

INQUIRY INTO REGIONAL PLANNING PROCESSES IN NSW

Organisation: Economic Development Office Shoalhaven City Council
Date received: 5/02/2016



SUBMISSION - INQUIRY INTO REGIONAL PLANNING PROCESSES IN NSW

Economic Development Office February 2016

SHOALHAVEN CITY COUNCIL



Background

Shoalhaven City Council continues to support the need for ongoing reform and modernisation of the NSW planning system.

In our submission to the *White Paper – A New planning system for NSW*, Council supported the intent and thrust of the reforms, specifically but not limited to;

- New contemporary Planning Act for NSW embracing E-planning, simple plain English and that is more certain and timely
- Upfront strategic planning commitment, linked to infrastructure planning/commitments. This is seen as critical to creating long term confidence in the new system.
- Early and comprehensive community engagement.
- One stop shop for State Government referrals/comments/approvals
- Cutting red tape - target of 80% development proposals dealt with quickly.
- Difficult development applications still dealt with appropriately
- Welcome the linking of social wellbeing with growth (reflected in the draft Bill).

The scale of the proposed reforms was massive and all users, including councils, needed to fully understand and appreciate how it all was to fit together. Council suggested that there were matters that required further consideration, refinement and detailed dialogue including:

- Resource impacts for both state and local government
- Time frames and targets
- Community credibility
- Upfront community involvement/consultation
- Less council involvement in developments
- Link to local government reforms
- Standardised approach
- E-planning
- Objectives in the draft bill
- Inconsistencies between the White Paper and the draft Bill

More detail about the above can be found in Council's submission to the *White Paper – A New planning system for NSW* (26 June 2013).

Generally Council is supportive of a process which provides for and acknowledges that Regional Planning is critical for the strategic positioning of a region. Particularly in the context of economic, social and environmental sustainability and building on the strengths of the region and its ability to grow and expand to cater for the needs of its community.

Forward thinking is critical at the regional level planning, as a plan totally reflective of the past or based on current trends alone may not adequately serve the regions and its communities into the future.

Another key position is that investors, as opposed to developers, need to see that regional planning is supportive and the process is supportive of decreasing risk as development approval milestones are met.

Response to the inquiry into regional planning processes in NSW.

More information is required on the definition of regional and subsequently regional planning processes. For the purpose of this submission it is taken that regional and regional planning processes refer to NSW State Government identified growth planning regions, such as in our case the Illawarra-Shoalhaven, and processes that will support the delivery of the Regional Plans and the resulting or associated individual Local Environmental Plans for each local government area.

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

It is essential that the framework in which the planning policies, strategies and governance sits meshes together. This is a key to having regional development of a coherent nature that supports communities by way of economic growth, social betterment and environmental sustainability. Sustainable regional investment will come about in a supportive framework that allows staged planning approvals which will inform further private sector decisions to be made and increase the certainty for obtaining ultimate approval.

Specifically in the Illawarra-Shoalhaven the economy is diverse, the social make up is not homogenous and the environmental issues are complex and vary dramatically across the region. Therefore a regional plan must be able to take a high level strategic or helicopter view and set strategic goals and objectives to permit intra-regional differences to take place but be supported by infrastructure plans, housing strategies, employment strategies and all within a sustainable environment.

Within a region like the Illawarra-Shoalhaven there will be a need for detailed precinct plans to meet regional development strategies and targets. It would be a benefit if the Illawarra-Shoalhaven Regional Plan, or other mechanism, could identify key development precincts taking into account the environmental values of a large geographic area, rather than having the environmental impacts of developments assessed in isolation and on the limited land area of a specific development parcel.

The Illawarra-Shoalhaven Regional Plan that was released in November 2015 *'provides the strategic policy, planning and decision-making framework to guide the region to sustainable growth over the next 20 years'* (NSW Government 2015:5). What is also needed is an infrastructure delivery plan and a financial delivery plan to achieve the goals and support the Regional Plan.

