

INQUIRY INTO REGIONAL PLANNING PROCESSES IN NSW

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Office of the Secretary

The Director
Standing Committee on State Development
Parliament House
Macquarie Street
Sydney NSW 2000

16/02461

Dear Sir/Madam

The Government has been asked to provide a submission on the Parliamentary Inquiry into Regional Planning Processes.

Please find attached the submission for your consideration.

The submission has been prepared by my Department with input from the Department of Premier and Cabinet, Department of Industry, Office of Environment and Heritage, and the Office of Local Government.

Should you have any enquiries in relation to the submission, I have arranged for Mr Stephen Murray, Acting Executive Director Regions, at the Department to be available to assist.

Yours sincerely

Carolyn McNally
Secretary

5.2.16



NSW LEGISLATIVE COUNCIL

STANDING COMMITTEE ON STATE DEVELOPMENT

INQUIRY INTO REGIONAL PLANNING PROCESSES

IN NSW

Whole of Government Response

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Executive Summary

The Committee's inquiry into regional planning processes in NSW provides the opportunity to consider the effectiveness of the planning framework to stimulate regional development. The terms of reference will allow the consideration of opportunities for increased delegation, strategic planning and incentives to promote regional development; and the potential for improved decision making processes (full terms of reference included at Appendix 1).

This whole of Government submission has been prepared by the Department of Planning and Environment with input from the Office of Local Government, Office of Environment and Heritage, Department of Industry and Department of Premier and Cabinet. It responds to the terms of reference by focussing on the current planning framework and how it provides the flexibility needed to respond to regional planning issues.

The NSW planning legislation provides consistency and certainty for its users in both regional and metropolitan areas. The system is flexible enough to customise its approaches to the needs of different users, such as regional areas, and can be tailored to the nature of the development. This flexibility is achieved through the appropriate design and application of the policies, statutory controls and other processes associated with the planning system. Some examples of the ability to vary the planning system to benefit regional areas include:

- Standard instrument local environmental plans that balance the standardisation of common planning controls with local provisions designed for local needs such as planning for coastal hazards, rural subdivisions and eco-tourist developments;
- State Environmental Planning Policies, such as Caravan Parks and Manufactured Home Estates and the Exempt and Complying Development Codes that respond to regional variations; and
- New policy outcomes for specific areas, such as coastal planning reforms.

The planning system continually evolves and adapts to new and emerging regional challenges. This is highlighted by:

- The development of Regional Plans providing for the sustainable growth and change of regions into the future;
- e-Planning initiatives that are improving access to planning tools and data for regional areas; and
- Development assessment policy, such as the Integrated Mining Policy.

The planning system is supported by numerous Government agencies, policies and legislation, providing guidance for the management of regional issues and promoting development, productivity and conservation outcomes in regional NSW. Some examples of this include:

- The Fit for the Future reform program building the capacity of local government so it can provide infrastructure and services required by NSW communities;
- The NSW Gas Plan to improve the regulatory framework for the delivery of gas for the benefit of NSW communities and businesses; and
- Biodiversity legislation review to improve the legislative and policy framework for biodiversity conservation and native vegetation management.

The Department of Planning and Environment's dedicated regional teams work closely with regional councils and stakeholders to support the administration of the planning system. As an example, in 2014-2015 the ability to return plan making powers to Council has seen over two thirds of planning proposals finalised at the local level.

The NSW Government will continue to look for opportunities within the current planning framework to respond to emerging challenges facing regional areas and to provide additional support and flexibility where suitable.

1 Introduction

Regional communities face a number of challenges from encouraging economic activity, sustainably utilising agricultural and natural resources and building the resilience to deal with changes in social, economic and environmental conditions. Responding to these challenges requires the planning system to be simple, flexible and robust. New opportunities to drive simplicity and flexibility for regional communities should be taken up wherever possible. Identifying and utilising these opportunities continues to be a focus for Government.

Land use planning creates the opportunity for communities and governments to collaborate to improve the means by which people interact with our surroundings. Planning encourages appropriate development and the identification of the infrastructure needs of communities as they grow and change. Planning protects the environment, landscapes and heritage that our communities value highly.

Planning in regional areas often responds to other matters than those in metropolitan areas. In regional areas the nature of the demands for new development relate to building communities and taking opportunities for growth. Planning provides opportunities to positively influence economic development, environmental management, social and cultural outcomes.

Areas in regional NSW vary considerably and therefore require specialist planning approaches that address these differences. The different areas include:

- Coastal towns, villages and their associated natural environments;
- Coastal landscapes and plains;
- Regional centres and their associated towns, villages and rural hinterlands;
- Peri-urban areas around regional centres or the metropolitan fringes;
- Rural towns and villages, including those areas experiencing the impacts of demographic change;
- Rural landscapes dedicated to the production of food and fibre;
- Important natural habitats, national parks, cultural landscapes and riverine systems; and
- Areas rich in natural resources.

The current system provides for different approaches to be applied across these different regional landscapes. The Government is committed to a range of policies that will improve planning outcomes to ensure the planning system is simple and flexible in regional areas.

The NSW Government provides complementary policies and programs that are important to the success of the planning system in regional NSW.

The focus of this submission is to highlight how the planning system provides support and opportunities for regional planning outcomes that are simple, flexible and easy to use – it includes commentary on the following:

- the NSW Planning System;
- the role of Government departments involved in regional planning processes;
- regional planning opportunities;
- dealing with issues such as land use conflict;
- current planning system policies supporting regional planning outcomes;
- broader Government initiatives that support regional planning outcomes; and
- opportunities for ongoing improvement to the planning system.

2 What is the NSW planning system?

The NSW planning system is an interaction of people, policy and legislation.

The core of the planning system is its range of legislative and policy tools administered by State and local government. Responsibility for planning is therefore shared between the two jurisdictions with both undertaking roles in development assessment, plan making, developing policy and providing guidance to various users within the system. These shared responsibilities reflect an important component of planning in NSW, which is that local matters are best dealt with at the local level by Councils.

An important outcome of having an effective and efficient planning system is to provide certainty to a range of stakeholders (often with competing interests), such as the community, developers and government.

There are various strategic planning documents at each level of government that give the planning system a clear strategic purpose. The NSW State Infrastructure Strategy and Long Term Transport Masterplan are examples of state-wide strategic plans. At a regional level strategic direction is provided by plans such as A Plan for Growing Sydney or the Illawarra-Shoalhaven Regional Plan. Strategic planning is also critical at the local level where councils use a combination of Community Strategic Plans, local land use strategies and environmental studies to set a clear direction for their communities.

