

Submission
No 8

INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK

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Date received: 1/12/2008



BURWOOD COUNCIL

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Office of the Mayor

The Director
Standing Committee on State Development
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2001

File No: T.0220.000

21 November 2008

Dear Sir/Madam

Inquiry into the NSW Planning Framework

I am writing in response to the letter of 28 August 2008 from The Hon. Tony Catanzariti MLC inviting Council to make a submission to the Inquiry of the Standing Committee on State Development into the NSW planning framework.

Council considered the matter at its meeting on 21 October 2008 and resolved to make the submission which is attached to this letter. The submission addresses Terms of Reference a. to f. of the Inquiry.

Should you wish to discuss any matter relating to Council's submission, please contact Council's Strategic Planning team on 9911 9911.

Yours faithfully

CR LESLEY FURNEAUX-COOK
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**SUBMISSION TO STANDING COMMITTEE ON STATE DEVELOPMENT
INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK**

The need for and principles to guide change in NSW planning legislation

- The many changes made in the 30 year life of the *Environmental Planning and Assessment Act*, often justified on the basis of making the planning processes more efficient, have resulted in a very complex planning system that is now difficult for many people to understand and use.
- Various changes to the planning legislation that have promoted State Government authority and weakened that of councils, and contained the influence of participation in planning decisions, are contrary to two of the objects of the Act: to promote the sharing of the responsibility for planning between the different levels of government; and to provide increased opportunity for public involvement and participation in environmental planning and assessment.
- Reform of the NSW planning system should reflect the values of the community and involve a fundamental rethink, renegotiation and rewrite of the planning legislation and its accompanying processes, and not more “tinkering” with the old legislation.
- Measures designed to achieve more efficiency and better resource allocation need to be balanced with good governance practice, including transparent and fair processes, appropriate rights of appeal, and meaningful public participation.
- Reforms to the NSW planning framework should more clearly state the rights and reasonable expectations of the major participants in the planning system, so that all parties understand what they can and cannot expect from the system, as the current lack of clarity is the source of a great deal of conflict in the existing system, contributing to problems of delays and poor resource allocation.
- Councils also need more confidence that the planning framework provided by and major planning projects initiated by the NSW Government are long term commitments, as local planning works more efficiently when there is a regional strategic planning framework in place that is robust, reliable and long-term.

Climate change and natural resource issues

- Given the high level of community concerns about climate change and the potential impacts on the environment and the economy, which did not exist when the NSW planning system was formulated, it would be appropriate for the Committee to consider whether these matters should be a more fundamental part of the system.
- If (or when) stringent carbon emission reduction targets are adopted by the Australian Government a concerted effort is likely to be required on many fronts, and the planning system may be able to make a significant contribution.
- Changes to the planning system to help achieve positive climate change outcomes will require a balance between increased regulation, and opportunities for development and economic growth which can provide funding for environmental management by local government, and implementation of more efficient infrastructure and buildings.

Competition policy issues in planning and development approvals

- In providing a framework for coordination of large scale investments from diverse public and private sources, the planning system serves an essential role which is not anti-competitive but promotes economic development by providing a level of certainty and higher productivity for major public and private sector expenditures.
- The planning system's role in restricting land uses to certain areas and limiting the scale of development may constrain competition but these controls are put in place by the community to manage circumstances where market forces do not work properly.
- It's possible a decrease or removal of these types of planning controls may promote competition and help reduce prices in retailing for example. However any such achievement is likely to involve some externalization of costs such as noise or traffic impacts onto residential areas, reduced access for people without private transport, or higher household travel costs and environmental impacts from long trips to decentralized facilities on the urban fringe or in industrial areas.
- These adverse impacts are especially unjustified where other market attributes e.g. the level of competition in groceries retailing, may prevent positive benefits flowing to the community. It is more important that planning controls on land uses and development are flexible and provide sufficient capacity to enable market forces to operate and provide competition, choice and growth.

Inter-relationships of planning and building controls

- Planning system reforms in recent years have resulted in a more complex development approval system compared to the Development Application/Building Application process that was in place prior to the introduction of the Integrated Development Assessment amendments to the planning legislation in 1998.
- In particular simpler domestic and commercial developments previously dealt with as building applications now require more complex treatment through a Development Application and Construction Certificate process. All information relating to the application must be submitted at Development Application stage where previously a great deal of information could be submitted at a stage after the granting of development consent.
- The recent legislative changes (when implemented) that aim to simplify the system by allowing more complying development based on State-wide codes, reduced public notification and a greater role for private certifiers may make the system more difficult by increasing conflict in the community over development matters as well as reducing Council's role with the assessment of infill development.

Implications of the planning system for housing affordability

- It is encouraging that the Inquiry will address the long-standing and probably growing concern that the planning system has reduced housing affordability. Increased housing prices are often attributed to restrictions on the supply of residential land that may arise from planning controls, requirements for higher standards of development, and the imposition of development contributions for local infrastructure.
- Higher housing costs resulting from escalating development standards are largely driven by community expectations, which are likely to increase in future with more requirements for energy efficiency and reduced environmental impacts.

- Housing affordability could be improved through planning system reforms which would enable a council and community to take on more planned residential development where it has local support and other conditions are appropriate, such as infrastructure availability and protection of high quality low density areas.
- The impact of development contributions on housing prices should be addressed not through stringent limitations on local contributions, but through more State and Federal Government funding for local infrastructure. The inadequacy of such funding is one of the main pressures on Councils to raise development contributions.

Implications of Council of Australian Governments (COAG) reforms for planning in NSW

- COAG has established a Reform Council to pursue a range of reforms, several areas of which may impact on planning in NSW and on local government.
- These include transport pricing reform, infrastructure regulation and improvements to the Building Code of Australia.
- Transport pricing reform that reduces heavy road freight and increases use of rail could improve impacts on local communities and centres. Similar outcomes could result from improved mechanisms for identifying and funding key infrastructure in transport and ports in Sydney.
- An important strategic direction of COAG is to reduce the costs of building regulation at the local government level and reduce adverse impacts on housing costs. While this is appropriate, it needs to be balanced with safeguarding environmental and amenity outcomes and with ensuring that local governments have sufficient resources to efficiently carry out their activities.