

Submission
No 80

INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK

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The Committee Secretariat
State Development Committee
NSW Planning Framework (Inquiry)
Legislative Council
Parliament of New South Wales
Macquarie Street
Sydney 2000

e-mail: state.development@parliament.nsw.gov.au

Dear Members of the Committee

SUBMISSION TO THE NSW PLANNING FRAMEWORK INQUIRY
Failures in Wollongong's DLEP 2009: A Specific Demonstration of the General Case for Early
Community Engagement in the Planning Process

We are presenting the attached Submission to the NSW Planning Framework Inquiry to bring to the attention of the Inquiry the unanimous Resolutions about the currently exhibited Wollongong DLEP of a Community Engagement Conference of 150 people held in Wollongong on 28 February 2009.

Resolutions of the community concerning this specific DLEP demonstrate the *general case* that must be made for planning across the State that, in line with international best practice, is based on initial local level community engagement rather than a state-wide 'one-size-fits-all' bureaucratic template. The Submission therefore addresses the basic term of reference of the Inquiry to bring the NSW planning process into line with international best practice where community *engagement* is the essential criterion for good planning.

In the specific case of the Wollongong DLEP, the end product of a flawed non-engagement process is a Plan that does not reflect community interests or aspirations, does not address climate change, environmental, infrastructure or impact issues, and both in specific and general terms is so deeply flawed that it is unacceptable to all those in the community who have had the opportunity to investigate or be shown what it means. The Plan itself is written and was presented in such a way however that few in the community have read it and fewer still can understand it without expert guidance.

The Conference of local citizens of Wollongong specifically targeted *engagement* with the community rather than either 'preaching' or 'consulting'. It was hosted by *Wollongong Against Corruption (WAC)* in response to a request to WAC from a number of local community groups and individuals across the Wollongong region who were deeply concerned about the fundamentally flawed character of Wollongong City Council's current DLEP 2009 process and Plan. The local community groups included *Concerned Citizens of East Dapto (CRED)*, *Corrimal Action for Rehabilitation of the Environment (CARE)*, and the Thirroul-based group *Keep Excelsior Green (KEG)*. WAC is a non-political umbrella organization of concerned citizens committed to eliminating corruption and bad governance.



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The Conference was independently chaired by Ms Fay Campbell, previous Secretary of the South Coast Labour Council and previous State President of the National Union of Workers. Two speakers provided independent expert guidance to the participants on the general NSW planning process and the specifics of the Wollongong DLEP 2009. These speakers were John Mant, retired lawyer and urban planner, senior public servant responsible for planning, and ICAC Commissioner; and David Winterbottom, consultant, previous City Planner with Wollongong City Council and past President at State and Federal Level of the Local Government Planners Association and the NSW Division of the Planning Institute of Australia. The Conference was well informed.

We respectfully bring this Submission to the Inquiry, trusting that the Committee will give it serious consideration and recommend to the Minister of Planning the action requested within the unanimous Resolution of the Conference, in the first instance an independent Hearing on the general concerns about the DLEP which were identified. We further trust that this specific case will serve to demonstrate to the Inquiry how planning can go badly wrong when it is not anchored in true community *engagement* from the start but instead seeks to coopt community interest into a pre-arranged plan in a largely one-way post-plan 'consultation' process.

We and many in the community of Wollongong await your consideration and decision concerning the case presented in this Submission. We await your decision in favour of a truly community-based planning process across the State, and in the first instance, calling through the Minister for Planning for a Public Hearing to consider delay in further implementation of Wollongong's DLEP 2009 until this community-empowering principle is put into practice.

Please note that the current Submission is presented to the Committee via e-mail; a hard-copy version is being forwarded by post.

Yours sincerely,

A handwritten signature in blue ink that reads "Michael Sergent".