Importantly the state government needs to acknowledge that the growth of local communities is in their adjacent hinterland and traditionally this land is in NSW public ownership. The conflict between the preservation of the environment vs the need for urban expansion, public utility expansion, employment expansion and recreational expansion is often in conflict with the environmental ideals. Any regional plan needs to acknowledge this conflict and provide a leadership role to resolve this conflict.

To resolve this in a confrontational atmosphere carries far too much risk for both public and private investors unless supported by the regional framework.

Regional development can be stimulated through the current planning framework by using a number of mechanisms in concert. The application of legislation such as the *Growth Centres (Development Corporations) Act 1974* could enable strategic planning at a local level.

Another mechanism is the application of biodiversity certification (and/or credits) to provide greater certainty for investors and alleviate the need for multiple environmental assessments. More importantly, the environment would be better protected through a strategic approach where connectivity issues are addressed across a landscape. However, this position could change with the impending release of the revised Biodiversity Conservation Act.

Essentially there are various mechanisms in place to encourage regional development but these need to be enacted and supported by State Government on a regional basis as supported by the regional plan which would also need a supportive financial strategic position.

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

As in a) the conflict between peripheral growth and environmental protection needs to be addressed at a regional level and then filter down into the LEP's. The state government has been responsive to these issues and has implemented a number of responsive legislative changes. For example a provision was made to bring in industrially zoned land to have an urban classification within the Native Vegetation Act thus allowing employment lands to be expanded.

Another positive government response to planning and zoning issues was the introduction and subsequent use of substantial character determination to determine the most appropriate land use.

It is appropriate that Council mentions the conflict of land claims on similar peripheral Crown lands and the frustration of both the private and public sectors to bring these

Crown lands into appropriate urban uses. Timely resolution of these issues is required by all parties including state government as the assessor of land claims.

It must be reinforced that one of the core objectives of the Aboriginal Land Rights Act 1983 was to use the benefits accrued from land dealings is to improve cultural, social and economic outcomes for Aboriginal communities.

The 2015 Illawarra-Shoalhaven Regional Plan seeks to 'strengthen the economic self-determination of Aboriginal communities' through a 'strategic assessment of land held by the region's Local Aboriginal Land Council to identify priority sites for further investigation of their economic opportunities'. There are many development opportunities (residential, industrial, health, educational etc) located in regional areas that could be enabled should land be available. One of the constraints to regional development is the time it takes to negotiate land transactions with LALC's. An approach that would enable timely and mutually beneficial outcomes would be if the NSW government could facilitate by either providing an intermediary service or through the provision of appropriate skills/services to the LALC's.

The Illawarra-Shoalhaven Regional Growth Plan provides council with a strategic direction and has a welcome emphasis on infrastructure planning and delivery. Early infrastructure planning is required and needs to be coupled with access to funding in order to fulfil this objective.

Lack of investor certainty can be addressed through a number of avenues. Precinct planning with extensive upfront community consultation and acceptance would potentially provide greater investor confidence. However, such an exercise would be complex and best delivered by a regional authority. Any costs and provision of community infrastructure across a broader precinct could also possibly be recouped through a precinct plan to be funded by investment beneficiaries.

The planning framework needs to negate risk progressively as approvals are obtained. The current system does not do this and leaves investors no further advanced until a final determination is received.

Regional NSW is at a disadvantage in attracting much needed investment and development. Precinct planning which clearly identifies environmental constraints and has community support with adequate infrastructure provision would greatly negate investor risk and increase confidence. A staged assessment process would also help mitigate investor risk.

The State government is a significant, if not the main, landowner in regional NSW. Thus they must see themselves as willing partners in land transactions and land development. There are a number of development opportunities in regional NSW that would provide towns with much needed economic stimulus but State Government agencies do not have the willingness or ability to partner such projects.

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

Council would contend that one size does not fit all when it comes to regional planning.

