

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

**Organisation:** Queanbeyan City Council

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

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Dear Sir/Madam

**Inquiry into Regional Planning Processes in NSW**

Thank you for the opportunity to make a submission to this Inquiry.

Council considered this issue at both a Council workshop held on 11 November 2015 and in a report to its Planning and Development Review Committee held on 9 December 2015. As a result Council wishes to make a submission which is provided below in Attachment A.

Should you wish to discuss this matter further please contact Mr David Carswell  
Executive Manager Strategic Land Use Planning

Yours sincerely,

**M J Thompson**  
Director  
Environment, Planning and Development

## **Attachment A - Submission on Inquiry into regional planning processes in NSW**

- (a) opportunities to stimulate regional development under the planning framework including through legislation, policy, strategy and governance.**
- (b) constraints to regional development imposed by the planning framework, and opportunities for the framework to better respond to regional planning issues.**

If it is accepted that the current plan making and development assessment systems will essentially remain in place in NSW (which is the case even under the *Planning Bill 2013*) then one of the ways that (a) and (b) can be achieved is to look at ways that the plan making process and development assessment processes can be streamlined with the consequence that time and possibly costs of these processes are reduced.

In terms of plan making item (e) is also relevant, while for development assessment items (d) and (h) are also relevant.

In addition for plan making processes mandatory timeframes should also apply to Parliamentary Counsel advice although it must be acknowledged that these have improved in recent times.

In addition for both plan making processes and development assessment functions, timeframes should apply for state agency referral responses otherwise their concurrence be assumed. Similarly when formally consulting the Department of Planning and Environment (the Department) minimum timeframes for responses should also apply to Departmental officers.

The Gateway determination process of stipulating a minimum consultation period and those agencies to be consulted is welcomed.

However when a planning proposal is put on exhibition, the Department's *'Guide to preparing local environmental plans'* stipulates a number of steps including:

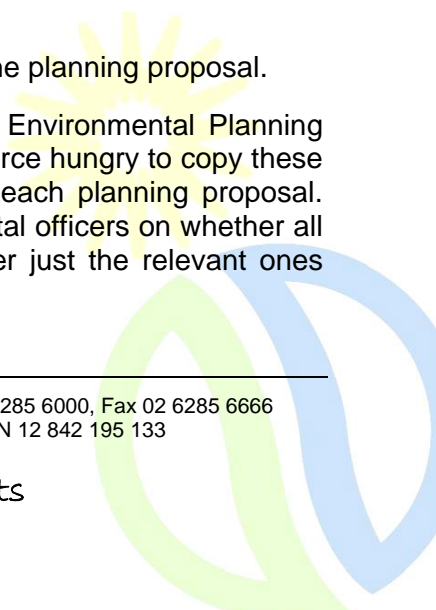
- Notification in a newspaper that circulates in the area affected by the planning proposal.
- Notification on the website of the Council or RPA.

Notification in a newspaper is generally costly and to a large degree is redundant where good internet coverage is available. The guidelines need to be clarified for this to occur.

In addition, the same guidelines also stipulate that during the exhibition period the following material must be made available for inspection:

- Any information or technical information relied upon by the planning proposal.

This includes Section 117 Ministerial directions and State Environmental Planning Policies (SEPPs). It can be quite time consuming and resource hungry to copy these documents and each has to be checked for currency for each planning proposal. Further there seems to be a difference amongst Departmental officers on whether all s117 directions and SEPPs should be exhibited or whether just the relevant ones need to be exhibited.



It would be helpful if the guidelines were clarified to indicate just the relevant s117 directions and SEPPs that should be exhibited with different planning proposals and a web address be provided in the public notice for a current link to policies administered by the State.

The review of the information and assessment requirements of minor and simple DAs has been raised in previous discussion papers. However, the criteria for “type” needs to be determined having regard to the location of development, the level of research or study done in a location for categories of development and the special circumstances of a location (soil salinity, mine subsidence, flood or bushfire risk, etc.). This proposal should include the ability to dispense with Statements of Environmental Effects for some DA types and setting standard formats for SEE’s. DA type should not be based on development value alone.

Standard condition templates to assist in development assessment have been recommended in past discussion papers and are supported provided they can be adjusted for local conditions and those non-standard conditions can be used where needed. The State Government would need to be responsible for updating the conditions when Department names changed and/or the legislation is altered. Perhaps an Australian Standard Consent format could be developed/used. However this should not be done in such a way that duplicates the requirements of other legislation which Councils are required to enforce, including through conditions of consent. For example, one such Act that requires the imposition of relevant conditions to protect the environment during and after building and development activities is the *Protection of the Operations Act 1997*.

Standard condition templates should also be available when a development application is being referred to a Joint Regional Planning Panel for determination.

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

It is considered that there is no real need to have a standalone regional planning Act. It is more relevant to focus on planning policy and the current procedures set out under the Act to examine opportunities for a more streamlined approach to regional planning matters. Defining what a region is for the purposes of any stand-alone planning act is also likely to be challenging.