Michael Sergent
Acting Secretary
Wollongong Against Corruption

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**SUBMISSION TO THE NSW PLANNING FRAMEWORK
(INQUIRY), PARLIAMENT OF NEW SOUTH WALES, FROM
WOLLONGONG AGAINST CORRUPTION ON BEHALF OF THE
PEOPLE OF WOLLONGONG**

**REPORT FROM A COMMUNITY ENGAGEMENT CONFERENCE ON
WOLLONGONG CITY COUNCIL'S DRAFT LOCAL ENVIRONMENT PLAN
2009**

**HOSTED BY WOLLONGONG AGAINST CORRUPTION (WAC)
FRATERNITY CLUB, FAIRY MEADOW 28 FEBRUARY 2009**

CONFERENCE CONCLUSIONS AND RESOLUTIONS

I. INTRODUCTION

1. In response to broad community concern across the Wollongong region, and involving a number of concerned local community groups and individuals, a 'Community Engagement' Conference was hosted by Wollongong Against Corruption at the Fraternity Club Wollongong on 28 February 2009. It was the purpose of the Conference to review Wollongong City Council's (WCC) Draft Local Environment Plan 2009 (DLEP). The Conference was attended by 150 citizens of Wollongong.¹
2. The following Conclusions were drafted after the Conference by the Organizing Committee from minuted statements of speakers and participants; the Resolutions were voted on at the Conference and passed *unanimously*.
3. The current Report on the Conference and its Resolutions demonstrates the *general* case that must be made for developing a planning framework across the State that aligns with international best practice through putting into place community *engagement* from the start of the planning process as the essential criterion for good planning.

II. CONCLUSIONS

1. Apart from generic problems in both the Plan's overall vision and general zoning provisions as applied to the whole Wollongong region, case studies revealed significant problems in specific developments either included within the current DLEP or still under review and awaiting final Council determination. The Conference concluded that these case studies were but examples of a wider and deeper malaise in the Plan and the planning process. Participants were concerned that the *current* Plan was formed essentially within the period that Wollongong

¹ *The Agenda of the Conference' is attached.*

City Council was demonstrably corrupt according to ICAC and identified as serving the illicit interests of developers. As the DLEP directly and negatively affects not only their own immediate neighbourhoods, but also national objectives of equity and democratic voice for all people, community-building, sustainable development and response to climate change, participants at the Community Engagement Conference were deeply troubled by the impact this flawed DLEP will have on their future.

2. Based therefore on its informed review of evidence the Conference concluded that Wollongong City Council's Draft Local Environment Plan 2009 is deeply flawed as is the consultation process that sought to facilitate public access to the Plan and general knowledge about it.
3. In terms of the *content and conclusions* of the DLEP, the Plan:
 - (1) is not based on a local community-generated or tested *vision* of what the people of Wollongong want for their own communities and living environments, but on a 'one-size-fits-all' philosophy of planning and an untested and unannounced *assumption* of the need for more highly concentrated urban development either because considerable employment growth in the Illawarra can be projected (at a time of major global economic recession), or because the region is planned to serve as satellite support for Sydney's development and employment;
 - (2) does not support this higher density vision with any planning of associated infrastructure requirements or studies of impact on local residents and/or future introduced citizens and their lifestyles and community neighbourhoods;
 - (3) is fundamentally flawed because it misleads the public by communicating a 'status-quo' vision when major developments *still under review* are not included or referred to, for example, with respect to the cases of Corrimal and Bulli shopping centre developments, Talawarra Lands, and the Thirroul Excelsior Colliery Lands; this lack of comprehensiveness reflects a lack of regard for the transparency that is crucial for the citizens of Wollongong to make an informed decision;
 - (4) reflects a fundamental shift in the *generic basis of planning* for the whole region as demonstrated in new and more flexible 'developer-friendly' building restrictions within:
 - (i) new DA conditions across all zoning categories, for example, building heights, required land space and community facilities, in particular in reference to areas defined for low and medium density development;

- (ii) the selection of areas chosen for rezoning for higher density development – in particular, in response to assumed but unsurveyed demand within the proximity of some railway stations, but not according to a tested vision of Wollongong’s overall community demand, economic and social needs, precinct-based quality of life and projected residential settlement patterns, and the city’s urban integrity;
 - (iii) the absence of any review of the impact of climate change, sustainability, economic and social needs, and aesthetic criteria across the Plan as a whole; and,
 - (iv) the inclusion of only four lines of text that take marginal account of generalized zoning requirements for the prevention of bushfires as have devastated extensive regions of Victoria in the last month;
- (5) includes a number of specific cases of planning incompetence, illegality or unaddressed corruption in process that, on further analysis may be widespread, but at this point can be identified specifically in relation to,
- (i) the absence of required environmental, climate change, impact statements, and infrastructure assessments across all zoning proposals, as specifically demonstrated in the Talawarra Lands Case considered by the Conference; and,
 - (ii) the inclusion of approved developments that have been tainted by previous corruption or illegal Council approvals as demonstrated in the Corrimal Vellar Mansions and Thirroul Excelsior Lands Rezoning Cases considered by the Conference.
- (6) includes no detailed controls for exercising consent powers even though a wide range of land uses are permitted with consent under standard zones, so as a consequence, the community is being asked to accept the proposed land uses when no idea is presented of where and how they might be permitted – including directly adjacent to their own property.

