

Submission  
No 82

## INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK

Name: Ms Sunniva Boulton  
Date received: 13/03/2009

---

## Submission to Committee secretariat

### RE: New South Wales planning framework (Inquiry)

*Term of Reference 1(a) the need, if any, for further development of the NSW planning legislation over the next five years, and the principles that should guide such development.*

Significant issues such as natural resource management issues will continue to require extensive analysis through the LEP process, and state agencies responsible for these issues will be *no more compelled* under the proposed planning reforms to work with councils to find balanced solutions to site specific issues than they are at present.

NSW government needs to set standard realistic expectations for investigations at the strategy phase and to ensure that state agencies commit to development outcomes that are determined based upon a balanced approach to planning.

Ideally, more emphasis should be placed on the strategic planning phase when the relative significance of constraints can be considered and there is an opportunity for a strategic approach to conservation and development outcomes.

I therefore support the NSW Government's renewed emphasis on regional planning which will improve the strategic focus of the NSW planning system.

The State taking control of specific types of development assessment under Part 3A of the EP&A Act has taken decisions from local communities. It risks inappropriate development decisions that do not take account of local needs. Improvements to the legislation that give local councils principle control over typical development are needed.

The recent issues facing a developer of a subdivision at Fletcher near Newcastle highlights the problems with private certification – costs and holdups to both the developer AND the community may increase when improperly qualified people are able to do the job.

It is vital therefore that government continue to be solely responsible for all other development assessment so that appropriate accountabilities to the community are maintained.

In summary, I believe:

- There should be a review of Part 3A of the Act to ensure that local councils are the consent authority for the majority of development. Desirably, a reduction in the types and scale of development caught by Part 3A should be legislated in consultation with local government.
- That further development of the NSW planning legislation result in no expansion of
- the role of the private sector in the NSW planning system.

*Term of Reference 1(d) Climate change and natural resources issues in planning and development controls.*

Climate change issues need to be addressed clearly in the NSW planning framework. At present, there is a lack of consistency in the way the planning system advocates the consideration of climate change issues.

For example, the consideration of sea level rise associated with floodplain management is dealt with via a guideline addition to the NSW Floodplain Development Manual, there is varying reference to climate change considerations in LEPs and the EP&A Act provides no clear legislative requirements to enable government to adequately deal with climate change in development decisions.

A wholesale review of the way the legislation deals with climate change is required. While it is understood that we are in an 'evolutionary' phase with respect to our understanding of the relevance of climate change and planning processes, sufficient technical information exists to allow the implementation of best practice strategies to manage development in the face of climate change impacts. Recent court decisions relating to how climate change has been considered in planning processes simply highlight the need for the planning framework to implement consistent requirements for considering climate change in planning processes. I would welcome government leadership on this issue and a clear legislative framework to work within.

## **Recommendation Summary**

### Overarching recommendations

**That there is a statutory obligation to apply the principles of ecologically sustainable development (ESD) in all levels of planning.**

**That community consultation remain a core component of all aspects of future NSW planning regulations.**

### Specific recommendations

- That local Councils remain responsible for the development of LEPs and rezonings in their area.
- That other Government agencies continue to be engaged through referrals in the determination of rezonings and plan-making
- Local government can implement DCPs that exceed State Government base environmental standards and these should be encouraged.
- That the level of assessment be determined on potential environmental impact, not solely monetary size or scale.
- That meaningful and equitable community consultation occur in future planning panels.
- Membership of planning panels has broad representation and occurs in a transparent non-political manner.
- Exempt and complying developments not compulsorily occur in sensitive environmental areas or places of unique characteristics.
- That exempt and complying development not be automatically applied in all cases, such as in environmentally sensitive areas or heritage areas.
- A quantitative target (such as 50%) for development applications to be determined as 'exempt and complying' not be mandated.

Community consultation be mandated to occur early in the LEP plan-making process.

Yours sincerely,

Sunniva Boulton