

**Submission
No 4**

INQUIRY INTO REGIONAL PLANNING PROCESSES IN NSW

Organisation: Eurobodalla Shire Council

Date received: 9/12/2015

9 December 2015

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

PARLIAMENTARY INQUIRY INTO REGIONAL PLANNING PROCESSES IN NSW**Submission by Eurobodalla Shire Council****1. Opportunities to stimulate regional development under the planning framework including through legislation, policy, strategy and governance.**

The key strategic planning document that will guide regional development is the NSW Government's regional plan. Currently, for the South Coast, this plan is called the South Coast Regional Strategy. While this has been a useful planning tool to support planning decisions, it could not be said to have stimulated regional development. For many years, Council has been calling on the NSW Government to include future major infrastructure items in a revised regional plan, as it is these major infrastructure items that will support confidence and investment by others in the region.

The Department of Planning and Environment are currently preparing a new regional plan, to be called the South Coast and Tablelands Regional Plan. At a workshop with the Department on 2 September 2015, Council was disappointed to learn that it now appears the new Regional Plan will not be a comprehensive, whole of Government, whole of sector plan, and be limited to a strategy for planners only. In particular, the apparent lack of discussion or identification of strategic local, regional and State level infrastructure items is a missed opportunity.

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

The planning framework provides for separate planning processes for regional development as defined under the State Environmental Planning Policy (State and Regional Development) 2011 and the Environmental Planning and Assessment Act 1979 provides specific planning processes for

State Significant Development (including exemptions from certain other approvals that local developments must obtain where appropriate).

Development that does not meet the definitions of regional development or state significant development, though they may be of regional importance, are therefore more constrained by the planning system.

There is a lack of local / regional adaptability for state level legislation / regulation / policy. Planning instruments such as the standard instrument Local Environmental Plan (SI LEP) and the Exempt and Complying Development Code SEPP being amended to metropolitan, rural and coastal LEPs rather than one size fits all would be a significant improvement. A South Coast Code SEPP and coastal SI LEP would be of assistance.

Reviewing the approval process to increase exempt and complying development in coastal areas, for example allowing for more development to happen in environmentally sensitive areas if it is ancillary to an existing dwelling.

Integrated development could be further improved so that subsequent approvals are not required. If a development application is required, this should be the one and only approval required and agencies have their opportunity to comment / condition during the assessment process. An example of this is the Rural Fires Act and section 100B. A section 100B is required for a childcare centre. Under the standard instrument definition of childcare centre, it specifically excludes home-based childcare. The NSW Rural Fire Service is of the view that a child care centre includes home-based child care for the purpose of section 100B, even though the Rural Fires Act has no definition. Someone wishing to provide home-based child care would then submit a development application, it would be approved without it being considered integrated development but the Rural Fire Service could take action as a section 100B bushfire safety authority was not issued.

Short stay accommodation such as AirBNB is a similar issue. In some LGAs it does not require consent, but under the Rural Fires Act potentially needs a 100B bushfire safety authority. These examples demonstrate how the planning system can be difficult to navigate.

Integrating approvals like section 68 and section 138 into complying development would also simplify regional development.

Marine Park legislation requires a development application to be lodged even for internal changes to buildings in Batemans Bay. This is unnecessary.

3. The suitability of a stand-alone regional planning Act.

It is unclear what a stand-alone regional planning Act would do differently from a state-wide or a metropolitan-based planning Act. Planning process across NSW, whether they be in cities or regions should be consistent. A regional planning Act is not considered appropriate, but a new Environmental and Planning and Assessment Act (EP&A Act), reducing the number of acts from EP&A Act, Threatened Species Conservation Act, Rural Fires Act, Native Vegetation Conservation Act, Heritage Act, etc and streamline the approval process under a new Act would be welcomed.

4. 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.

Environmental planning instruments are not tools to stimulate development. They are tools to facilitate development through zoning, land use permissibility and development standards. In terms of facilitating development, environmental planning instruments should provide for as wide a range of permissible uses as possible and be flexible in enabling changes of land use and redevelopment. Development is stimulated when land owners and investors have confidence to increase their level of investment in their properties and their communities.

Specific comments under TOR number 2 are relevant here also.

5. Opportunities to increase delegations for regional councils in regard to the planning making processes.

Current delegations to Councils for plan making purposes appear to be working well for Eurobodalla. However, delegations cannot currently be made for planning proposals that include minor reclassifications of public land. This is a matter that could be further reviewed. Despite delegations, the plan making process still takes far too long. The time taken to receive Gateway Determinations from the Department of Planning and Environment is one area which could be improved.

Recent advice from the Department that Council's cannot make minor changes to LEP amendments after exhibition. This needs to be corrected and would seem to be an extreme reaction to a recent court decision.

Parliamentary Council drafting LEP amendment documents after adoption of an LEP amendment also slows up the process. Drafting should be done by Council, within Departmental templates and reviewed by the Department and included in exhibition material.

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

Covered in responses to other TORs.

7. Opportunities for government-led incentives that promote regional development.

An issue with development in regional centres is that land prices are not what they are in metropolitan areas so the costs of gaining approval and going through the approval process, delays etc are proportionally more of the land cost than they are in the metropolitan area. Therefore return on investment can be lower. This can be an inhibitor to regional development. 1,700 of our 3,000 businesses are owner run. Only 500 have more than 4 employees. Government led incentives on the upfront cost of regional development could assist. This could be in the form of a regional development funding program to help offset upfront costs of qualifying regional development.

8. Pathways to improve decision making processes for regional development proposals, including increasing the use of complying development, improving negotiation processes for voluntary planning agreement.

Council has previously made many submissions to the Department of Planning and Environment for improvements to the exempt and complying development system, particularly to increase the capacity for complying development in Eurobodalla. Please refer to specific comments in TOR number 2.

9. Any other related matter.

The requirements for Environment Protection Authority (EPA) licensing as it relates to infrastructure delivery appears at odds. On the one hand it appears set up to permit rural road construction (up to 5km in length) under the schedule without licensing, only now to be tripped up by an interpretation that the volume of material (intended more for gravel pit operation) should apply to road reconstruction. This (new) interpretation by the EPA to Roads and Maritime Services (RMS) recently caused us a delay whilst an EPA license was obtained for earthworks exceeding 30,000 tonnes. This makes no sense when you consider that to even gravel a section of road that long you would exceed the 30,000 tonnes. Apparently there have been fairly high level discussions between RMS/EPA on this issue with the result that RMS are now seeking licenses for relatively small earthwork jobs on rural classified roads. This is certainly not helping stimulate regional development.

Yours faithfully

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