of administrative functions.

Further to that principle, another issue relates to the current review of local government in NSW, with council mergers and partnerships considered in the context of the Fit for Future process. On the agenda is consolidation of the 41 councils in Greater Sydney, and the creation of a “more connected system of local government”.³⁷ Does the principle of complementarity point to merging councils in line with the Greater Sydney Commission's six districts?

The broader point to make is that, with both the planning system and local government under review currently, the imperative will be to articulate a role for the Greater Sydney Commission that complements whatever outcomes result from these review processes.

8. Comparing the Greater Sydney Commission

Urban growth and the planning of such global cities as Sydney, New York or London is a subject of major interest and intense policy development and research across the world.³⁸ All such cities face if not the same, then similar, challenges in seeking to construct coordinated responses, to demographic and other changes, that satisfy agreed criteria of efficiency, sustainability and liveability. For all these cities a major issue relates to the appropriate administrative and governance structures established to oversight metropolitan planning.

One example of a very different model in response to this issue is the Greater London Authority, established by the Blair Government in 1999. Under the [Greater London Authority Act](#) provision is made for an elected mayor and a 25-member elected London Assembly. The mayor's responsibilities include the making of a Spatial Development Strategy (called the London Plan) relating to land use for projects of strategic importance (s 334).³⁹

While comparisons of this kind are interesting the extent to which they offer anything like a model for other cities is debatable. In practice any reformed

system of planning must suit local conditions, including in terms of the arrangements between the different levels of government, local, State and federal. The politics of planning is a sub-genre of the art of the possible. Of course that is not to say that lessons cannot be learned from experience elsewhere.

2012 Independent Review. For the Greater Sydney Commission, one point of comparison is with the proposals of the 2012 Independent Review of the planning system in NSW conducted by Tim Moore and Ron Dyer. The 2012 review recommended both the establishment of a reconstituted Statewide Planning Commission and, for strategic planning purposes, a separate Planning Advisory Board. The Planning Advisory Board was to advise the Minister on strategic planning matters, with the report stating in this respect:

We consider it desirable that there be an established mechanism for the Minister to be given advice about planning matters from relevant interests right across the spectrum. Consequently, we propose the establishment of a broadly representative Planning Advisory Board to provide a statutory source for this advice on matters that the Minister refers to it for consideration. We believe that this proposal will provide industry and the community with the confidence that the Minister is given the broadest range of information and views about planning issues of substance.⁴⁰

As for the reconstituted Planning Commission, that would retain a focus on development assessment, as an independent decision maker for State significant development. One point of comparison in the present context relates to its proposed membership. The strengthened Commission was to be headed by a Judge seconded from the Land and Environment Court, a form of appointment that was designed to guarantee the independence of the Commission's decision making processes. According to the review:

There are criticisms that members of the present Commission are too dependent on Ministerial approval for reappointment to their role – with no checks and balances. Establishing a Chairperson with the tenure and independence of judicial office provides an appropriately measured response to these criticisms, when coupled with the appointment process for Commissioners discussed below.⁴¹

In terms of governance and procedures, the key features of the proposed Planning Commission included:

- Chairperson to be appointed full-time and to be a judge of the Land and Environment Court
- Appointment of Chairperson by Attorney General in consultation with Minister for Planning
- Appointment of Commissioners by public advertisement and on recommendation of a selection panel
- Qualifications of Commissioners the same as those under Schedule 3 of the EP&A Act
- All matters dealt with by the Planning Commission are to have a proper public hearing, to be held in accordance with published guidelines and in as informal a fashion as possible
- Prior public planning discussions to be held on complex matters
- Hearings are not court proceedings and should be conducted in an inquisitorial manner

- There is a right to be heard but only to be represented by an external lawyer or paid agent by permission of the panel
- Reasons are to be given for the Commission's findings and these are to be made public
- With the transparent decision making process in place, no merit appeal against decisions made by the Commission
- Appeals on questions of law are to be on the same basis as that which arises in the Land and Environment Court

Melbourne's Metropolitan Planning Authority (MPA): Launched in its current form in October 2013, Melbourne's MPA is a statutory body, reporting directly to the Minister for Planning and coordinating the regional planning and infrastructure strategies of 5 sub-regions, as set out in [Plan Melbourne](#).

Under the [Planning and Environment Act 1987](#) (Vic), appointment to the MPA is made by the Governor on the Minister's recommendation, taking into account the need for appropriate qualifications and expertise (s 46AV). Appointments are for up to 5 years on terms and conditions specified by the Minister (s 46AX). The Minister may give directions to the MPA as to the exercise of its powers and functions, with which the Authority must comply (s 46AU).

As for its role, according to the Authority's [website](#):

The MPA, formerly known as the Growth Areas Authority, was founded in 2006 and has a substantial role in planning across Victoria. We work closely with councils and government agencies on integrated land use and infrastructure coordination for strategically important development sites across Melbourne, in the declared growth areas and in regional centres.

