

**Submission  
No 20**

## **INQUIRY INTO REGIONAL PLANNING PROCESSES IN NSW**

**Organisation:** Combined Development Group Pty Ltd

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## LEGISLATIVE COUNCIL INQUIRY INTO REGIONAL PLANNING PROCESSES IN NSW

Combined Development Group Pty Ltd is a company that specialises in land subdivision in rural and regional NSW. In recent times we have undertaken projects in Bungonia, Tamworth, Wagga Wagga, Albury and Wauchope.

In most cases we have been involved in the process of obtaining approvals over farmland through to completion of the works and sale.

There are some key observations that need to be made regarding regional areas that will have a bearing upon the likelihood of success of being able to implement a specific regional Planning Act that covers the state of NSW beyond greater Sydney, Newcastle and Wollongong.

- Regional councils culturally, vary significantly from coastal towns to central and western regions. Some coastal towns such as Byron or Shoalhaven have far stricter planning constraints by virtue of their populous than that of central west cities.
- Coastal towns are not generally as supportive of development as are the major inland cities.
- Skills availability for strategic and development planning diminish the further west that you travel from Sydney.
- Staff turnover rates are generally higher in inland cities as staff see the opportunity to move to a more desirable location as part of their career development, which not only leaves voids on a regular basis, but also contributes to less predictability in planning outcomes over time as a succession of planners bring new ideas to bear.
- Major inland cities such as Albury, Wagga, Bathurst, Orange, Dubbo and Tamworth are cities hovering at or above 50,000 residents. As such, purely in population terms they are about the size of Manly or half the size of Kur-in-gai. Question to be posed is would you have the complex planning act that we have today if Sydney was a 50,000 people city?

In light of these observations, it is important to distinguish between the inland and coastal cities. In my opinion a single and separate Act that encompasses both scenarios will be beset with complexities that will likely lead to frustration and failure. My recommendation would be that a proposed regional planning act be specifically tailored for inland cities and then if successful look at implementing a coastal planning act as a separate document to the current EPA Act which would cover Sydney.

To address the specific issues noted in the terms of reference:

### ***Opportunities to stimulate regional development under the planning framework including through legislation, policy, strategy and governance***

- Due to its smaller nature major inland cities generally have fewer constraints and also have a different functional mix of retail, industrial, residential and commercial use. Residential land is generally 800m<sup>2</sup> lots and there is opposition to the trend of

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small lot living now prevalent in Sydney.

- Retail is of two types, specialty strip or mall and bulky goods.
- Flexibility in zoning, allowing a development to be assessed on merit rather than compliance would be a great advance in growing these cities. The retail and business zones should be devolved into simple enterprise precincts that allow proponents flexibility to proffer new developments without the fear of exclusion due to irrelevant prescriptive conditions or market manipulation by competitors.
- Proponents should be assisted and encouraged to invest in these towns and not be hindered by planning law.

### ***Constraints to regional development imposed by the planning framework, and opportunities for the framework to better respond to regional planning issues***

- Strategic planning in regional areas is a factor of population growth and the introduction of new employment opportunities, factories relocating or decentralising, transport hubs being established, upgraded facilities such as hospitals, airports. Unlike Sydney, where a whole ring road is built to support a major industrial hub, these cities are opportunity led and they must be allowed to assess opportunities quickly, efficiently and without being hindered and delayed by unnecessary restrictions in the planning act that may have no relevance. LEP's need to be more flexible.
- Residential land can be identified generally up to 10 to 15 years supply. It is essential that these residential lands, at the time of rezoning be assessed for flora, fauna, archeological and any other constraints, by Council prior to zoning. Once land is zoned it should not be subject to any further assessment as to its suitability for purpose.
- In general it takes around 7 years to move from a strategic planning proposal to the start of works on site. This time could be considerably shortened with the streamlining of processes. Most notably if all statutory agencies were to clear the land for zoning at the zoning stage, it is estimated that 2-3 years would be saved in the development phase.

### ***The suitability of a stand alone regional planning Act***

- A much needed reform, however as outlined above it will be easier to implement in a "west of the mountains" version applicable to inland cities only, to attempt a one size fits all regional areas of NSW is bound to fail.

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## *The effectiveness of environmental planning instruments including SEPP's, LEP's (including zoning) to stimulate regional development, and opportunities to improve their effectiveness*

- **SEPP's** - Currently there are 40 SEPP's, of which 24 have some regional impact.
  - 8 SEPPS ban or restrict development
    - Rural Lands
    - Alpine resorts
    - Coastal protection
    - Canal Estates
    - Koala Habitat
    - Littoral rainforest
    - Bushland in Urban areas
    - Coastal Wetlands

Probably all worthy policies but non-stimulatory

- 4 are industry specific
  - Mining Petroleum Extractive Industries
  - Sustainable aquaculture
  - Hazardous Offensive Development
  - Intensive Agriculture

These are stimulatory in so far as guidelines are provided for the establishment of these industries, however regional communities do not always warmly embrace them

- 2 are procedural
  - State significant development
  - Development Standards

To the extent that approvals can be fast tracked for state significant projects it is stimulatory. However away from coastal precincts there are very few examples of the application of the SEPP

- Of the remaining 10 SEPP's the ones that have impact regionally are:
  - Affordable Housing
  - Exempt & Complying Development
  - Infrastructure
  - Building Sustainability Index
  - Seniors Housing
  - Rural land sharing
  - Manufactured homes, and
  - Caravan parks

It would be my contention that none of these SEPP's has any significant positive

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stimulatory impact on inland regional development. Most are geared to the Sydney or coastal areas where land and housing prices are at a premium. The exempt and complying development code needs to be more regionally tailored as it seems to be the intention of most councils to limit the effectiveness of this SEPP by having restrictive cut & fill or height issues that preclude the use of this SEPP.