In regard to the current Act it is considered that it should be amended to give greater statutory recognition to the making and implementation of Regional Strategies and Sub Regional Plans as well as Department endorsed local strategies under the Sub-Regional Plan. Planning strategies are not just land use controls and instruments should include broader social, economic, sustainability, environmental (natural resource management and biodiversity) goals and mechanisms for change.

The LEP template should be revisited in conjunction with input from practicing planners from regional NSW to produce variations to reflect the different circumstances of rural, coastal and metropolitan areas. Examples could be the reintroduction of a traditional rural residential zone to accommodate this style of development.

### **(d) the effectiveness of environmental planning instruments including State Environmental Planning Policies and Local Environmental Plans (including zoning) to stimulate regional development, and opportunities to improve their effectiveness.**



After nearly 10 years of operation it is considered that the Standard template has worked reasonably well. However it, along with SEPPs and other environmental planning instruments have collectively created a complex and confusing system particularly for the lay person. It has also increased compliance and operational costs.

One of the original intentions of the process which eventually morphed into the Standard template was to review and to gradually repeal SEPPs and other state policies and to incorporate these provisions into the Standard template LEP. Some work has been done on this but it is considered that there still are further opportunities particularly into relation to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* and *State Environmental Planning Policy (Infrastructure) 2007* and to incorporate these as provisions into the Standard template LEP. This also has the benefit of capturing these various controls in a single document whereas they all exist separately at this time.

SEPPs need to be considered and where relevant addressed by planning proposals and so the incorporation of these into Standard template LEP would reduce this aspect of the plan making process.

In addition there are 31 Section 117 Ministerial Directions which must again be considered and where relevant addressed in planning proposals. Again there is an opportunity to incorporate these into additional provisions of the Standard template LEP and this would have similar positive impacts to that referred to above for SEPPs.

**(e) opportunities to increase delegations for regional councils in regard to the planning making processes.**

The Department's extended delegation of planning making functions since October 2012 has been welcomed and has been used extensively by Queanbeyan City Council. This needs to be maintained.

Also the Department's decision to maintain its 12 Regional offices has also been welcomed and again these need to be maintained even with increasing use of electronic communications. Often face to face meetings help to enhance understanding and to resolve blockages/gaps where the process might take much longer through emails and formal meetings. The regional offices also provide strong and welcome assistance in liaising with other central areas of the Department as required (such as policy and development contributions).

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

See response to (c).

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

**(h) 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.**

Whilst the goal of extending exempt and complying development is supported, a mandatory, blanket, one-size-fits-all, state-wide set of criteria is not supported particularly when it applies to a non - urban/rural situation.



Recognition of this has occurred through work on *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* in the case of fences in rural and environmental protection zones and Zone R5 (Subdivision 18) and Farm Buildings (Subdivision 16). However other opportunities exist for such things as Earthworks, retaining works and structural support (Subdivision 15), Fowl and poultry houses (Subdivision 21), Fuel tanks and gas storage ((Subdivision 21AA) and other development types.

Another area where pathways to decision making could be improved involves the area of the determination of "Regional" Development Applications by Joint Regional Planning Panels (JRPP's). At this time the types of development that are determined by JRPP's include development with a capital investment value (CIV) of over \$20M. This means that a Council like Queanbeyan City Council who has the capacity cannot determine an application with a CIV of over \$20M but can determine a \$75M regional road under Part 5 of the *Environmental Planning and Assessment Act 1979*.

This seems unnecessary and causes delays, increases costs and in some cases results in frustration. Consequently there is a strong case to review the criteria applying to the referral of "Regional" development applications to either increase the CIV and/or to delegate Council's with the capacity to determine these type of development applications.

**(i) any other related matter.**

One area that the Department could assist with is with GIS mapping for planning proposals. Anecdotal feedback from some of the smaller regional centres is that they face great challenges even providing the basic maps required for a planning proposal.

Complementary to the above is ePlanning and it must be acknowledged that considerable work has been done by the Department on this although the ability of many rural and regional Councils to implement ePlanning in a substantive way continues to be severely constrained due to cost and resource availability. To some degree this is acknowledged by the investment in the NSW Planning Portal particularly the investment recently announced by the Minister. The contribution of investment into the Planning Portal is welcomed and supported.

The efficiency of the system would be improved by reducing the layers of approval hierarchies, planning instruments and the ever increasing matters for assessment arising since the *Environmental Planning Assessment Act 1979* came into operation in September 1980. This is also a source of frustration that more or less equivalent processes under the Commonwealth *Environment Protection and Biodiversity Act 1999* (EPBC Act 1999) and New South Wales planning, environmental and heritage legislation have to be duplicated.

However it must be noted that attempts have been made to reduce duplication through bilateral agreements which accredit State or Territory processes e.g. the NSW draft bilateral agreement for referrals under the EPBC Act 1999. Nevertheless more needs to be done on this to simplify this aspect of the planning system and avoid duplication between legislation.