5. In terms of the *consultation process* utilized by Wollongong City Council in communicating the DLEP to the public and gaining feedback, the Plan :

- (1) as a whole was formed *without* broad ranging community consultations on what Wollongong people wanted for their own local neighbourhoods or for the city’s general future environment;
- (2) is presented in a form that makes it virtually inaccessible to public understanding, specifically for example, as,

- (i) no guiding vision or executive statement of the essence of the Plan is presented even though a 'higher density' assumption is carried through in details embedded in the entire Plan;
 - (ii) language and format of presentation is dense and bureaucratic rather than clear and user-friendly;
 - (iii) there are no assessments of impact and,
 - (iv) there is no way for a reader of the advertised Plan to identify *what is different* to the existing 1990 Council planning conditions except by the reader making a paragraph-by-paragraph comparison to Council's existing planning requirements embodied in separate documents.
- (3) has been presented to the public in a limited period of time commencing a fortnight before Christmas holidays through 'information kiosks' and availability of CDs that favor one-way presentation of detail rather than communication and assessment of vision and responsiveness to community concerns.
4. Although the Wollongong Council Administrators have now extended the deadline for submissions by two weeks (on the eve of the currently reported Community Engagement Conference to which Council was invited but chose to not officially attend), this is not enough additional time for the average reasonable citizen to search out all relevant information, review options and possible impacts on their quality of life and interests – given that the Plan contains no such assessments, and present fully informed submissions, given the flawed nature of the current document and absence of adequate supportive studies.

III. RESOLUTIONS

Conference Participants agreed unanimously on the following Resolutions:

This Conference of concerned local residents:

- (1) **Fully supports responsible, ethical development** and the generation of employment.
- (2) **Welcomes the advent of a new Local Environment Plan** for Wollongong.
- (3) **Calls on the NSW Government-appointed Wollongong City Council Administrators** however to order a **Public Hearing** under Section 68 of the Environmental and Planning Act to *examine the wide-ranging concerns raised throughout this Community Engagement Conference* and the need to *re-start the planning process* in order to develop a Plan for the people that is truly based on community aspirations, health, wealth and infrastructure requirements at both

local and city level rather than untested bureaucratic population growth assumptions and a 'one-size fits all' philosophy.

- (4) **Calls on Wollongong City Council Administrators to immediately postpone the newly announced 31 March 2009 deadline for public submissions** to a date which allows adequate time for initial submissions, for the Public Hearing to then take place, for the findings or report of this Public Hearing to be published (including details of all submissions received) and the community to have the right to respond to any amendments made by Council to the LEP after the Public Hearing.
- (5) **Demands the NSW Government conduct democratic elections for Wollongong City Council** before the Plan is returned to community consultation in order for the peoples' *democratically elected representatives to guide the community consultation process* at local neighbourhood levels and take care of local issues and the interests of their constituents.
- (6) **Calls on Wollongong City Council Administrators to therefore defer finalisation of the DLEP** until after this Hearing is held, elections are conducted, and the concerns of the people detailed at this Community Engagement Conference are fully addressed.
- (7) **Demands that after the above conditions are met and when the revised DLEP is again released for public exhibition that the document,**
 - (i) clearly states that the DLEP is a statement of *standards* rather than potentially flexible guidelines;
 - (ii) is based on full interactive *community engagement*;
 - (iii) is written in **plain English**;
 - (iv) includes associated **infrastructure requirements** and **studies of impact** on local residents, their lifestyles and their community neighbourhoods;
 - (v) clearly **identifies changes** in previous zoning definitions and zoning;
 - (vi) identifies all **lands owned by developers** who are likely to gain capital advantage from the zoning changes; and,
 - (vii) is exhibited along with its accompanying **Draft Control Codes** in plain English.

