

Submission  
No 39

## INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK

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GJ:PD



13 February 2009

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PO Box 482, Taree NSW 2430  
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The Director  
Standing Committee on State Development  
Legislative Council Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Sir/Madam

**Submission to Inquiry into the New South Wales Planning Framework**

In response to your letter dated 8 October 2008, inviting submissions to the abovementioned Inquiry, please accept the attached submission on behalf of Greater Taree City Council.

Should you have any questions regarding this matter, please feel free to contact me at any time.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Gerard José', with a stylized flourish at the end.

**Gerard José**  
**GENERAL MANAGER**

# Inquiry into New South Wales Planning Framework

## Submission from Greater Taree City Council

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This submission has drawn on the experience of a number of planners within our Council who collectively have many years experience as practitioners in local government and whose principle focus has been on achieving good planning outcomes in the public interest. The submission has been reviewed and endorsed by the Councillors of Greater Taree City.

In recent years the NSW Planning System has been constantly amended and is now characterised by a system that is overly complex, costly and difficult to manoeuvre through and not adequately focussed on the achievement of good planning outcomes. Prior to a series of reforms commencing in the 1990's, the planning system was characterised by a sequential addition of detailed requirements as one worked through the system. Rezoning of land was a general analysis of the appropriateness of supporting that land for development for a designated land use. Detailed consideration as to how the land would be developed was assessed at the development application process. This was followed with a building application process that considered in detail how a particular development would be built from a structural adequacy, and public safety and amenity point of view. Further steps sequentially added detail and were integrated with an opportunity to condition movement from one step to the next.

Our submission seeks to identify a number of difficulties and shortcomings perceived with the current NSW Planning Framework and will be addressed as observations in regard to strategic land use planning, the rezoning process, development assessment and a number of concluding general observations.

### **Strategic Land Use Planning**

This Council has invested in a long history of Strategic Land Use Plans and Policies to guide development outcomes in the interest of our local community. The NSW Planning Framework has increasingly recognised the value of Strategic Landuse Planning, but it continues to be not recognised in a legislative sense. We believe that there should be a legislated framework for Strategic Land Use Plans.

The value of strategic land use plans is that they can capture public aspirations prior to the commitment of individual landowners to development outcomes. This minimises passionate and offer antagonistic arguments at the development assessment stage, and can give confidence to development investment decisions ahead of detailed development being planned and designed.

Strategic Land Use Planning should be based on extensive engagement of public and government agency stakeholders which is well embedded in the NSW Planning System.

The recent commitment by the Department of Planning to invest in regional strategies has been a welcome effort by the Department, despite the shortcoming of the strategies produced to date. The critical shortcomings in the strategies prepared so far has been their inability to focus on infrastructure delivery by the State Government to provide the necessary framework within which local strategies can be set. Indeed the major focus of Regional Strategies could be to capture the State Government commitment to Regional conservation and development outcomes and not to just direct local strategic planning.

With well conceived Regional Strategies in place, Local Government can confidently prepare local strategies which integrate with the regional strategies and provide direction for local conservation and development outcomes.

Such plans also provide a positive integration with State Government agency plans and indeed the State Plan itself.

Any legislation articulating a basis for strong and effective strategic land use planning should also provide linkages to plan making and development assessment processes to follow at a detailed level.

### **Rezoning**

The present planning framework has an overly complicated expectation of rezoning applications and the detailed requirements of the Department of Planning procedures can cause an overly lengthy and too detailed assessment process to occur which does not recognise the detailed development assessment process to follow.

Assessment of rezoning should be a general scale deliberation seeking to give effect to intended outcomes from the Strategic Land Use Process which would precede the rezoning process. As such, and provided there is strategic justification for rezoning of land, this stage in the planning framework should be administrative and significantly delegated to Regional Officers of the Department of Planning and to Planning Officers within Council's.

Where proposals are not addressed in current strategic plans a more rigorous assessment, rezoning process would be appropriate

Rezoning applications in many cases can take a number of years to be completed and the high cost of such processes is having a significant effect on the cost of the outcome in development terms. Many developers in our locality are seeking short-cuts to achieving development outcomes, rather than go through the lengthy rezoning application processes. For example, alternative housing outcomes such as manufactured housing estates and seniors living outcomes are being pursued, rather than rezoning for standard residential outcomes.