Important tasks include:

- Precinct structure planning the development of new communities and urban renewal areas.
- Providing advice to Government on infrastructure priorities.
- Facilitating infrastructure delivery through integrated land use and infrastructure planning.
- Work with Government agencies and councils to facilitate urban renewal projects and Greenfields projects in strategically important areas.
- Facilitating housing affordability, job creation and development of better new communities.

Its expanded role since 2013, towards activities conducted in areas other than Melbourne's greenfield growth areas, is explained in the MPA's [Business Plan 2014-15](#).⁴² The following agenda is outlined for the next 12 months:

- complete a report from an early assessment program to identify key planning projects in Melbourne and Victoria
- publish a summary implementation program and reporting framework for the initial delivery of the MPA's Plan Melbourne initiatives
- work towards being able to release criteria for the designation of urban-renewal precincts of metropolitan significance
- continue with the initial planning activities for identified priority areas

- continue to conduct the strategic planning for new areas included through the Logical Inclusions Program
- complete the zoning for an additional 50,000 residential lots in the greenfield areas
- make significant progress towards the completion of 9 additional greenfield PSPs to 30 June 2015.

While the MPA's role is still evolving, at present the focus of its activity is very much on strategic planning, coupled with reviewing and assessing ongoing schemes. It does not engage in development assessment and is perhaps better compared to [UrbanGrowth NSW](#) than to the proposed Greater Sydney Commission, which is to take on the determinative decision making role of the Joint Regional Planning Panels. The precise relationship between the proposed Commission and UrbanGrowth NSW is yet to be articulated. According to the latter's [website](#):

Since March 2014 UrbanGrowth NSW has had a mandate to focus on the planning and delivery of major urban transformation programs that will underpin the future prosperity of NSW. We collaborate with government, private, and community stakeholders to create a united vision for a program, building a strong sense of place and enabling its delivery.

9. Issues and principles

Perhaps the point to make is that the case for a body like the Greater Sydney Commission needs to be made in terms of both local factors and in relation to more general issues and principles.

At least three levels of consideration can be noted in this respect. First, at the most general level, the goals and purpose of the proposed Commission must be clearly articulated in relation to the development of a sustainable, liveable global city that delivers efficient and viable outcomes for all aspects of peoples' lives, from work to leisure.⁴³ Such matters can be assumed to be addressed in the legislation establishing the Greater Sydney Commission.

Secondly, there is a need to articulate the administrative and political context in which a body like the Greater Sydney Commission is to operate, establishing relationships and accountabilities within and across planning and government/political hierarchies.

Thirdly, regard must be had to general principles that relate to governance and administration, in terms of the key concepts that guide contemporary discourse, bringing together a conversation that includes efficiency, expertise, accountability and community. "Accountable governance" is a key notion around which this conversation might be organised.⁴⁴

10. Conclusion

Planning and politics can be problematic bedfellows. Certainly in Sydney planning has, for one reason or another, been on the forefront of controversy and public frustration for many years. There is no need to elaborate. It is enough to say that public confidence in the Greater Sydney Commission is likely to depend on perceptions of its independence and probity; it must aspire to be the Caesar's wife of State politics.

The Greater Sydney Commission

There are big, practical and in some ways obvious issues at play here. The Greater Sydney Commission has its critics but it is also buoyed by broad in principle support for a less fragmented approach to urban planning in metropolitan Sydney. If the idea is far from new it is worth revisiting at a time when this global city is experiencing rapid growth and all the infrastructure, housing and other challenges that come with it. Its success or otherwise will be writ large on Sydney's landscape.

There will be different views and different formulations, but on any reckoning a coordinated, efficient and trusted system of metropolitan planning must be based on clearly articulated principles of governance and administration. The following are no more than tentative contributions to that debate:

- strategic planning should be conducted by an appropriately qualified independent statutory body, reporting to Parliament and therefore subject to parliamentary oversight;
- strategic planning arrangements should seek to facilitate and combine expert decision making with an appropriate level of meaningful community participation/representation;
- the key instrument(s) of strategic planning should occupy a distinct organisational space, with access and links to all relevant levels of State and local governmental decision-making;
- the processes adopted by the key instrument(s) of strategic planning should be defined by statute and, at least to the extent that it also engages in re-zoning and development assessment, should include a requirement for its decisions to be publicly articulated;
- where strategic planning and development assessment functions are combined in a single organisation, particular care and attention should be paid to the independent status, probity and method of appointment; and
- public confidence in the probity of the planning system is likely to be enhanced by a clear functional separation between review and monitoring roles, on one side, and development assessment, re-zoning and implementation roles, on the other.

¹ NSW Government, "Greater Sydney Commission to transform our city", [Media Release](#), 3 June 2014.

² A Wood, "Planning rules get overhaul", [Daily Telegraph](#), 11 June 2015, p 7.

³ NSW Parliamentary Research Service, [Key Issues for the 56th Parliament](#), Briefing Book, April 2015, pp 23-24.

⁴ R Stokes, Minister for Planning, "Greater Sydney Commission takes shape", [Media Release](#), 8 September 2015.

⁵ [NSWPD](#) 8 September 2015 (Rob Stokes).

⁶ This replaces the State's previous 10 year plan, [NSW 2021](#).