The principal legislation governing the planning system is the *Environmental Planning and Assessment Act 1979*. The main elements of the Act include:

- *Environmental planning instruments*: Managing the preparation of policy and plans to direct, guide and control development outcomes;
- *Development assessment*: Managing the process of assessing development;
- *Development contributions*: Requiring the contribution towards the provision of infrastructure & services that result from development opportunities; and
- *Public authority activity assessment*: Requiring public authorities to assess the impacts of their activities.

The legislation also sets out the responsibilities of the Joint Regional Planning Panels and the Planning Assessment Commission who provide expert advice on development and rezoning matters.

There is also other NSW legislation that intersects with and influences the planning system. For example:

- *Heritage Act 1977*
- *Threatened Species Conservation Act 1995*
- *Fisheries Management Act 1994*
- *Marine Estate Management Act 2014*
- *Coastal Protection Act 1979*
- *Native Vegetation Act 2003*
- *Plantations and Reafforestation Act 1999*
- *Local Government Act 1993*
- *Crown Lands Act 1989*
- *Aboriginal Land Rights Act 1983*
- *Water Management Act 2000*

Some of the most important elements of the planning system are:

- *Local Environmental Plans and Development Control Plans*: prepared and administered by Councils to control what can and can't happen on land in a particular area as well as setting the considerations for the assessment of development proposals;

- *State Environmental Planning Policies*: ranging from policy documents through to detailed development controls for particular areas or types of development. These policies allow a consistent approach to important State planning issues;
- *Strategic planning*: varying in form and outcome from small scale project-based exercises through to regional scale investigations and outcomes;
- *Policy implementation through legislation and other requirements*: including Directions from the Minister to local government (under s117 of the EP&A Act), a standard instrument for all local environmental plans, policy positions on development types or areas, and so on; and
- *Guidelines and Best Practice Documents*: These give guidance to development assessment processes and can be used by applicants and Councils/Departments.

Standardisation of the common 'tools' of the planning system, such as zoning names, development definitions and the way that development standards are expressed, has brought a number of benefits, including the ability to improve e-Planning. This standardisation has been able to be achieved while giving councils the flexibility to tailor their planning controls to meet local needs through local clauses and variations.

3 Administration of the planning system

The planning system is administered primarily by local government and the Department of Planning and Environment. However, there are many other Government departments and agencies that have responsibilities either under planning legislation or under other legislation that intersect with the planning system.

DP&E Role in the planning system:

DP&E's role in the planning system includes:

- the assessment of certain developments and proposals;
- facilitating the amendment of statutory instruments;
- creating and implementing policies;
- undertaking strategic planning;
- coordinating and incorporating advice from other departments and agencies; and
- supporting the creation, maintenance and updating of relevant legislation.

DP&E provides support and guidance to other users of the planning system including local government, industry and interest groups, and the general public. Regional teams within DP&E deliver regional approaches and responses to planning issues working closely with councils to administer, process and support planning work that directly impacts regional communities. They are split into four regions (Southern, Western, Northern and Hunter/Central Coast) with offices in Dubbo, Tamworth, Grafton, Newcastle, Gosford, Wollongong and Queanbeyan (see Figure 1).

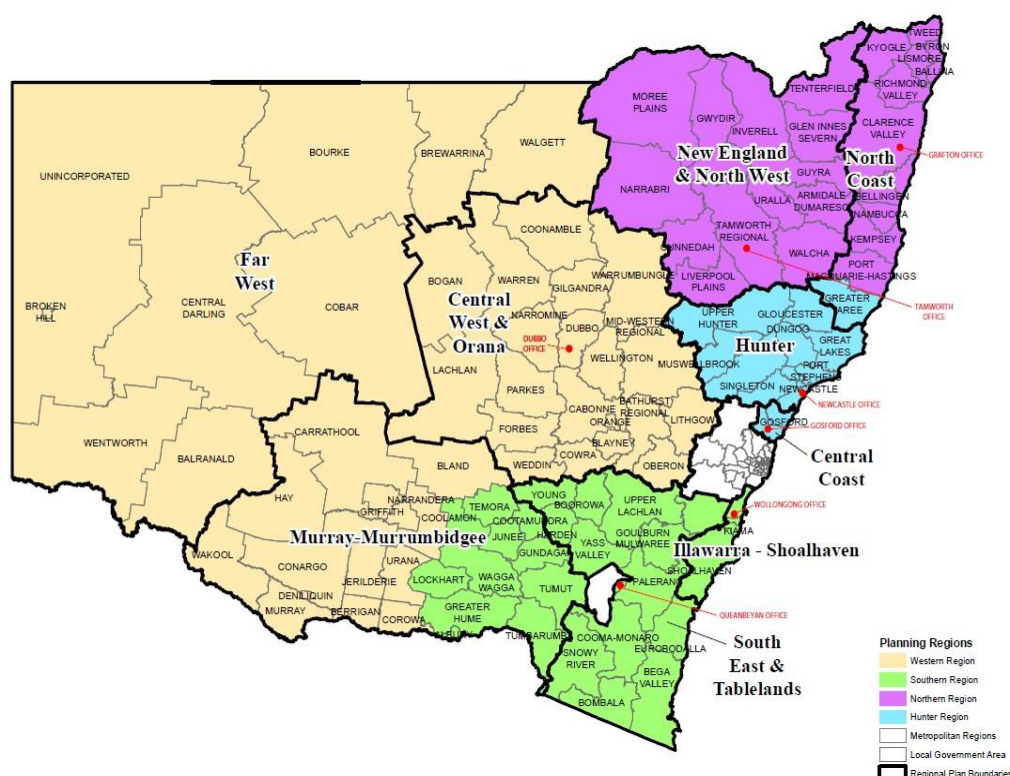
Local planning matters are best dealt with by councils and the NSW Government is committed to returning local planning powers to councils and their communities. Since late 2012, DP&E has used the Gateway process to delegate the responsibility for local plan making functions to councils. These changes give local councils responsibility for the making of their LEPs, removing duplicative steps in the process. For example:

- In 2014-15, a total of 434 planning proposals were lodged across the State; two thirds of these were from regional NSW.
- In the 2014-15 financial year, just over two thirds of all LEPs determined were finalised by the relevant council under delegation. This was 20% more LEPs completed under delegation than the previous year.