However, there does need to be a consistency of terminology and interpretation across regions to alleviate confusion in, for example, the development industry as they move from region to region.

In this context creating another piece of legislation has the potential to increase the complexity of the planning system. Current legislation is adequate but needs to be adjusted and/or utilised to maximise investment opportunities for NSW.

The provision of the *Growth Centres (Development Corporations) Act 1974* allows for strategic planning, with upfront community consultation and environmental assessments at a precinct level, to entice investor confidence. The identification of investment precincts by locally focused Development Corporations would help ensure that strategic planning is appropriate to the social and environmental characteristics of a local area. This legislation needs to be more heavily utilised.

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.

Planning instruments and strategies alone will not stimulate investment in regional NSW, however they could be seen as the foundation on which to build a strong investor ready delivery mechanism.

Changes to zoning alone does not necessarily stimulate regional development. There is already a mechanism to change zoning. However, changes, even minor changes, to the LEP have to go through what can still be a lengthy process with the State government. Further improvements could possibly be made in this area.

As mentioned previously the conflict area is usually on the periphery of existing urban areas and zoning in these areas needs to be adaptable for future urban growth (not just residential), which may not be anticipated at this point.

e) Opportunities to increase delegations for regional councils in regard to the planning making processes

The release of the Illawarra-Shoalhaven Regional Plan provides an opportunity to increase delegations. Council has a clear guide in the development and amendment of LEP's through the Regional Plan. This provides both State and local government with an opportunity to improve the LEP approval process.

Councils will continue to utilise delegations wherever possible to speed up the plan making process. However what is needed is clear guidance from the Government and possibly legislative intervention to resolve the uncertainties that have been created by recent Court decisions related to the use of plan making delegations by Councils. At present Councils are reluctant to utilise their delegations fully given the uncertainty the Court decisions have created.

The development of precinct plans and the implementation of legislation such as the *Growth Centres (Development Corporations) Act 1974* could be more effective if the Council were able to adjust their own LEP's to support the aims of local development corporations.

Alternatively, there is scope for the *Greater Sydney Commission Bill 2015* to be applied, via Ministerial order, to any other area of the state thereby possibly negating the need to increase delegations to council. Under this legislation the Greater Sydney Commission may make environmental planning instruments for the purposes of environmental planning in each local government area in the Greater Sydney region where any such plan may be called a local environmental plan. However, even the Commission is able to delegate functions to local government (Clause 11).

Councils are the level of government that are most closely tied to their communities. Regional Councils need to be provided with the opportunity to have processes delegated to them where appropriate and wanted. Regardless of the level of delegation, regional Councils need support and clear guidance in the application of these delegations and responsibilities of outcomes should be shared. Delegations should be seen as an opportunity for efficiency and in delivering the most appropriate outcome for the community. This should be seen as a partnership between State and local government rather than a shifting of responsibility.

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

Regional Plans provide communities with a strong strategic foundation. In order to be truly effective they must be supported by mechanisms and clear legislation to achieve their objectives.

There should be clear linkages upward into the state plans and downwards into the LEP's and any precinct plans or DCP's developed. These linkages should be justified by adopted strategies and plans that are in keeping with the hierarchy of planning instruments.

The use of and understanding of overall masterplan applications and consents as well as Voluntary Planning Agreements needs to be better understood by the development industry and consent authorities. The community also needs to be educated in this regard because the demand for conditioning to a fine level forces the proponents into a level of detail which may not be necessary (and cost effective) at an early stage.

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

Incentives for regional development are not limited to planning statutes or policies.

An appropriate form of regional incentives for development needs to be applied, however it may be beneficial that each region may have differing guidelines for these incentives appropriate for the regional context and in keeping with the Regional Plan.

The NSW government needs to acknowledge that as one proceeds further away from Sydney the government land ownership is more of a critical feature in planning the balance of economic, social and environmental outcomes. As such the government needs to have a more responsive role, rather than a centralised role, in this regard.