

Submission
No 6

INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK

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Date received: 12/11/2008

STANDING COMMITTEE ON STATE DEVELOPMENT – LEGISLATIVE COUNCIL – INQUIRY
INTO THE NEW SOUTH WALES PLANNING FRAMEWORK

REPORT BY GROUP MANAGER PLANNING AND DEVELOPMENT

Inquiry in the NSW Planning Framework

A0100049, A0420021

RECOMMENDATION

That this report be forwarded to the Legislative Council Standing Committee on State Development – Inquiry into the New South Wales planning framework as the Mid-Western Regional Council submission.

EXECUTIVE SUMMARY

Council has been invited to make a submission to the Inquiry into the New South Wales Planning Framework being undertaken by the Standing Committee on State Development.

DETAILED REPORT

Background

The terms of reference for the Committee are as follows:

That the Standing Committee on State Development inquire into and report on national and international trends in planning, and in particular:

- (a) *the need, if any, for further development of the New South Wales planning legislation over the next five years, and the principles that should guide such development,*
- (b) *the implications of the Council of Australian Governments (COAG) reform agenda for planning in New South Wales,*
- (c) *duplication of processes under the Commonwealth Environmental Protection and Biodiversity Act 1999 and New South Wales planning, environmental and heritage legislation,*
- (d) *climate change and natural resources issues in planing and development controls,*
- (e) *appropriateness of considering competition policy issues in land use planning and development approval process in New South Wales,*
- (f) *regulation of land use on or adjacent to airports,*
- (g) *inter-relationship of planning and building controls, and*
- (h) *Implications of the planning system on housing affordability.*

Comment

The need, if any, for further development of the New South Wales planning legislation over the next five years, and the principles that should guide such development and inter-relationship of planning and building controls.

The Environmental Planning and Assessment Act is overdue to be completely rewritten. The Act when adopted in 1979 was an appropriate response to need for greater community consultation and transparency. Various amendments to the Act over the years have resulted in over

complication and poorly drafted legislation. Solutions to the current problems within the planning framework need to be investigated from a new perspective rather than amending the Act in an arbitrary and ad hoc manner. Amendment to the Act has led to greater complexities in the system.

The latest round of planning reforms will further add to the various panels and arbitrators where a Development Application can be determined. The removal of the Building Application process has not led to a simplification of the system but an exponential increase in Development Applications as Complying Development has not been embraced by Developers and Council alike. The complexity of the systems, the inability to determine up front whether an application can be considered as a Complying Development Certificate and the drain on Council resources that has resulted through the myriad of change to planning legislation has resulted in the low take up rate of Complying Development Certificates.

The attempt of the Planning Reforms to introduce standardisation across the state has failed to recognise that regional areas do not require the same level of complexity in their process as may be required in the metropolitan Councils. The standard housing code proposed in the planning reforms will introduce a range of controls unnecessary in the rural and regional area and further undermine the take up of Complying Development as demonstrated through the recent trials of the Codes by 11 NSW Councils.

Rewriting the Act will allow incorporation of the Development Assessment Practices as identified by the Development Assessment Forum (DAF).

A rewrite of the legislation will allow a greater integration of legislation and an appropriate focus on the issues of these times such as climate change in keeping with community expectations.

The new Act should focus on simplification of the system, maintaining the role of Local Government and the local community in the determination of development applications and recognition of the importance of current global issues such as climate change.

The implications of the Council of Australian Governments (COAG) reform agenda for planning in New South Wales.

One of the main issues in relation to the COAG reform agenda is the capacity of Local Government to implement reforms. In terms of Climate Change the introduction of BASIX in New South Wales needs to be reviewed and monitored in relation to housing and impacts of the requirements. Long term enforcement of the BASIX requirements has proven problematic for Local Government. Monitoring on the success or otherwise of the scheme should be undertaken and widely reported to promote ownership and voluntary adoption of the scheme.

In terms of Development Assessment Reform the focus on e-business is supported but the lack of capacity of smaller Council to deliver e-business needs to be recognised. Funding and implementation of the technology required on a regional basis needs to be investigated if it is envisaged that e-business will be provided across the State.

Duplication of processes under the Commonwealth Environmental Protection and Biodiversity Act 1999 and New South Wales planning, environmental and heritage legislation.

Duplication should be addressed through a re-write of the Planning Act or certification of State Government to handle issues in accordance with the Commonwealth Act.

Climate change and natural resources issues in planning and development controls,

With the creation of the Catchment Management Authorities (CMA) and the development of the Catchment Management Plans a problem has been created regarding the incorporation of the CMP into Local Planning Instruments. This issue has not been addressed in the Standard template for Local Environment Plans. Both the content and drafting of the CMP and the local planning instruments need to be reviewed to allow realistic incorporation of the CMP into the LEPS should a statutory weight wished to be given to environmental targets. At this stage the CMA are involved in the formulation of local planning strategies but the incorporation of the CMP into the LEP's is limited due to their broad description targets that can not be measured at the individual DA level or interpolated into measurable and effective development standards.

Appropriateness of considering competition policy issues in land use planning and development approval process in New South Wales

Consideration of competition within a local economy is currently confusing for Local Government and the community. In the assessment of development application for particularly retailing uses and hospitality industry it has become evident that the local community would consider the impact on existing business a legitimate consideration in the development application process. This is particularly relevant in relative closed economies in rural areas. It may be appropriate that for some forms of development; demand and supply needs to be a matter for consideration in their own right rather than locational issues as it currently the case.

Regulation of land use on or adjacent to airport

The current zones within the standard template for Local Environment Plans introduced in New South Wales does not adequately address the opportunity for aviation related industry without the need to revert to additional layers which adds to the complexity of the LEP.

FINANCIAL IMPLICATIONS

Nil

STRATEGIC OR POLICY IMPLICATIONS

The invitation to make a submission to the Standing Committee will provide an opportunity for Mid-Western Regional Council to have input into the legislative framework of the planning system.

CATHERINE VAN LAEREN
GROUP MANAGER PLANNING AND DEVELOPMENT

20 October 2008

Attachments: Nil

APPROVED FOR SUBMISSION:

WARWICK BENNETT
GENERAL MANAGER