- In 2014-15, over 85% of Gateway determinations for planning proposals in Regional areas were issued under internal delegation by the DP&E's regional offices; less than 15% of Gateway determinations were made by the DP&E's executives.

Regional offices manage the Gateway process, including the delegation of plan making functions to Councils. By working closely with councils, the regional teams are able to bring a much stronger local perspective to the process of plan making in regional areas.

Figure 1.
Map showing Planning Regions, Regional Plan boundaries, Regional Office locations.



Role of other agencies in the planning system:

There are many other Government agencies with roles in the planning system. These roles vary from development-related activities (such as assessment) through to the preparation of policies and plans that influence planning outcomes. Some roles are formal, such as issuing concurrence for development activities; and some are more informal, such as contributing to local or regional strategic planning documents.

The planning system intersects with other legislative requirements for issues such as heritage, biodiversity, native vegetation and forestry. The agencies responsible for these areas will often seek a more strategic outcome through the planning system. Agencies like the Office of Environment and Heritage and the Department of Primary Industries have an important support role to facilitate information and approvals for primary industries or biodiversity outcomes through both their legislation and the planning system.

4 Planning for regional areas

Regional NSW is a significant contributor to the economic performance of the State, a contribution that continues to grow. In 2013, Gross Regional Product for regional NSW was \$138 billion or 29% of the State's total output – having grown by an average of 4.8% each year since 2006.



Traditionally, resource and landscape based sectors (agriculture, commercial and recreational fishing, mining, tourism and energy) remain important in regional NSW. The manufacturing and service sectors are amongst the largest contributors to regional economies. Human service sectors are increasingly important as the largest employers and generators of output in regional NSW and regional economies are increasingly diversifying into knowledge sectors which require different support structures.

Many of the policies of the Government in the planning area are focused on supporting these sectors through improvements to the planning system and by implementing the *Economic Development Strategy for NSW* (2015).

Regional planning can support the long-term growth in primary industries by developing and protecting the resources on which these industries depend. Sound land use planning will recognise the significance of agriculture and other primary industries, both in the context of current and future trends, as well as the needs of the broader community. This includes providing certainty, confidence and consistency to support investment in new and existing industries and avoiding the alienation, fragmentation and permanent loss of important primary industries resources.

Support for investment in regional communities can also be supported through the administration of the planning system. For instance, in June 2015, it was announced that businesses in Western NSW will get a fifty percent discount on planning applications for State Significant Development to encourage new jobs and investment in the region.

Regional Plans:

DP&E's new Regional Plans will support its work to achieve planning outcomes by ensuring decisions are based upon sound evidence and a strategic approach in regional areas. The new Regional Plans set a clear and agreed direction for the growth potential of a region and are being progressively rolled out in 2016.

Regional plans will identify the Government's commitment to policies and activities to support sustainable regional development, social and environmental outcomes and clarify the responsibilities of councils in land use management.

Key benefits from the Regional Plans will be a regionally agreed vision of the issues and priorities, a focus on where growth will occur and infrastructure investment is needed, policies to grow the capacity of regional economies and housing markets, and the protection of sensitive environments.

Regional Plans are proposed for:

- Illawarra-Shoalhaven (*finalised Nov 2015*)
- Hunter (*released for public comment Nov*)
- Central Coast (*released for public comment Nov*)
- North Coast
- New England North West
- Central West and Orana
- Riverina Murray
- South East and Tablelands

Partnerships between State agencies, councils and other regional stakeholders is a fundamental element in the process of developing Regional Plans and councils will also be included in governance structures for the implementation and monitoring of the Plans.

Regional Plans provide for the collaboration of all levels of government to respond to the opportunities and challenges present in regional areas.

Each part of regional NSW offers a different contribution to the State reflecting local characteristics and diverse landscapes and environments. Each regional area also brings a number of planning opportunities that are inherently different to that of metropolitan cities. A

regional approach to the planning for these areas protects the vitality and significance that each regional area offers across NSW.

As the regional plans are being prepared a number of common issues that characterise regional areas as being different to metropolitan areas are arising:

- The interface between planning and Natural Resource Management (NRM): Regional NSW is abundant in agricultural lands, minerals, coastlines, waterways and floodplains. Planning plays a critical role in balancing the protection of these assets and the needs of communities.
- Protection and enhancement of the natural environment: Regional NSW has a number of diverse natural landscapes and biodiversity. Many regional settlement areas are susceptible to natural hazards, for example housing located along flood prone river catchments, rural properties located in bushfire prone lands or housing located on high risk coastal erosion areas. Safeguarding these natural areas from incompatible development and identifying regionally significant environmental values for protection is a priority.
- Protection of agricultural assets through increased biosecurity measures: Biosecurity is about risk management. Effective biosecurity is important because it contributes to the wellbeing and prosperity of a region, and more broadly, the nation. Managing risks to biosecurity can often be minimised through appropriate land zoning and permissibility of land uses in local environmental plans. Appropriate buffers to separate different land uses are also important. The NSW Biosecurity Strategy 2013-2021 outlines the Government's commitment to strengthen and maintain biosecurity measures.
- Managing water supply: Competition in accessing water resources is a common issue in regional NSW. Access to fresh water across the state is effectively embargoed. This is recognised both within existing water use areas and where changing land uses result in additional water demands (such as new rural residential areas). It is important for strategic planning to consider the assessment and impacts of water supply early in the planning process.
- Land use conflicts: Dealing with land use conflict is an ongoing challenge in urban, peri-urban and rural living areas. Land use conflict can occur as a result of poor strategic planning or inappropriate development approvals, particularly as a result of locating living opportunities in agricultural areas. It can seriously affect people's experience of wellbeing, but also constrain the productivity and sustainability of an enterprise; strain neighbourhood relations and community cohesion; and threaten regional prosperity.

Once entrenched, land use conflicts can be costly to resolve to the satisfaction of all stakeholders and can impose significant constraints to economic development in urban and rural areas of NSW.

- Changing demographics in regional areas: The population profile across regional areas is changing. Population growth is being driven by net migration gains in regional towns and centres. In smaller and more remote areas, populations are not growing and in some places are becoming smaller. These changes are being driven by a combination of out migration of young people for education and employment opportunities in urban centres in combination with population ageing.

