

Submission  
No 68

## INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK

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Reference:

18 February 2009

The Director  
Standing Committee on State Development  
Legislative Council  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Sir/Madam

**RE: LITHGOW CITY COUNCIL SUBMISSION TO THE INQUIRY INTO THE NSW PLANNING FRAMEWORK**

Lithgow City Council would like to thank you for your invitation to make a submission to the Inquiry into the NSW planning framework.

It is advised that Council at its ordinary meeting held 16 February 2009 resolved to make the following submission:

***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 and inter-relationship of planning and building controls.***

- The Environmental Planning and Assessment Act, 1979 is now thirty years into its life and is well overdue for a full overhaul. Numerous ad hoc amendments particularly since 1997 have in many ways made the system worse through even more complex development assessment processes than those that were replaced and providing for plan making based on a "city centric" mentality.
- The system is focused on process and not outcomes. The system is frustrating to all stakeholders alike and has inadvertently become less transparent and provides a lower level of certainty.
- Local Government is best placed to determine planning policy for its area. The underlying principle of a greater focus on strategic planning and bringing development provisions upfront into higher order plans (Local Environmental Plan- LEP) is supported. However in many regional local government areas such as Lithgow, the planning reforms are a significant shift of focus and may not deliver the desired outcomes within the short term (first LEP under the Standard Instrument). In this regard the premature introduction of state wide mandatory codes for exempt and complying development are of concern and may substantially change the amenity and character of local neighbourhoods. Planning reform must be able to reflect the values of local communities.
- Any new legislation should look to providing more weight to local land use strategies within the planning framework over and above the LEP provisions as well as strengthening the role of local Development Control Plans.

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- LCC currently has an average approval turnaround of only 16 days. The continued erosion of local planning control and removal of a working merit based assessment process is therefore not warranted. Instead of developing mandatory codes to be implemented state wide they could be developed into a toolkit for assessment without removing the opportunity for community participation in the planning process. The current complex system has undermined the take up of complying development within our area.
- The erosion of local government planning powers is of concern, such as the ongoing moves by the State government to relieve councils of their planning powers through Part 3A of the EPA Act, the extension of the private certification system, and the current push by the government for council building assessment staff to be accredited similar to private certifiers to fund the Building Professionals Board (BPB). The accreditation of council officers may result in Council being unable to provide a building approval and inspection service to its ratepayers because of the onerous qualification requirements being suggested by the BPB for staff having many years experience providing this service.
- The standard of services provided by private certifiers is currently of concern and is for the most part unchecked.
- The proposed establishment of the Planning Assessment Commission (PAC), Joint Regional Planning Panels (JRPP) and Independent Hearing and Assessment Panels (IHAPS) will further erode planning powers from local government and deliver less transparent decision making.
- The barrage of planning reforms and legislative changes and the absence of planned rollout of these in recent times has represented a significant resource strain on local governments, particularly the smaller regional areas and has created undue confusion and conflict for all stakeholders. Any further reforms or legislative change needs to be co-ordinated to reduce these problems.

***The implications of the Council of Australian Governments (COAG) reform agenda for planning in NSW***

- Rewriting of the EP&A Act could allow for a more thorough incorporation of the Development Assessment Forum (DAF) Leading Practice Model of Development Assessment that supports planning at the local level.
- The principle of e-planning is supported, but the lack of capacity within smaller councils to deliver e-planning needs to be taken into consideration. In areas such as Lithgow resources may be better placed towards developing a more streamlined internal assessment process to deliver time and cost savings to customers.

***Duplication of the processes under the Commonwealth Environment Protection and Biodiversity Act 1999 and NSW planning, environmental and heritage legislation***

- Duplication of the processes under the Commonwealth Environmental Protection and Biodiversity Act 1999 and NSW planning, environmental and heritage legislation should be removed through a rewriting of the EP & A Act or enabling consent authorities to also consider the Commonwealth Act. The duplicate, sometimes conflicting, processes hinder the proper consideration of these issues.

***Climate change and natural resource issues in planning and development controls***

- It is certainly now time to ensure that issues such as climate change are addressed within planning controls in keeping with community expectations. The Act needs to be strengthened in terms of Ecological Sustainable Development (ESD) provisions.
- The myriad of controls and consent authorities relating to natural resource issues are often not easy to identify, are confusing and are not easily enforceable at the property level. Therefore a more strategic approach is needed to implement these at the highest level within the planning framework. The current Acts do little to deliver this outcome.

***Appropriateness of considering competition policy issues in land use planning and development approval processes in NSW***

- The issue of competition policy within land use planning is little understood. The issue of the impacts of new development (particularly retail) upon existing developments is exacerbated in rural and regional areas where economies are to some extent limited by the comparatively smaller catchments, making it a legitimate consideration. Again this relates to ensuring the recognition of local community values within the planning framework.

If you require further information or clarification of any of the above comments please do not hesitate to contact Mrs Sherilyn Hanrahan of Council's Policy and Planning Department on 02 63 54999.

Yours sincerely



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