- (8) **Calls on the NSW Minister for Planning to monitor this review, consultation and revision process** in order to ensure that the Wollongong DLEP 2009 *is* based on community *engagement* at local levels, takes full account of the wide-ranging and deep concerns raised by the present Community Engagement Conference, and is reformed in the context of a fully democratic process.
- (9) **Supports**, in principle, the measures to protect native vegetation and the escarpment, but seeks to have **climate change response, sustainability, biodiversity, bushfire prevention and maintenance of the integrity of local residential areas as focal aims of the Plan**. An example of this is the Wollongong Futures Project which does not appear to have been effectively taken into account. We ask Council to take into account all relevant and appropriate research, Council and State commissioned studies including the Escarpment and Sandon Point Commissions of Inquiry.
- (10) **Considers** that the **provisions for residential areas** generally should be modified significantly so that they enhance the characteristics and quality of existing areas, whilst allowing more intensive development of a reasonable scale in appropriate locations but not next to schools and dwellings.
- (11) **Considers** the following **specific proposals** unacceptable and in need of **full re-appraisal**:
- (i) *Tallawarra Lands* – to test the integrity of employment lands rather than residential, and the likelihood of their being developed as well as to ensure that all appropriate environmental and aesthetic considerations have been accounted for;
 - (ii) *Vellar Mansions, Corrimal* – Council should refuse the proposal to rezone the Vellar Land E3 in favour of the developer, order the demolition of the Vellar Mansions, and order the owner to restore the escarpment forest and fix the risks of land slip and flooding;
 - (iii) *Excelsior* - to require the environmental studies recommended by the Commission of Enquiry to be carried out before re-zoning;
 - (iv) *Gwynneville East* - to respect the single storey residential and flood prone environment;
 - (v) *Keira/Kenny Streets* - to use the land for residential, not industrial purposes; and,
 - (vi) Medium density proposals at *Corrimal East and Woonona East* to allow more respect for existing residential environments.

- (vii) Council should refuse to rezone land next to the new *Port Kembla* School from Private Recreation to IN1 (General Industrial) and the old Port Kembla School site that was once zoned Educational to IN2 (Light Industrial). Both sites have dwellings adjoining them.
- (12) **Calls on Wollongong City Council to immediately review the stalled Belmorgan Fairy Meadow development** and order the developer to fix identified safety issues then complete or demolish.

ARE YOU WORRIED?

A Review of Wollongong City Council's (WCC) Draft Local Environmental Plan (DLEP) 2009

A COMMUNITY ENGAGEMENT EVENT 28 February 2009

- 9.30 am: Registration, Tea, Coffee
- 10.00 am: Welcome to Conference: *Chair*: Fay Campbell
Welcome to Country
Opening Statement: Stephen Hill, *'Objectives and Rationale of the Program'*

I. INPUT FROM THE EXPERTS

- 10.15am: John Mant: *'How can people ensure their planning interests are enforced?'*
10.30 am: David Winterbottom: *'DLEP: Local Issues of Concern'*
10.45 am: QUESTIONS FROM THE FLOOR

11.00 am: **MORNING TEA**

II. COMMUNITY CONCERNS ABOUT WCC'S DLEP

- 11.30 am: Maureen Magee, CRED: *'The Tallawarra Lands'* (presentation and discussion)
11.45 am: Ken Davis, CRED: *'Sustainability and Aesthetics'*
12.00 noon: Rod Plant, CARE: *'The Vellar Mansions'* (presentation and discussion)
12.15 pm: Ray Robinson on behalf of Lori Lebow, KEG: *'Keep Excelsior Green'*
(presentation and discussion)
12.30 pm: Other Specific Issues in the DLEP: Brief Statements from the Audience

1.15 pm: **LUNCH**

III. CONCLUSIONS AND RECOMMENDATIONS

- 2.15 pm: Experts' concluding comments on possible actions to be taken
2.30 pm: Call for Resolutions
3.15 pm: Conclusions and Recommendations

3.45 pm: **CLOSE AND AFTERNOON TEA**

Computers and assistance available at the Submissions Desk for writing individual letters of objection

NOTE: SUBMISSIONS MUST BE IN TO COUNCIL BY 13 MARCH 2009