Planning to accommodate an ageing population is a critical issue across regional NSW, with large increases in the number of older people as well as an increase in the proportion of the population at older ages. Planning must take into consideration the increased pressure from an ageing population for the provision of suitable services, housing and infrastructure, as well as capacity to respond with the current and projected

workforce. All these factors are exacerbated by significant distance between service towns and centres.

- The rise of regional centres as a preference to small towns and villages: Many regional centres are shaped by their locations along major transport routes, access to employment and education opportunities and greater choice for retail and entertainment activities. An increasing number of people are choosing to live in close proximity to regional centres so making sure there is enough room for regional centres to expand and grow and accommodate people into the future is a priority for regional planning. These larger centres that have a combination of tertiary education and health care services have younger populations and continue to experience population growth through migration and natural increase.
- Cross border issues: In NSW, there are at least 14 councils that are managing cross border issues on a daily basis (particularly with Victoria, ACT and Queensland). Issues include different legislation and requirements, subsidies and fees, opportunities for development, and infrastructure provision. There are a range of planning issues that arise from these pressures, including:
 - Demand for rural lifestyle and urban housing within commuting distance from Canberra;
 - The expansion of urban growth pressures from South East Queensland into northern NSW; and
 - The tourism and lifestyle pressures on settlements along the Murray River.

The Government has created the Office of the Cross Border Commissioner to identify and help resolve these types of issues. Assistance is being provided to businesses, organisations and individuals who live, work and operate in cross-border areas of NSW by helping to connect them to the most appropriate agency to ensure their issue is addressed. The office is also working closely with the bordering states of NSW to gain an understanding of cross border issues and to develop a framework for the raising and resolution of cross border issues.

- Attracting planning-related resources: There are a number of challenges for planning in regional areas, particularly the ability to marshal the resources to take advantage of the opportunities presented by the new regional plans:
 - Limited qualified town planners: In smaller councils, planning roles are often consolidated with other responsibilities (such as health and building surveying, managing Council assets, environmental management and so on). Where larger regional councils are able to employ teams of town planners, the ability to attract and retain sufficiently qualified or experienced professionals can be challenging.
 - Attracting sufficiently qualified and appropriately accredited building surveyors: the planning system benefits from the availability of suitably qualified professions who ensure that development outcomes are safe and comply with accepted standards. The shortage of these professionals has a significant impact on the ability of councils (small and large) to deliver development outcomes. Many councils in regional areas rely on external consultants to provide this service at considerable expense.

5 Current policies and programs assisting regional planning

DP&E is working on a range of policies, programs and reviews to improve the effectiveness of planning for regional NSW. These initiatives are looking to improve the certainty, simplicity and flexibility of the system, making it easier for regional NSW communities to work within the system to achieve good planning outcomes for their communities.

Standard Instrument

The Standard Instrument LEP Program was initiated in 2006 to create a common language and structure for LEPs. Commonly known as the Standard Instrument LEP, or the LEP template, the Program was designed to simplify the plan making system in NSW.

Immediately prior to introduction of the Standard Instrument there were approximately 5500 local planning instruments across the State, containing some 3100 different land use zones and 1700 land use definitions. The ultimate aim of the Standard Instrument LEP Program was to have one LEP for each local government area using a standard suite of land use zones and definitions.

Key outcomes of implementing the SI LEP Program include:

- a consistent way of reflecting recent strategic land-use planning undertaken by councils and the Government;
- improving the ability of councils to attract new development based on a consistency of zone types and definitions. For example it is now easier for councils to demonstrate the greater capacity for development that often exists in regional communities through direct comparisons of planning controls between regional and metropolitan areas;
- giving councils an opportunity for the expansion of their development capacity through the renewal and update of their strategic planning (eg. more urban, more industry, etc); and
- effective management of natural, environmental and cultural resources.

All councils across the State now have a Standard Instrument local environmental plan (LEP) in place. This represents a remarkable achievement in updating and modernising planning controls in regional areas. It also reflects a substantial investment from the State government through its Planning Reform Fund and its LEP Acceleration Program.

While the Standard Instrument LEPs contain standard zones, definitions and a range of standard clauses, there is still flexibility for councils to tailor their LEP to their various needs and circumstances through the selection of zonings and the tailoring of appropriate uses. This continues to allow some level of flexibility, whilst maintaining the overall consistency and certainty the Standard Instrument LEP provides.

Throughout the SI process councils have been able to include clauses in their LEPs that reflect local circumstances. Some of these clauses were drafted as “Model Clauses” that could be used by other councils and some have been drafted to suit the specific needs of various areas.

There are at least four or five local clauses included in each local environmental plan. Local clauses can be used by a council to manage a local issue (e.g Berrigan’s clause to manage development near an explosive storage area), or by many councils to manage an issue that is common across regional areas (e.g. rural subdivision). Some examples of local clauses used in regional areas include:

- Rural subdivision: to provide flexibility in the application of subdivision standards in rural zones;
- Eco-tourist facilities: to minimise the impact and maintain environmental and cultural values of land developed for eco-tourism facilities;
- Development on riverfront areas: to support and protect riverine processes and values such as bank stability, water quality and wildlife habitat;

- Design excellence: to require consideration of certain matters (e.g. sustainability, materials, design quality, amenity) in determining if a development exhibits design excellence;
- Coastal risk planning: to manage land uses in areas identified as being at risk of coastal hazards; and
- Development near explosive storage area: to protect the area from impacts of development and allow compatible uses within its buffer.

Importantly, the standard instrument controls are not fixed and there is always opportunity for amendment. Councils are able to reflect local needs and changing circumstances by making amendments to their principal LEPs, usually under delegated authority.

SEPP Reviews

There are a large number of State Environmental Planning Policies (SEPPs) that cover a range of issues and outcomes. DP&E is currently reviewing all 66 SEPPs. The first sixteen are to be repealed imminently, with relevant policies and standards transferred to other instruments, particularly LEPs. The remaining 50 will be reviewed, updated or repealed, as appropriate. For example:

- A review of the applicability of exempt and complying development in non-metropolitan areas is currently underway to identify how these types of development can be tailored to meet the needs of rural and regional areas. This will ensure that minor developments are relevant to regional circumstances;
- A comprehensive review of SEPP 65 (Design Quality of Residential Apartment Development) was finalised in July 2015 and included extensive consultation with stakeholders including regional councils; and
- The rural and regional-related SEPPs will be reviewed as part of the next stage of the SEPP Review program.