Overall, in inland regional areas SEPPS are not sources of great economic stimulus.

- **LEP's** - With the introduction of the standard instrument across the whole of NSW, one must ask – Has this delivered a positive outcome? What has been its impact?

It would seem that it has tidied up Sydney areas where neighbouring Councils had different zoning criteria, but in terms of a regional city having identical zoning codes and colours on a plan to that of the Sydney councils has delivered no benefit. In fact it is more often the case that these prescriptive Sydney centric zones have caused greater problems, leaving regional councils and proponents searching for ways to get around them.

The argument in favour of the standardised LEP is that it provided absolute certainty in planning across the state and that regular 5-year reviews would ensure that only one plan would be created and the age-old problem of spot rezoning and amendments would be overcome. I concede that management of amendments across a multitude of councils in Sydney could present a problem, however that is a problem that is readily managed in a single council regional city.

Indeed the need for flexibility and the ability of councils to respond to investment opportunities without the intervention of the DOP is paramount in the growth of the city.

Digital technology should allow the LEP to transform from being the static document with a 5-year life and a 5-year review, to being a dynamic responsive document that evolves quickly, efficiently in response to market need and breathes life into a city.

Sometimes it seems that planners feel threatened by change, growth and opportunity, which are the very lifeblood ingredients upon which inland regional cities depend.

LEP's have a vital role to play, however they need not be standardised but they do need to be dynamic. This will raise issues about real time gazettal of plans, which may need an amendment to the current regime.

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## ***Opportunities to increase delegations for regional councils in regard to the planning making processes***

- Delegated authority to Council is vital. The central tenet of the success of such an initiative as a regional planning act is that ownership is vested with the regional council and not a Department in Sydney
- Councils should have absolute control over their plans and LEP and the DOP should act as an advisory consultant to ensure that no unforeseen circumstances could arise.
- Appeal powers should remain the same and referral powers should all be retained however be administered by the Council.

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

- Regional Plans have a greater significance for those regions that have direct interdependence across council boundaries. This is more likely in the Sydney and coastal regional areas with larger population bases and shared infrastructure.
- Strategic planning is in part inward looking, building on expansion of existing assets and industries and where possible encouraging growth from new entrants.
- Infrastructure provision, especially transport, water and power supply and the associated augmentation funding for a new industry or expansion of existing is often an issue that determines an outcome.
- Regional Plans need to identify infrastructure plans and expenditure to meet growth targets and a funding model needs to be developed across the tiers of government to provide certainty and substance to the planned strategies.

## ***Opportunities for government-led incentives that promote regional development***

- Regional development is dependent upon job creation. Our experience indicates a demand from current Sydney and Melbourne dwellers wanting to relocate regionally, many can bring their job with them courtesy of the internet, however fast broadband is essential to that drift.
- Personal relocation grants and the like have appeal but will never sway a person to relocate without the certainty of a job.
- Industry incentives to relocate are a different matter; they should be encouraged and packaged by the three tiers of government. Incentives such as company tax reduction, payroll tax, stamp duty and council rates reductions for a specific time need to be cost benefit analysed, as these are items that influence relocation decisions.

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## ***Pathways to improve decision making processes for regional development proposals, including increasing the use of complying development, improving negotiation processes for voluntary planning agreements, and reducing costs associated with assessment***

- Given the skills challenges besetting councils any means to simplify and speed up processes but maintain probity is to be encouraged. Far greater use and acceptance of complying development needs to be mandated.
- Voluntary Planning agreements should be abandoned. Increasingly in the Sydney region these are being misused with councils deliberately under zoning land and then expecting a windfall to up-zone. This is not a sustainable system and if further encouraged, the bad habits will simply flow to regional areas. Expensive and unnecessary.
- Any new Act needs to address the issue of external certification of development proposals as an alternative to in-house council assessment. Whilst the process and the approval would follow the same path, council would be a council of review only and not the generator of the compliance report. This would have the benefit of reducing cost for council and speeding up processes. It would also mean that if a Council voted against a specific application recommendation, it would not be defending the case against its own staff, removing any possible conflict.
- Currently the law provides for a deemed refusal after a prescribed time, which varies according to project. Simply changing that to a deemed approval would ensure that project assessment would be undertaken in a more timely manner.

### ***Any other related matter:***

The protocols and strictures imposed by anti-corruption legislation and ICAC guidelines need urgent review to ensure that the pendulum has not swung too far such that reasonable confidential discussion of proposed projects is thwarted or hindered.

Quite properly councils take great heed of their obligations to ensure they are not inadvertently contravening the law or observing probity requirements, however it would in my opinion be helpful if ICAC or some other agency were to provide councils and the public with a guideline of what is acceptable practice.

Development in regional areas is not as prolific as it is in say Sydney. A developer, in order to test the water on a possible development will often want to have a confidential discussion with council about an opportunity. This might involve say the Head of Planning and one other officer. The reason is simply to preserve confidentiality at the early stage of a project.

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It seems that such meetings are nearly impossible under current guidelines and any meeting of what may be a sensitive commercial, environmental or social proposal need to be subjected, even at an early stage to a much expanded audience including all departments, which can compromise a project by early exposure to the public.

Be clear, probity and openness is essential, however the ability to have a truly confidential and meaningful discussion, in the early stages, with a council is now practically impossible and such restrictions can and do deter proponents from pursuing projects in regional areas, where return on investment is relatively lower than in major urban centres.

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