tendered by Mr John Mant on 9 March 04 at the Inquiry into NSW Planning Framework.

STANDING COMMITTEE ON STATE DEVELOPMENT
LEGISLATIVE COUNCIL

Inquiry into the New South Wales planning framework

Opening Comments by John Mant

I will first briefly describe my qualifications for making this submission and then outline my main thesis.

Qualified in law and town planning, I have worked in the public and private sectors.

I was chief of staff to Tom Uren and Geoff Whitlam and head of the housing and planning department in Don Dunstan's Government. The South Australian planning system, which, I note, the Premier of SA recommends for your attention, is largely the product of my views. As was the original form of the current Victorian system, stemming from extensive work I did as a consultant to the Cain Government.

Both the ACT and Queensland systems also reflect some of my work.

In this State, with Julia Walton, I rewrote the Local Government Act. This resulted in a major simplification of the law. In the 1990s I conducted a major Commission of Inquiry into the Housing Department leading to significant reform. I have been an ICAC Commissioner.

I also have been the lawyer for principled and not so principled developers. I have advised many councils on planning matters and organizational design and I have just finished five years as President of The Paddington Society.

I should say that, except for a couple of times when Minister Knowles was last Minister for Planning, I have never been asked to provide advice on the NSW Planning system. In my experience, the Planning Department tends to employ only advisors who agree with it.

My central thesis is that the NSW Planning legislation was fatally flawed from the beginning. Refusing to accept this, successive heads of the Department have tried to fix the system without fixing the fatal flaws. This has merely led to greater complexity and many unintended negative consequences.

I note that, in its submission to this Committee, the Department of Planning continues in its belief that the Act is fundamentally sound. It is beyond me how it can do so, given this diagram of how it operates.

Because the system has only become more complex and less transparent, in recent years, there has been pressure from parts of the development industry to allow favoured developers to largely by-pass the system.

For example, the Urban Task Force was set up, firstly to achieve a change to the legislation to give the Minister unparallel powers to approve particular developments and then to provide selected clients with access to the Minister. We have seen the collapse of public confidence in both the system and the Ministers since the Task Force's success in achieving and then making use of Part 3A.

I note that, as a result of a similar frustration with the system, the Government just had the Parliament pass legislation allowing stimulus developments to by-pass the normal processes. Like parts of the Planning legislation, there are provisions that exempt the Executive from supervision by the Courts. That these breaches of the separation of powers doctrine are seen necessary alone must demonstrate the fundamental failure of the current system.

In addition to these go-around solutions, the Department has acceded to developer pressures to allow the producers of what I call 'standard urban products' avoid the development assessment system if they comply with 'one size fits all' zones and controls. The Department is not interested in sustainable design that fits its particular environment. This also is a high price to pay for its failure to fix the State's planning system.

Although there would be considerable work in transferring the existing to the new, the solution itself is simple. In my submission I have provided a model for your consideration. To show what can be achieved, a couple of simple changes proposed by the Local Government Associations led to this result. I ask the Committee to compare it with the system as it is after the latest round of 'reforms'.

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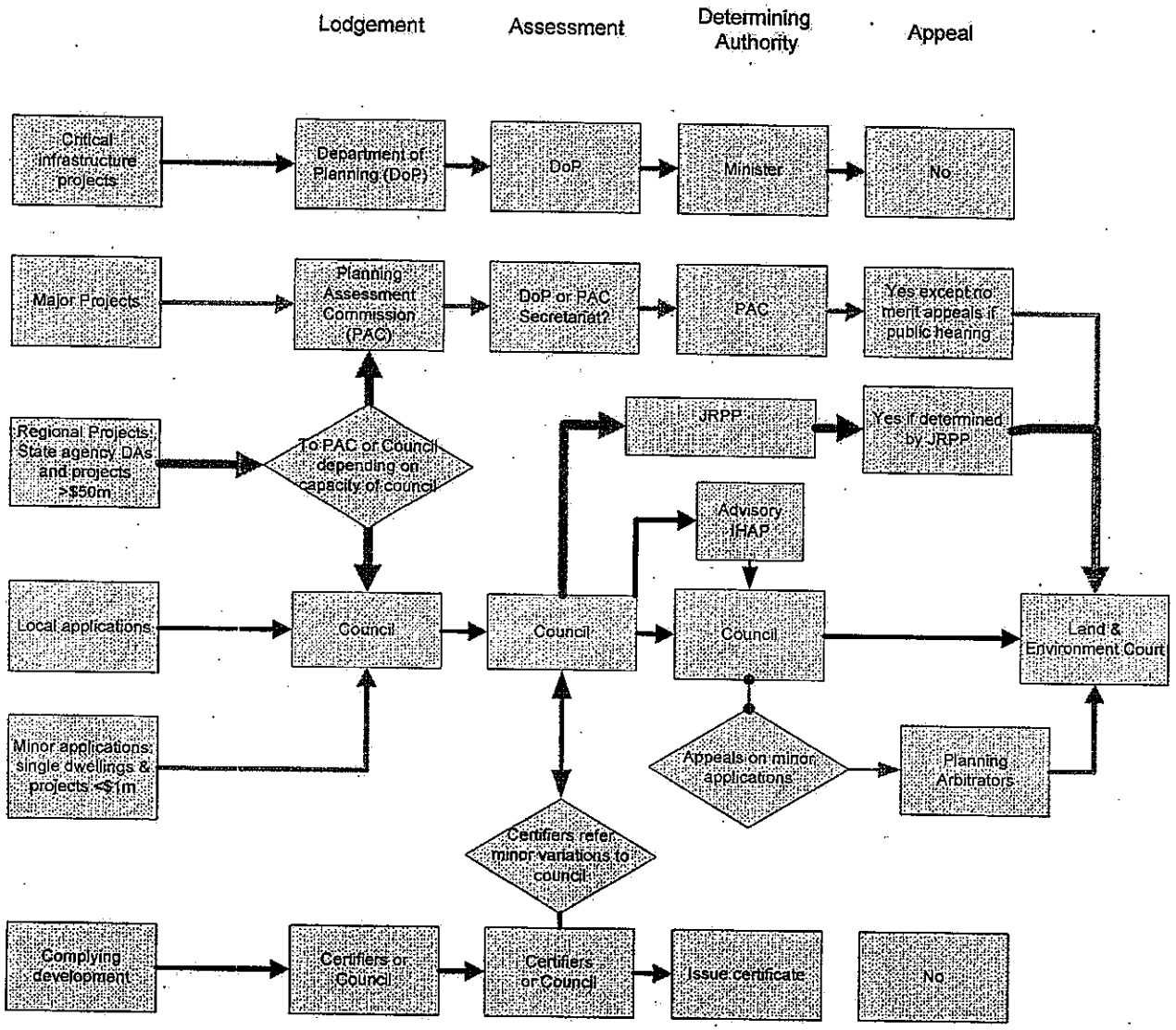
9 March 2009

DA Decision Making Process – Government Reform Proposal



DA Decision Making Process – Alternative Option