The review of many other SEPPs will also have particular relevance for rural and regional NSW:

Caravan Parks and Manufactured Home Estates SEPP Review

Caravan parks and manufactured home estates are fundamental to the success of the tourism sector and in providing affordable housing opportunities in many regional areas. DP&E, in conjunction with the Office of Local Government (OLG), is considering options to streamline the approval of caravan parks, camping grounds and manufactured homes. This will create more housing and certainty to industry and consumers, particularly in regional NSW. A discussion paper commenced exhibition in November 2015 that aims to:

- Evaluate the existing legislative framework and regulatory requirements for the development and operation of caravan parks, camping grounds and manufactured home estates and the installation of manufactured homes;
- Explore the range of operational and policy issues that have arisen since the Regulation was first made nearly twenty years ago and consider how the planning and approval system can address these issues; and
- Seek stakeholder submissions regarding a new policy approach which will replace the current regime of regulation and planning policies.

Exempt and Complying Development SEPP Review

Part of simplifying the NSW planning system is to increase the number of development applications benefiting from fast-track approvals. DP&E is working to simplify and improve the State Environmental Planning Policy for exempt and complying development (the Codes SEPP) that sets the standards for consistent approaches to fast-track approvals.

A number of these projects are geared toward ensuring the Codes SEPP accommodates the differences between metropolitan and regional NSW:

- Changes have been recently made to the notification of complying development in rural and regional NSW to:
 - remove the current requirement for certifiers to notify neighbours 14 days before they issue a residential complying development certificate in regional and rural local government areas; and
 - reduce the mandatory pre-construction neighbour notification for all complying development in regional and rural local government areas, from seven to two days.

These changes were in direct response to a number of rural and regional councils' concerns that the notification requirements slow down processing times for complying development and delay the construction of new houses and additions.

These changes are overwhelmingly supported by rural and regional councils and will benefit rural and regional areas by:

- promoting faster completion of residential complying development,
 - improving housing delivery; and
 - reducing red tape and costs for home buyers and existing home owners undertaking renovations.
- DP&E is also examining options to simplify the controls for complying development in regional areas. Regional consultations have explored what is working well with the Codes SEPP and what requires improvement in a regional context with a view to creating a new complying development code tailored specifically to regional areas. DP&E is progressing the development of options for a regional (inland) code in consultation with regional stakeholders. This will increase the take up of complying development in regional areas and ensure the needs, particularly of the rural community, are addressed by allowing routine agricultural infrastructure (such as sheds and the like) to be built without approval.

Development assessment policy

DP&E recently released the first four Integrated Mining Policy guidelines. These guidelines respond to community and industry stakeholder concerns that the system is too complicated and difficult to navigate.

The Integrated Mining Policy (IMP) is a whole-of-government project which aims to:

- improve the regulation and assessment of major mining projects
- strike a balance between the significant benefits mining can bring to the economy and the potential impacts on communities and the environment
- help manage the environmental and social impacts of mining
- provide the community with access to relevant and timely mining project information.

Importantly, the IMP does not reduce environmental standards or community consultation requirements.

The Government is committed to a balanced approach to resources assessments, which supports increasing investment in regional NSW, while managing potential impacts on the environment, local communities and existing businesses. The IMP is the first step on a regulatory reform pathway in line with this commitment. The Government is considering proposals for new policy developments, including those raised in submissions that were received during the IMP consultation processes.

E Zone Review

Recently, the Minister for Planning released a range of reforms for the application of environmental zones to resolve a long standing challenge in protecting the North Coast



Regions most environmentally sensitive areas while respecting and safeguarding its farmland.

The reforms recognise that the primary use of the land, whether it's for conservation or agriculture, is the key driver behind the zoning decision so farmers and the community can proceed with confidence. It provides a clear and consistent way of applying E zones on the Far North Coast of New South Wales.

The outcomes of the E Zone Review are now available as a model in the consideration of environmental outcomes in other LEPs across the State.

Planning Reform Fund

In 2002, the planning legislation was changed to enable fees to be collected from development to fund planning reform in NSW.

Since 2004, DP&E has provided \$22.5 million to over 250 projects administered by councils across NSW. Of this, over 60% (\$13.5 million) has been allocated to rural and regional councils.

Projects that have received funding include various land use strategies, e-planning outcomes, structure and master planning, comprehensive local environmental plan reviews, mapping, and economic strategies.

Many of the projects supported by the Fund have included direct partnering between councils and DP&E. Other recent work supported by the Fund includes improved strategic planning outcomes for regional areas such as:

- urban release area planning;
- rural strategies;
- industrial and employment land strategies; and
- environmental lands mapping.

Coastal Reforms

Stage two of the Government's coastal management reforms will establish the legislative and policy settings, and the practical tools, that resilient coastal communities need to:

- protect and enhance the natural values of the coast;
- ensure ongoing public access, use and enjoyment of our beaches and coastal foreshores; and
- support coastal communities to increase their resilience to existing and emerging coastal hazards and threats.

Implementation of the coastal reform package will provide better information to inform regional planning and ensure that land use planning strategies at a regional level are aligned with well-designed local strategies. Key elements of the proposed coastal reform package that have been released for public consultation are:

- A draft Coastal Management Bill: The current Coastal Protection Act 1979 is to be replaced by a new Coastal Management Act that will enable more strategic management of how we live on the coast. The legislation will establish clear outcome-oriented management objectives for four distinct coastal management areas in a newly defined coastal zone.
- An Explanation of Intended Effect for the proposed new Coastal Management State Environmental Planning Policy: The new SEPP will form part of the broader land use planning framework in NSW. It will consolidate and update the relevant and effective provisions from three existing SEPPs into a single policy. It will deliver statutory management objectives for each of the four coastal management areas that make up the coastal zone;

- Key elements of a draft Coastal Management Manual: The manual will support coastal communities to develop coastal management programs that are feasible, technically viable and affordable. Additionally, the explicit link between new coastal management programs and councils integrated planning and reporting framework, and LEPs/DCPs will assist in ensuring a close link between coastal management decisions and land use planning at all levels. Councils will be required to consult with their local community, as well as relevant public authorities and adjacent coastal councils, throughout these various decision-making steps; and
- The proposed new Coastal Management Framework will better equip coastal communities to respond effectively to existing and emerging coastal challenges and ensure coordinated planning and management of the coast into the future.

e-Planning

e-Planning improves access to the NSW planning system for all, making it more transparent and easier to use. The focus of e-Planning is transforming the traditional paper-based and face-to-face interactions to an online environment where people can access planning services from anywhere, at any time, as well as digitising planning content to assist with evidence-based planning.

