

NSW GOVERNMENT RESPONSE TO THE LEGISLATIVE COUNCIL STANDING COMMITTEE REPORT ON THE NEW SOUTH WALES PLANNING FRAMEWORK

December 2009

Terms of Reference:

That the Standing Committee on State Development inquire into and report on national and international trends in planning, and in particular:

- (a) the need, if any, for further development of the New South Wales planning legislation over the next five years, and the principles that should guide such development;
- (b) the implications of the Council of Australian Governments (COAG) reform agenda for planning in New South Wales (NSW);
- (c) duplication of processes under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 and NSW planning, environmental and heritage legislation;
- (d) climate change and natural resources issues in planning and development controls;
- (e) appropriateness of considering competition policy issues in land use planning and development approval processes in NSW;
- (f) regulation of land use on or adjacent to airports;
- (g) inter-relationship of planning and building controls; and
- (h) implications of the planning system on housing affordability.

In making a submission in response to this inquiry, the NSW Government has provided responses only to recommendations which are relevant to the actions and processes of the NSW Government.

Recommendation 1 p51: That the Minister for Planning establish an independent expert and representative group to undertake a fundamental review of the New South Wales planning framework with a view to formulating recommendations for legislative, strategic planning and system changes in order to develop a planning system that achieves the best mix of social, economic and environmental outcomes for New South Wales.

That the review group include representatives from urban, coastal, and regional/rural areas and include representatives who are practitioners of the planning system.

That the Department of Planning and other State agencies provide support to the review group in undertaking its task.

That the findings of the review group be subjected to broad community review and input and build on the work of this Committee's report.

That the review commence in 2010, recognising it may take up to five years to complete.

Response

The Minister for Planning and Infrastructure has appointed Mr Tim Moore and Mr Ron Dyer to co-chair a Review of the NSW Planning System. The panel has undertaken extensive community and stakeholder consultation, and visited 44 locations across the state from mid September to mid November 2011. An issues paper was released in December 2011 for public consultation. This will be followed by a Green Paper (discussion paper) in April 2012. A White Paper with detailed policy options and draft legislation will be exhibited in the latter half of 2012, after which new legislation will be introduced to Parliament.

Recommendation 2 p70: That the NSW Government develop and implement common regional boundaries for use by government agencies and the planning process.

Response

The Department of Planning and Infrastructure will examine the potential to implement common regional boundaries for use by government agencies and the planning process following the current Review of the Planning System.

Recommendation 3 p71: That the Department of Planning develop a number of new regional strategies to ensure that there is an appropriate regional strategy in place for all local government areas across the State.

That as a first step the Department of Planning consult with local government not currently within a regional strategy area to determine appropriate and manageable new regional strategy boundaries.

Response

There are currently eight Regional Strategies covering NSW, including the draft Murray Regional Strategy. Planning in the Sydney Region is guided by the Metropolitan Plan for Sydney 2036. Strategic Regional Land Use Plans are being prepared for the remaining regions within the state and it is anticipated that these will be in place by 2014.

Recommendation 4 p102: That the Department of Planning review the Standard Instrument LEP template with a view to developing a number of templates that reflect the different needs of metropolitan, rural and coastal local government areas.

Response

The Standard Instrument provides a flexible framework with a suite of model provisions for councils to select from to deliver their local planning strategies. Standard instrument Local Environment Plans (LEPs) that adapt to local conditions have been prepared for metropolitan,

coastal and regional areas such as Liverpool, Wollongong, and Balranald local government areas. Notwithstanding this, the Department of Planning and Infrastructure has established a Local Planning Panel that will increase local government involvement in the plan-making process and improve the flexible delivery of the standard instrument program.

Recommendation 5 p110: That the New South Wales Government provide additional funding to local councils, the Department of Planning and the Parliamentary Counsel's Office so all councils have a Standard Instrument Local Environmental Plan made within the next two years.

Response

The LEP Acceleration Fund is a \$10 million funding program that was established in September 2010 to fast track the delivery of standard instrument LEPs throughout the state. The first round of funding will assist 77 councils to finalise their standard instrument LEPs in a timely manner. The funding will be used to pay for planning work, Geographic Information System (GIS) mapping and related services to assist councils to complete their standard instrument LEPs, or as an 'in-kind' payment where the department engages services on behalf of a council.

The Department of Planning and Infrastructure has also utilised \$2.9 million in funding that was allocated by Treasury as part of the former government's Housing Supply Taskforce program. The funding has been used to finance internal positions for legal officers, administrative officers, GIS officers, additional planning advisors, a part time heritage officer, and legal officers in the Parliamentary Counsel's Office to accelerate delivery of standard instrument LEPs across the State.

Recommendation 6 p124: That the Department of Planning develop best practice electronic planning systems and support their implementation at the local government level with additional funds and training, if needed.

Response

The Department of Planning and Infrastructure is pursuing a number of best practice electronic planning systems, and ePlanning will also be a key aspect of the review of the planning system. An example of a successful ePlanning is the Electronic Housing Code (EHC), which is a Federally funded pilot project focussing on the development of an online system for the electronic lodgement of complying development applications under the NSW Housing Code for lots 200m² and above. There are currently 11 councils and eight private certifiers taking part in the EHC project. At the time of writing, 10 councils were live on the system. In September 2011, the project had received an additional \$4.3 million from NSW Treasury to expand the pilot to include up to an additional 24 councils and to include the Commercial and Industrial Code. This program is now considered a best practice model ePlanning initiative.

The majority of councils involved in this pilot have been provided with funding to assist them in improving the accuracy of the land and property information data, as this is a key feature of ePlanning initiatives. This has led to greater confidence in the data held at council and some of the councils involved in the pilot are now looking at offering other planning services online.

Other funded items include the introduction of and training in electronic stamping tools, trialling technology tools to assist with electronic assessments and the facilitation of electronic payments.

Recommendation 7 p203: That the process for the granting of mining exploration licences be amended so that at the same time that a licence is granted, the government appoint an independent committee of stakeholders to determine the terms of reference and manage a strategic and scientific assessment of natural resource constraints, which is to be funded by the mining company.

Response

The Department of Planning and Infrastructure is developing Strategic Regional Land Use Plans that aim to strike a balance between competing land uses such as agriculture and mining in regional areas. While the Strategic Regional Land Use Policy includes a number of initiatives relating to mining exploration licences, licensing is primarily the concern of the Department of Trade and Investment, Regional Infrastructure and Services.

In the interim, a number of measures have been or are being put in place to manage land use conflict in these areas. These measures include requiring all title applications for coal and gas seam projects to be the subject of community consultation before a decision is made; requiring agricultural impact statements for all new mining and coal seam gas applications; and protecting ground water supplies through the Aquifer Interference Regulation.

A Stakeholder Reference Group has been established to provide advice and input to the development of the Strategic Regional Land Use Plans for high growth resource regions. The group has broad representation across peak mining and farming groups, conservation organisations, local government and other relevant organisations.