

**Planning System Review Public Consultation  
Wollongong  
Illawarra Leagues Club  
97-99 Church St  
Wollongong  
Tuesday, 4<sup>th</sup> October 2011**

**Tim Moore & Ron Dyer (Planning System Review)**

- Brief overview of process
  - NSW-wide consultation to meet with key groups and community members, please see the website for details of dates and locations
  - The web site will publish notes of all meetings to ensure maximum transparency in the process of the review
  - All written material must be provided by 4 November 2011, all written material submitted to the Review Panel will be published on the website
- The only outcome instruction that has been given to the Panel is that the Minister requires our outcomes to maximise the use of information technology capabilities
- General timelines
  - A listening and scoping of key principles and objectives for system will be undertaken from now until mid-November 2011
  - A discussion paper outlining identified issues & tensions within the system will be put on exhibition in the first week of December 2011 for public comment until 17 February 2012
  - A green paper will be submitted to the Minister for Planning and Infrastructure before the end of April 2012.
- To contact the Planning Review Panel, email us at [review@planningreview.nsw.gov.au](mailto:review@planningreview.nsw.gov.au) or call us on 9228 2053

**Overview of discussion points:**

**SESSION 1**

- Should 'community resilience in dealing with the impacts from either natural or manmade events' be included as an objective in the new Act?
- SEPPs only serve to complicate the system.
- Strategic plans should have more weight and there should be committed regional planning. Other agencies should be involved in the formulation of these plans. Development should not be able to circumvent these strategies. Industry needs to support a regional strategic plan as well. Strategic plans with weight will increase certainty and investment in development.
- The Standard Instrument LEP has insufficient capacity to deal with local issues. This means that issues are deferred until the DA stage. The mapping for LEPs needs to be able to respond to changes (such as cadastre changes through subdivision) - the current pdf format cannot do this. The Standard Instrument LEP does not adequately deal with the protection of agricultural land.
- Is a dollar capital investment value the most appropriate measure of State or regional significance? 'Resilience to change' should be part of the criteria. Large developments are not always resilient to change and this means optimum planning outcomes are not achieved. Should implications for indirect employment opportunities be considered? Should wider economic benefits be a consideration? Should prime agricultural land be declared State significant?
- How should food security be addressed in the new Act? How do you define a food bowl or catchment area? How should land banking and the threat it poses to agricultural land be addressed? Should food security be addressed in development control plans and/or design codes?

- In the United States (Santa Cruz) approvals are granted by clerks and the assessment is a “tick the box” process. Issues have already been resolved in detailed local plans. A DA determination can be obtained in 45 minutes.
- Individual sites should have building envelopes identified – these issues should be resolved at the plan-making stage. Building envelopes should be devised in the context of neighbourhoods or ‘places’. Much more detailed urban design needs to be included in plans for neighbourhoods.
- There needs to be a clear policy and more information provided in respect of coal seam gas development. There needs to be certainty for the industry and the community needs to be informed and involved.
- The community is reluctant to participate in strategic planning. Planning at the local level is perceived to be more immediately relevant.
- There needs to be a balance between the rights of residents and existing landowners and the rights of developers.
- The Act should provide clear definitions of terms. In particular, if a ‘maximum’ figure or standard is provided in an EPI, it should be clear whether or not that standard can be varied.
- To increase transparency there should be no delegated decision making. The decision making process should be more open with more information available to the public such as the reasons for decisions.
- Developers that develop below the minimum standards should benefit from reduced section 94 contributions.
- The interaction of the Act with other Acts complicates the assessment process. Planners have to explain to applicants how these other Acts work and an applicant should be able to be informed about the process without having to engage a consultant.
- If other agencies are involved in the strategic planning process there may not be a need for concurrences with individual DAs. The concurrence process puts too much focus on the DA assessment. Issues should have been resolved at the strategic planning stage.
- The current Act does not address environmental issues as much as it used to. It does not address rural issues well at all and is metro/urban–centric.
- Who should fund strategic planning? Who should plan strategies for land use zones and strategies for environmental protection and should the work be done in the same plan so they are compatible?
- There needs to be more resources allocated to regional planning. Planning for a large region is physically resource-hungry in people / time terms.
- All local plans should be current and contemporary. Working with outdated plans encourages variations from standards that can incrementally become excessive. What should the test be for variations from standards? Should the test take into account whether the plan has been reviewed recently? Should an independent panel have to make determinations when there is a variation proposed?
- Simple amendments to LEPs take too long. A plan should be able to be responsive to change.
- Only one instrument should zone land. Currently some SEPPs provide an overlay.
- Infrastructure plans only include budgeted projects so they are of little use in the medium to long term. Planning needs to be able to consider these longer term infrastructure projects.
- There should be standard DA forms, systems and procedures across all councils.
- There needs to be more detailed consideration in respect of DA conditions. There should be model conditions to assist assessment officers in drafting conditions. It needs to be clear in the consent which conditions apply at each stage, which conditions are perpetual and which are short term only. Enforcement of conditions

needs to be allocated more resources. The conditions are readily imposed but not often enforced. Who should enforce conditions of consent?