Councils benefit from e-Planning via access to information, streamlined processes and enabling the community to self-serve rather than providing resources for face-to-face transactions. This in turn delivers consistency and time and cost savings. e-Planning will benefit regional areas that traditionally do not have good access to data and planning services – this new way of doing business is levelling the information playing field between regional and metropolitan areas.

e-Planning gives communities the power to access information that has traditionally not been available in regional areas. Greater access has made it easier to streamline a number of planning assessment processes, giving the community easier interactions with the planning system and the ability to 'self-serve'. This delivers consistency and time cost savings that are proportionally greater for regional areas and gives them access to the economies of scale savings experienced by users in metropolitan areas.

The NSW Planning Hub provides access to information to help people prepare, lodge and track development applications. Some examples of the services available on the Hub are:

- Planning Viewer: provides information about what development constraints apply to land or property such as zoning, bushfire, etc, by entering an address or lot/DP. The information is displayed on an easy to use Google map style interface. The tool also helps to quickly navigate the planning controls that apply to individual land parcels.

For some councils this is a new service that has not been available in-house and/or to their community before now. This means for the first time the community can access information they would normally have to go directly to council for (eg. to purchase a Section 149 certificate). This tool is a great example of closing the gap between the services offered between metro and regional councils.

- Electronic Housing Code: 118 Councils across NSW now have access to the state-wide Electronic Housing Code system which allows the community to make enquiries online to see if their proposed residential development is exempt or complying development and if required, lodge a complying development application online.

As part of the implementation of this project, all Councils across the state have been able to:

- improve the quality and integrity of their land based information;

- streamline business processes across a number of key areas such as data management, application management, etc, and
- improve their customer service offering to the community.

This project has now entered into a business as usual phase and DP&E continues to offer training and support to the Councils remotely.

DP&E has also established a state-wide data specification for the tracking of development applications and have aided Councils through grants who did not previously offer this service (mainly regional Councils). The specification allows for a minimum set of data fields to be made available across the state in each Council. This provides consistency and transparency.

For those Councils who already have a tracking facility, they are being encouraged to adopt the specification.

Services to come

DP&E is committed to ongoing improvement to the way information and data can be managed and shared across the State. Services yet to be released include:

- A Planning Portal to be released late 2015 will be the place to go to transact with the NSW Planning System. Each of the e-Planning tools and services will be found in this location making it easier for people to find the information they need; and
- DP&E is currently gathering requirements from a range of users of the planning system to inform what an online lodgement system would look like and how they would prefer it to work. A range of metro and regional councils are assisting with the design of this tool.

6 Broader Government initiatives supporting the planning system in regional NSW

The Government is undertaking a range of broader initiatives that influence the planning system. These are intended to make the planning system simpler, easier and more flexible to operate in regional areas.

Fit for the Future reform program

In 2014, the NSW Government announced the *Fit for the Future* local government reform package. This is the most significant investment the State has ever made in the local government sector.

There has been significant progress in implementing the reforms, including:

- Encouraging councils to review their performance and consider options for the future – 139 *Fit for the Future* proposals were assessed;
- Establishing five Joint Organisation pilot regions;
- Establishing the TCorp borrowing facility;
- Commencing a review of councils' compliance and regulatory burden; and
- Engaging IPART to undertake a review of the rating system in NSW.

The Government is continuing to work with the local government sector to implement important reform initiatives in three key ways:-

1. The Government aims to create stronger councils by:
 - Proposing to create new councils for Sydney and regional NSW;
 - Establishing Joint Organisations across regional NSW; and
 - Developing whole-of government solutions for Far West communities.
2. The Government will improve council performance by:

- Supporting “not fit” councils to become “fit”;
- Delivering programs to improve council capability, with an initial priority on financial sustainability;
- Supporting rural councils to deliver the services their communities need;
- Introducing new powers to intervene in financially unsustainable councils; and
- Delivering tools to support improved leadership and governance.

3. Through the reform process the Government will strengthen the system of local government by:

- Creating streamlined, modern legislation;
- Improving financial systems, including rating, access to TCorp and Financial Assistance Grants; and
- Developing stronger accountability systems for councils, including Auditor-General oversight and performance improvement tools and frameworks.

A Progress Report (www.fitforthefuture.nsw.gov.au) released by the Government in December 2015 provides information on the the key priorities within the *Fit for the Future* program.

Right to Farm

The concept of right to farm has multiple dimensions but relates to a desire by farmers to undertake agricultural practices without conflict or interference arising from complaints from neighbours and other land users.

The Government released its ‘Right to Farm’ Policy in December 2015 to address these concerns.

Through the *Environmental Planning and Assessment Act 1979*, some farming activities are exempt from the requirement for approval, some may continue as an existing use and some may operate under a current consent. However these activities are subject to other requirements set out in relevant legislation such as the *Protection of the Environment Operations Act 1997*. A farmer may be operating legally but still be the subject of neighbour complaints under the law of nuisance.

An informal government assessment in 2012 indicated that many councils deal with significant numbers of complaints and threats of action on a weekly basis. The level of community conflict can be locally significant, can be costly for local government and farming enterprises and exert pressure on existing farmers to either relocate or leave the industry altogether. Those that do stay may experience ongoing uncertainty and as a consequence may be discouraged from future farm investment.

The NSW Government entered into a Memorandum of Understanding with the NSW Farmers’ Association to consider proposals for a right to farm policy. The Department of Primary Industries (DPI) has partnered with other agencies, particularly (DPE) and (OLG) as well as individual councils, especially those indicating that right to farm is an issue, to develop a ‘right to farm’ policy.

(www.dpi.nsw.gov.au/agriculture/resources/lup/legislation/right-to-farm-policy)

NSW Gas Plan

The NSW Gas Plan represents a ‘line in the sand’ for improving the regulatory framework for the onshore gas industry in NSW while delivering gas safely for the benefit of NSW.

The NSW Gas Plan will:

- Secure gas supplies for NSW households and businesses by establishing a safe, sustainable industry;

- Create a strategic release framework (identifying areas for release only after environmental, social and economic factors have been considered and the community has had an opportunity to identify what it sees as the issues);
- Develop a land access framework;
- Develop a single Resources Act;
- Ensure that key existing Strategic Energy Projects in Gloucester and Narrabri, and NSW's sole production project in Camden, will be required to meet new environmental standards; and
- Guarantee a better deal for our farmers and landholders who host gas exploration and production on their properties.