## **Development Assessment**

The whole development assessment framework in the NSW Planning System is overly complex, and in light of ongoing changes is difficult for practitioners to keep up-to-date with.

Development assessment is done to achieve a community or public benefit and whilst the specific aim of an application is to procure consent, the assessment process is to ensure consideration and assessment of the public interest in a proposed development outcome. Despite this, the community is being increasingly cut out of the development assessment process through recent changes such as the Complying Development Certificate framework.

There is little regard for the quality of assessment in lieu of ensuring quick passage through the complex system on a quantitative basis.

The desire by the Department of Planning to achieve standardisation and a "one size fits all" approach across the State flies in the face of a very often significant value in having local outcomes tailored for a local context. Similarly to the principle of sequential addition of detail through the planning system, so too should there be a sequential detailing of requirements from the State to the Local level. What we have instead are state policies mandating development requirements for garden furnishings, antennas, paving, and letter boxes. This approach erodes an opportunity to craft an individual character of an area relevant to a local context. Many of the provisions in regard to development assessment from the Department of Planning are also overly "city centric". The conflict between State aspirations and local aspirations in Sydney are well known and often articulated, but many regional areas end up suffering prescriptive requirements aimed at addressing city issues at the expense of effective planning and development assessment in rural and regional centres.

The Complying Development Certificate solution can be seen as a "quick fix" to facilitate housing on residential land in western Sydney, but will cause problems in its administration throughout the State. In an attempt to speed up assessment under this framework there is a significant potential for inadequate consideration of detailed issues such as foreshore erosion and local character statements prepared for specific localities. It is overly complex and will not be advocated or taken up on a large scale.

The Compliance and enforcement obligations of the development assessment framework currently falls to Local Government when we are increasingly being separated from the determinations in the first place. Processes such as the Part 3A and Complying Development Certificate processes leave compliance and enforcement with Council and no income stream from the assessment process for Council's efforts.

The constant ad-hoc and detailed adjustments to an already complex system only adds to the complexity. The ongoing reform has been described somewhat cynically as "multiple layers of streamlining".

## General

The engagement with Local Government of the Department of Planning in establishing the NSW Planning Framework has been inadequate and has been characterised by conflict between the two sectors. In developing these expectations and obligations on Local Government there has been poor consideration by the Department of Planning of Local Government Act requirements in the operations of Council's. This relationship is also characterised by inadequate consultation by the Department of Planning where significant exhibition processes have been done on very short notice or over Christmas holiday periods.

The system is also characterised by confusion created from mixing the "public interest" objectives of the planning and development assessment processes with Competition and Private Certification Processes. This has been a major flaw in the Planning Framework which remains unresolved and continues to deliver poor outcomes throughout the State.

Recent amendments to the planning framework have also given inadequate recognition to the democratic processes of local government and the governance obligations of local Council's. The emphasis on a few "bad apples" within Local Government to blame the whole sector, and the ongoing effort to keep devising rules to overcome has resulted in a system which is over regulated and has lost a focus on the outcomes of the system. The system itself has become an objective in its own right. There have been many instances of representatives of the Department of Planning indicating that their intent is to create "the best planning system in Australia" rather than planning processes that achieve the best planning outcomes.

Specifically in regard to Climate Change, Council remains concerned that this issue should be addressed from a Policy perspective at the State level, rather than be left to Local Government to create individual responses. While the Department acknowledges the uncertainty of a Policy position on this issue, Council's are constantly required to address this issue on an ongoing basis on individual development applications.

The draft Mid North Coast Regional Strategy calls for a coastal hazard risk assessment for every DA within the NSW Coastal Zone should Council not have a Coastline Management Plan in place. At this stage, we do not have such a plan.

This places increasing costs and time on the development assessment process and hence impacts on the cost of development outcomes.

Council appreciates the opportunity to express some concerns about the existing system and would be happy to participate in any discussion of the points raised in this submission.