- Should the new Act make any distinction between the weight to be given to different objectives? Should objectives have equal weight? In what circumstances?
- There are more stakeholders in the system that support the interests of the development industry than there are who support environmental interests. There needs to be increased consultation with non-government environmental organisations order to balance this.
- Strategic plans are not easily available to residents. The community feels like they have no input in the strategic planning process.
- An applicant has to consult with too many agencies to get information about the process that applies to their DA.
- Community notification of a DA needs to go beyond immediate neighbours.
- DAs should have to be assessed after a site visit. 'Desktop audits' are not an appropriate method of assessment.
- What guarantees or security should be required that a development of State or Regional significance will be completed? What should substantial commencement be measured with reference to? What is the point where you can say that it will be inevitable that a development will be completed?
- Is a public hearing the most effective method of community consultation/involvement? Are there other methods?
- Should there be a separate Building Act and a Planning Act? The model in Western Australia may be a relevant example of development codes.
- Should there be existing use rights? How should they be defined?
- Should climate change and adaptation be an objective of the Act? Should land be defined as a finite resource as a planning principle in the Act?
- It should be quicker and easier to amend an LEP so that councils can fix mistakes as quickly as possible.
- There needs to be more weight given to social impact considerations in the assessment process. There needs to be more guidance on the content of "the public interest" consideration in section 79C.
- Open standing appeal rights should be retained. There should be broader third party appeal rights. If there is a decision that is in significant breach of a policy document, should there be a right of appeal?
- What Joint Regional Planning Panel and Planning Assessment Commission procedures should be specified in the Act?
- There is a conflict between planning regulation and heritage management. Rural town centres are often heritage precincts – how do you apply the policies of BASIX etc to these areas whilst still facilitating growth?
- The objects of the Act should refer to heritage conservation.
- The current Act does not adequately deal with community events on Crown land.
- Continuous amendments to a DA during the assessment process and after notification undermine community confidence in the system. An objector has to make a submission on each notified amendment.
- The Legislative Council Committee review in 2009 may be a good reference for this review of the system.
- There are problems with compliance and private certifiers. Ultimately, certification needs to be the responsibility of council. The fact that an applicant pays private certifiers means there might be room for certifiers to be influenced when making decisions. There is no incentive for a private certifier to enforce conditions strictly. Private certifiers do not adequately replicate the role of the council.
- Should an applicant's past non-compliance with conditions of consent be a matter for consideration during the assessment process? Private certifiers can deal with

building issues adequately, but not conditions that relate to planning matters. For example, for issues like heritage, certifiers need to be skilled in these planning areas. Should there be penalties for certifiers that repeatedly incur penalties?

- There is an issue with interim occupation certificates in that there is no incentive to obtain an occupation certificate once an interim one is issued.
- There should be flexibility in the way that BASIX applies to development. Councils should be able to vary the BASIX requirements for individual developments.
- Absolute decision-making and 100% compliance is not a reality, so the Act should not focus on it. How do we make decisions and what are the consequences of the decisions made?
- Should reclassification of land be dealt with solely by the Local Government Act?
- Zoning should only be done via an LEP – concept plans should not be able to be used to rezone land.
- The community should have the opportunity to be heard when an applicant responds to community submissions during the DA process. There needs to be an easy way for the community to participate in more stages of the DA process.

## SESSION 2

- Should the information in SEPPs be collated in LEPs? LEPs would become more complex and larger documents, but all relevant information would be in one document.
- Regional strategies should be elevated in status. They take a lot of effort to prepare but they are often the first thing discarded when decisions about major development are made. How should strategic planning fit in the system?
- The West Australian development codes might be a relevant model to consider during this review.
- The exempt and complying codes do not always sit well with council DCPs.
- Community input during the Part 3A process was inadequate. For large scale, complex development the community should be given more time to provide comments. How should information about a proposal be presented to the community? What are the best methods of communication? How do you present the technical information about a proposal to the community? Sometimes people won't make a submission if they do not understand the information on exhibition. Applicant-run information sessions are not desirable – these should be independently-run events. The applicant should not run the process. If the community needs to be informed about what their involvement in the process will be, should the Act prescribe different forms of community consultation? Should the Act prescribe a minimum standard of consultation?
- Should there be peer reviews in respect of the analysis of consultants' assessment reports? The information before a decision maker should not be solely from the applicant. Should there be an internal referral process for cross-checking and peer review of consultant's reports?
- Agency submissions on a proposal should be made readily available to the community.
- How should rezoning in connection with State significant development be dealt with? Should an amendment to a local plan be done concurrently? What should be the involvement of council?
- There is a perception that the Planning Assessment Commission (PAC) process is not as transparent as it could be. The PAC would not have to deal with so many matters if there were other reforms to the system in respect of political donations and conflicts of interest.
- Should a council have discretion to refer a matter to the Joint Regional Planning panel?

- There are issues when matters are referred to the Sydney office of the Department by the regional office. The Department needs to be reviewed as to where the best locations for its resources are. Regional offices have more knowledge of local issues.
- There needs to be more emphasis on strategic planning in order to secure good planning outcomes. Strategic planning should include infrastructure and transport plans. It needs to be holistic. What weight should strategic plans have? What capacity for variation and amendment should they have? What happens when development is proposed that does not conform to a strategic plan? Who pays for a strategic plan? Should the Act address the process of strategic planning and provide a framework for the process?
- Should the Crown and Councils be self-determining authorities?