A new Community Benefits Fund will also ensure that communities benefit from gas development through local infrastructure projects.

<http://www.resourcesandenergy.nsw.gov.au/energy-supply-industry/legislation-and-policy/nsw-gas-plan>

Jobs for NSW

Launched in August 2015, the Jobs for NSW initiative will help meet the NSW Government's target of 150,000 jobs in four years. <http://www.industry.nsw.gov.au/invest-in-nsw/why-sydney-and-nsw/jobs-for-nsw>

This initiative will include the creation of the Jobs for NSW board which will oversee the Jobs for NSW fund which is being created to help meet the NSW Government's commitment to provide a \$190 million, four-year war chest to grow jobs.

The Jobs for NSW initiative represents a bold new approach to use commercial acumen to ensure NSW remains strong and prosperous and ready for the future. It will investigate opportunities and challenges facing regional areas and advise the NSW Government on how regional areas can expand and improve their competitive advantage

The Economic Development Strategy for Regional NSW (discussion in more detail below), highlights the many strengths and opportunities in our regions and recognises and addresses challenges facing regional NSW. Regional Economic Profiles prepared in support of the Strategy are informing the development of draft Regional Plans across the State by providing region specific data and highlights. Importantly, the Profiles also identify the regional economic drivers and opportunities that can guide the development of regional planning policies to support jobs creation and economic growth.

To support regional growth, a minimum 30 per cent of the Jobs for NSW fund will be allocated to regional areas. This includes all areas outside of Sydney, Newcastle and Wollongong.

Economic Development Strategy for Regional NSW

The NSW Economic Development Framework is the NSW Government's road map for driving growth in key industries and the NSW economy. The Economic Development Strategy for Regional NSW (the Strategy) has been developed as a 2014 priority action under the Economic Development Framework.

Building on the achievements that NSW2021 delivered to regional and rural communities, the Government's State Priorities will support economic growth in regional NSW by creating jobs, building infrastructure, and improving Government services <http://www.nsw.gov.au/making-it-happen>). Regional NSW is home to more than 2.9 million people, around 41% of the NSW population. It contributes almost one third or \$138 billion of Gross State Product (GSP). The Government recognises the need and opportunity for a tailored approach to economic development for Regional NSW.

The Strategy:

- articulates the economic value of Regional NSW;
- sets out the Government's commitment to drive regional economic development;
- highlights the Government's record of delivery on diverse regional economic development initiatives;
- identifies five high level goals with priority areas to focus the Government's approach to economic development for regional NSW;
- positions current NSW economic development activities impacting on regional NSW and recommends 23 new actions for Government to promote regional economic development; and
- provides new economic profiles for NSW regions.

The Strategy's five goals are based on economic research that profiles current trends and identifies key drivers and enablers of regional economic growth including human capital and skills, innovation, infrastructure, and connectivity to markets and labour.

The Strategy directly impacts regional planning processes by:

- Supporting strategic and integrated planning of economic infrastructure;
- Examining options to leverage economic infrastructure;
- Reducing regulatory costs and barriers to business;
- Reducing cross-border regulatory barriers to business; and
- Improving integration, coordination and alignment of policies and programs.

https://www.industry.nsw.gov.au/data/assets/pdf_file/0010/67699/Economic-Development-Strategy-for-Regional-NSW_with-APPENDIX_Feb2015.pdf

Crown land reforms

The majority of the Crown estate is in regional NSW and the estate, its administration, use and planning are significant contributors to regional communities and economies.

In October 2015, the Government released the *Government's Response to the Crown Lands Legislation White Paper*. This report outlines the Government's approach to ensure that the use and management of Crown land continues to meet community needs across NSW through the development of a single, modern legislative framework that will replace eight existing Acts, streamline existing provisions, and simplify the management of Crown lands.

The reforms are also reviewing the Travelling Stock Route Reserve network. In addition, land that is considered to be predominantly of local interest is being considered for transfer to councils to enable decisions at the local level about how the land is managed by local communities.

http://www.lpma.nsw.gov.au/crown_land/comprehensive_review_of_nsw_crown_land_management

Aboriginal Cultural Heritage

The NSW Government is committed to reforming the Aboriginal cultural heritage legislation (contained within the *National Parks and Wildlife Act 1974*) to ensure it will increase protection and conservation outcomes for Aboriginal heritage by empowering local Aboriginal people, who hold cultural authority, to make decision on the management and protection of their cultural heritage.

This commitment includes creating a new stand-alone legislation that will link with the planning legislation to ensure Aboriginal cultural heritage values are integrated into the e-planning database and planning instruments, and considered much earlier in the planning process.

Early and upfront access to Aboriginal cultural heritage and other environmental information will assist the government consider earlier strategic conservation areas which may contain high heritage value or multiple environmental values, including Aboriginal cultural heritage values.

This integration of Aboriginal cultural heritage data and processes into regional (as well as local and state) planning processes will ensure appropriate and early Aboriginal community input into development decisions. It will also serve to streamline the processes, reduce duplication, unnecessary delays and remove the current red tape.

Biodiversity reforms (OEH, DP&E, DPI and OLG)

The NSW Government has accepted the recommendations of the independent Biodiversity Legislation Review Panel to improve the legislative and policy framework for terrestrial biodiversity conservation and native vegetation management. How these outcomes will be delivered is currently being developed.

(<http://www.environment.nsw.gov.au/biodiversitylegislation/review.htm>)

A key element of the reforms include a new Biodiversity Conservation Act to replace the *Native Vegetation Act 2003*, the *Threatened Species Conservation Act 1995*, the *Nature Conservation Trust Act 2001* and parts of the *National Parks and Wildlife Act 1974*. Legislative amendments will also be made to parts of the *Environmental Planning and Assessment Act 1979* and the *Local Land Services Act 2013*.

The Government is working closely with key stakeholders on the design of the reforms and intends to release a draft Bill for public consultation in 2016.

Agriculture Industry Action Plan

The NSW Government has launched the Agriculture Industry Action Plan (IAP) *Primed for growth: Investing locally, connecting globally*. The Agriculture IAP is the first of its kind in NSW and has been developed by industry and the NSW Government to drive continued growth of our primary industries sector and to support growth of jobs in rural and regional areas.

