

Submission
No 59

INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK

Organisation: Warringah Council
Name: Mr Peter Robinson
Position: Acting Manager Strategic Planning
Telephone: 02 9942 2111
Date received: 16/02/2009

Responses to Inquiry into NSW Planning Framework

1.

- Is there a need for further development of planning legislation in NSW?

There is a need to start again from scratch with new legislation rather than amend a 30 year old Act.

- What further changes to the planning legislation are needed?
- What principles should guide any future development of planning legislation in NSW?
Simplification of processes

2.

- Are the reforms and discussions at the Council of Australian Governments level important for the future development of the New South Wales planning framework?

At a high level, it provides examples of how other state's legislation are more advance and progressive. This should lead to pressure from a Local Government level to the State to make the changes.

- What are the specific implications of the work of the Council of Australian Governments on planning in New South Wales?

3.

- What are your experiences involving assessment processes under New South Wales and Commonwealth environment legislation for controlled actions?

Limited. Two rural subdivisions of bushland allotments required Commonwealth Legislation approvals under EPBC Act.

- Did the bilateral agreements reduce duplication of approval procedures for the controlled action?

Some assessment time was extended to organise site inspections of staff from Canberra to visit the sites in Terry Hills, however delegation was given to NSW NPWS to implement the actions/conditions.

4.

- How should climate change be addressed in the planning framework?

Standards set at state or federal level. E.g. Issues of sea level rise and expectations/standards should not be set at a local level.

- Is the current framework adequate to consider the potential effects of climate change?

No it is a guessing game of Russian Roulette.

- How should natural resources issues be taken into account in the planning and development approval framework?

A simpler approach to dealing with impacts from development on natural resources/ threatened species. Do not complicate the decision of approving a development with an complex, intricate impossible series of conditions, which if complied with will reduce the impact to make it acceptable. Justifying developments in sensitive areas by unenforceable, unrealistic conditions is not a sustainable approach. The development is either acceptable with all its practical impacts or not. E.g. water quality conditions in a sensitive areas to justify subdivision can be applied to a consent in order to approve the subdivision but in reality, no one will sustain such conditions or practices. Threatened fauna, conditions of locking dogs and cats up at night or banning such animals is not a sustainable remedy.

5.

- Should competition analysis be a part of local planning decisions?

Not, unless a development or new zoning is proposed outside an existing permissible zoning. If the proposed use is permissible on the land subject land competition should not be a factor. Case law supports this opinion.

- How should competition be factored into the planning system, if at all?

The economic implications should only be considered when re-zoning land and how the re-zoning will affect existing development/zoned land.

6.

- Is the current arrangement for regulating land use on or near airports appropriate?

The issue with the control of land and landuse within the airport site being under Commonwealth control is the non-airport related development which may and has been sought by the operators of the airport. E.g. A bulky goods and retail centre was put forward by the owners of Kingsford Smith Airport. This potentially having major economic impacts on local retail.

As long as the Commonwealth Government has a means to assess and accept the proposed noise contours as reasonable, then this process does not seem unreasonable.

- Is there sufficient involvement of the community within which the airport is located under the current system?

Not sure, have never been involved with land adjoining an airport

7.

- Is the current inter-relationship between the planning system and the regulation of building works appropriate?

Not in the circumstances where that failure of the private certifier to act and the limited powers to rectify by private certifiers has left Council with the responsibility and cost of dealing with the residents, developer and resulting development.

There is insufficient accountability for certifiers actions, see *Moy v Warringah Council* – Land & Environment Court appeal

8.

- What is the impact of the planning system on housing affordability?

The re-zoning process takes too long. The Department of Planning can delay zonings, and quiet often do, for years. Complex form of contributions to pay for infrastructure. In UK government acquires land at rural rates and utilises the increased value of land to construct and pay for the infrastructure.

- What changes, if any, need to be made to the planning system to improve housing affordability?

Faster land rezoning and SEPP (Exempt and Comply Code) 2008