⁷ NSW Government, [The way ahead for planning in NSW: recommendations of the NSW planning system review - Volume 1 – Major Issues](#), p 39

⁸ NSW Parliamentary Research Service, [Key Issues for the 56th Parliament](#), Briefing Book, April 2015, pp 26-27.

⁹ [NSWPD](#) 8 September 2015 (Rob Stokes).

¹⁰ NSW Parliamentary Research Service, [Key Issues for the 56th Parliament](#), Briefing Book, April 2015, p 23.

¹¹ NSW Government, "introduction" to the [A Plan for Growing Sydney](#), December 2014.

¹² NSW Government, "introduction" to the [A Plan for Growing Sydney](#), p 18.

¹³ NSW Government, "introduction" to the [A Plan for Growing Sydney](#), p 49.

- ¹⁴ NSW Government, "introduction" to the [A Plan for Growing Sydney](#), p 65.
- ¹⁵ NSW Government, "introduction" to the [A Plan for Growing Sydney](#), p 65.
- ¹⁶ NSW Government, "introduction" to the [A Plan for Growing Sydney](#), p 70.
- ¹⁷ Minister for Planning, "Greater Sydney Commission takes shape", [Media Release](#), 8 September 2015.
- ¹⁸ [NSWPD](#) 8 September 2015 (Rob Stokes).
- ¹⁹ L Foley, "Bipartisan approach shaping Sydney's future", [The Daily Telegraph](#), 14 December 2014.
- ²⁰ L Foley, "Bipartisan approach shaping Sydney's future", [The Daily Telegraph](#), 14 December 2014.
- ²¹ L McNally, "[Planning commission to divide Sydney in six districts, 'put downward pressure on housing prices'](#)", ABC, 8 September 2015.
- ²² Urban Taskforce Australia, "Greater Sydney Commission must lead Sydney's evolution from a suburban to an urban city", [Media Release](#), 8 September 2015.
- ²³ Tim Williams, "[Time to make Sydney even greater](#)" Daily Telegraph, 8 September 2015, p 19.
- ²⁴ L McNally, "[Planning commission to divide Sydney in six districts, 'put downward pressure on housing prices'](#)", ABC, 8 September 2015.
- ²⁵ C Jewell, "Greater Sydney Commission finally takes shape", [The Fifth Estate](#), 8 September 2015.
- ²⁶ C Jewell, "Greater Sydney Commission finally takes shape", [The Fifth Estate](#), 8 September 2015.
- ²⁷ [NSWPD](#), 17 September 2015.
- ²⁸ W Glasgow, "Stokes to overhaul NSW's planning processes", [AFR](#), 12 June 2015, p 6.
- ²⁹ Joint Regional Planning Panels Order 2009; and see NSW Government, [Joint Regional Planning Panels](#), FAQs No 2, July 2013. This covers: Ashfield, Botany Bay, Burwood, Canada Bay, Canterbury, Hunters Hill, Hurstville, Kogarah, Lane Cove, Leichhardt, Manly, Marrickville, Mosman, North Sydney, Pittwater, Randwick, Rockdale, Ryde, Strathfield, Sutherland, Warringah, Waverley Willoughby and Woollahra.
- ³⁰ This covers: Auburn, Bankstown, Blacktown, Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, The Hills, Holroyd, Hornsby, Ku-ring-gai, Liverpool, Parramatta, Penrith and Wollondilly.
- ³¹ Environmental Planning and Assessment Regulation 2000, clause 9.
- ³² Planning Assessment Commission, [Annual Report 2013-14](#), p 3.
- ³³ Appendix 2 of the Annual Report provides a list of the applications that were determined by the Commission for the financial year.
- ³⁴ Planning Assessment Commission, [Annual Report 2013-14](#), p 6.
- ³⁵ Planning Assessment Commission, [Annual Report 2013-14](#), p 15.
- ³⁶ See the commentary in "Grand plan for Sydney", [The Daily Telegraph](#), 20 October 2015, pp 10-11.
- ³⁷ NSW Parliamentary Research Service, [Key Issues for the 56th Parliament](#), Briefing Book, April 2015, pp 21-22.
- ³⁸ For example see – P Newman and A Thornley, *Planning World Cities: globalization and urban politics*, Palgrave Macmillan, 2011.
- ³⁹ M Sandford, [The Greater London Authority](#), House of Commons Library, Briefing Paper 05817, May 2015.
- ⁴⁰ NSW Government, [The way ahead for planning in NSW: recommendations of the NSW planning system review - Volume 1 – Major Issues](#), p 11.
- ⁴¹ NSW Government, [The way ahead for planning in NSW: recommendations of the NSW planning system review – Volume 2 – Other Issues](#), p 30.
- ⁴² According to its CEO, Peter Seamer, "The MPA is now active in a range of infill precincts while continuing to plan for the development of Melbourne's greenfields locations": MPA, [Business Plan 2014-15](#), p 6.
- ⁴³ See for example Peter Hall, *Good cities, better lives: how Europe discovered the lost art of urbanism*, Routledge 2014.
- ⁴⁴ S Joss, *Sustainable Cities*, Palgrave Macmillan 2015, pp 292-297.

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