(<http://www.dpi.nsw.gov.au/oasfs/aiap>)

Minerals Industry Action Plan

New South Wales is home to a vibrant and prosperous minerals industry that continues to deliver jobs and investment to rural and regional NSW. Our minerals industry, including coal, is the source of almost a third of NSW's total exports (merchandise and services combined, 2012-2013).

The NSW Government has established a new industry-led taskforce to develop a Minerals Industry Action Plan to provide recommendations on strategies to drive growth, innovation and productivity in the sector over the next decade. The Minerals Plan will be one of eight Industry Action Plans commissioned by the Government.

The Minerals Taskforce is in the process of finalising its recommendations following public consultations on the draft Minerals Industry Action Plan.

(<http://www.resourcesandenergy.nsw.gov.au/miners-and-explorers/programs-and-initiatives/miap>)

7 Opportunities for further improvement to the planning system to support regional NSW

The NSW planning system already provides a range of opportunities for regional NSW to manage planning outcomes in a simple and flexible way that is appropriate to local circumstances. There is flexibility within the system to cater for specific locational circumstances. There are, however, potential opportunities for the Government to improve planning outcomes in regional areas. For example:

- a) A review of the Standard Instrument with a view to identifying how regional circumstances could be better reflected and provided for;
- b) As they establish, Joint Organisations can have a greater role in developing and implementing policy for regional areas that are better targeted to community needs;
- c) Explore opportunities to provide additional support to regional areas through training or funding of suitably qualified professionals. There may also be opportunities to link with tertiary institutions to deliver training programs for the development of suitably qualified town planners and building surveyors; and
- d) Undertake further strategic planning as an outcome of the regional planning process for key inland cities in regional NSW. While many rural-focussed local government areas of inland NSW are experiencing population stabilisation or decline, the larger regional cities of Albury, Armidale, Bathurst, Dubbo, Orange, Tamworth and Wagga Wagga continue to grow and prosper, thanks to their diverse and expanding economic base and provision of higher order services. Sub-regional strategic planning has the potential to strengthen the role of these regional cities within their regions through:
 - better connection with other parts of the region and other cities;
 - supporting existing industries;
 - promoting economic specialisation and the emergence of new industries; and
 - ensuring efficient use of existing infrastructure.

Each of the seven cities are also identified as **Evocities** program, which has a dedicated resource and funding base from the NSW Government, and has in turn secured Australian Government funding, as well as support from corporate sponsors. The main objective of the campaign is to encourage metropolitan Sydney residents to make the move to an Evocity and invest in the opportunities the cities have to offer.

Detailed strategic planning would ensure these communities maximise their positions as centres of influence in their respective regions and optimise outcomes for economic growth, with efficient delivery of infrastructure and long-term planning that meets the community's needs for future generations.

8 Conclusion

The NSW Government acknowledges the importance and differences of regional NSW and is working to make the planning system simpler and more flexible to account for these differences.

It is important for councils to work with their communities to build the economic capacity of regional areas to respond to and create greater resilience to change. It is important that the planning system supports councils in undertaking this work.

The current policies and projects outlined throughout this submission show how the concepts of simplicity and flexibility have been built and are continuing to evolve in the



planning system. If there are legislative impediments, the Government is happy to look at changes to the existing legislation to resolve it.

The Government looks forward to the consideration and recommendations of the Committee to assist in further improving and reshaping the planning system in NSW.

RESPONSE TO TERMS OF REFERENCE

- (a) *Opportunities to stimulate regional development under the planning framework, incl. through legislation, policy, strategy & governance.*

Sections 5, 6 and 7 reference the range of initiatives to support regional planning outcomes including:

- the regional plan program which will set a clear and agreed direction for the growth of regions;
- e-Planning which is improving regional NSW's access to, sharing and management of data; and
- the planning reform fund which has allocated more than \$13.5M to regional councils to undertake local planning work such as employment studies, town centre planning and growth strategies.

- (b) *Constraints to regional development imposed by the planning framework, and opportunities for the framework to better respond to regional planning issues.*

Sections 5 and 7 reference opportunities for the planning framework to better respond to regional planning issues, including:

- the regular review and improvement of the Standard Instrument;
- support for training and funding of suitably qualified professionals; and
- improved partnerships with Joint Organisations to progress strategic planning.

- (c) *The suitability of a stand-alone regional planning Act.*

The submission focuses on how planning outcomes can be achieved under the current legislative framework.

- (d) *The effectiveness of environmental planning instruments, including SEPPs & LEPs, to stimulate regional development & opportunities to improve their effectiveness.*

Section 5 references policy initiatives to improve the statutory processes of the planning system including:

- the Standard Instrument which provides the flexibility to respond to regional planning issues;
- State Environmental Planning Policies that address planning issues relevant to regional NSW; and
- policies and reforms that clarify and improve the ability of councils to respond to regional issues such as environmental zones and coastal reforms.

- (e) *Opportunities to increase delegations for regional councils in regard to the plan making processes.*

Section 3 references changes to delegations that have resulted in Councils having greater responsibility and autonomy for local planning – in the 2014-15 financial year, more than two thirds of all local environmental plans determined were finalised by the relevant council under delegation.

- (f) *Opportunities for strategic planning to assist in responding to challenges faced by communities in regional areas including through Regional Plans.*

Section 5 discusses the role of regional plans in supporting regional planning outcomes. The regional plan program will be progressively rolled-out through 2016 and will provide the strategic framework to manage the growth and change of regions, including the Government's commitments to policies and actions to support sustainable regional development over the next 20 years.

(g) *Opportunities for government-led incentives that promote regional development.*

The planning system provides considerable flexibility and does not pose a barrier to the consideration of government-led incentives for regional development. Section 6 presents a range of Government initiatives that will support regional efficiencies and development outcomes, including the:

- *Fit for the Future* program and introduction of Joint Organisations;
- *Economic Development Strategy for Regional NSW*;
- Crown land reforms;
- Biodiversity reforms; and
- Agriculture and Minerals Industry Action Plans.

(h) *Pathways to improving decision making processes for regional development proposals, including increasing the use of complying development, improving negotiation processes for VPAs, and reducing costs associated with assessment.*

Section 6 discusses improvements being made to complying development that are in direct response to the concerns of a number of rural and regional councils that notification requirements were slowing down the processing times for complying development and delaying construction.

(i) *Any other related matter.*

Nil