

A NEW PLANNING SYSTEM FOR NSW - WHITE PAPER

RESPONSE by NORTHERN SYDNEY REGIONAL ORGANISATION OF COUNCILS

NSW WHITE PAPER – A NEW PLANNING SYSTEM FOR NSW

The White Paper's comprehensive review of the NSW planning system at State and local levels, its focus on integrated plans, incorporating infrastructure and inter-agency cooperation, with legislation embedding community participation at all levels of planning, is generally supported and welcomed.

The Northern Sydney Regional Organisation of Councils (NSROC) acknowledges the efforts of the NSW Government Department of Planning and Infrastructure in preparing this substantial body of work, given the limited time available and the range of significant issues covered. NSROC appreciates this opportunity to comment.

The individual member Councils of NSROC have all prepared comprehensive and thoughtful submissions on the White Paper following broad discussion within their communities. Consequently, this NSROC submission does not repeat in detail each of the numerous issues raised by those individual Council submissions but instead concentrates on a number of general concerns where it believes improvements can be made.

Community Participation

NSROC welcomes and supports the central principle of an open, transparent and publicly accountable planning system. Public and stakeholder consultation throughout the plan-making process will enable communities' aspirations to be heard and realised in each of the strategic planning processes in the new system. The introduction of a Community Participation Charter, enshrined in the legislation, is supported, as is the introduction of Community Participation Plans to set the standard for how the community will be actively engaged at all levels of the plan making process. It is important however, to ensure that there is a clear distinction under the Community Participation Charter between community consultation and notification.

Whilst NSROC fully supports increased public participation at the strategic planning stages experience indicates that this is notoriously difficult to achieve. The success of the reform will be heavily dependent on the willingness and ability of communities to participate. This will require considerable investment by the NSW Government in resources and collateral to educate and inform the community of strategic planning processes and their role in the decision making of subregional and local plans. An expanded public education campaign should be undertaken at the State level to explain the new planning systems and priorities and educate local communities on their new role.

The White Paper highlights a range of good practice engagement and communication techniques such as face to face, electronic communication, 3D modelling and key pad voting. All of these consultation techniques require significant direct funding as well as resource investment in skills of those responsible for establishing, delivering and interpreting the results.

Consideration should be given at the State level to the development of a NSW-wide marketing strategy to ensure a consistent approach to the education of our communities. This could include, for example, a template Public Participation Plan and a series of online

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videos explaining how the new planning system works, the methodology used for determining housing and employment targets, how building envelopes are produced and so on. The strategy could also include the establishment by the State of a suitable pool of skilled communicators who Councils/agencies can draw on for the engagement process.

NSROC's communities are understandably concerned at the lack of notification of developments near them that will result from the reformed processes. . This concern is unlikely to be fully overcome by the proposed community engagement at the strategic planning stage, further reinforcing the strong need for the State to resource that engagement process as effectively as possible so that the upfront processes are robust and reliable indicators of community views. Additionally, a mitigating strategy would be to prepare a set of statutory public consultation parameters much the same as Councils do for their adopted notification policy.

Considering the difficulty many in the community have with understanding the implications of strategic plans, the minimum public exhibition period as required by the Planning Bill for strategic plans of 28 days is considered too short for realistic consultation of complex material and NSROC calls on the NSW Government to include a longer time period in the reformed system of at least six weeks.

e-Planning

The White Paper envisages a further move towards e-Planning, which will be supported by the NSW Government, to allow for improvements in access to information, community participation in strategic planning and development assessment. The online planning services are intended to be customer focussed and provide the following key functions:

- A planning viewer service;
- An application lodgement service;
- An application tracking service;
- Guidance and performance information service;
- Discussion threads and news; and
- Customer support

NSROC supports the concept of e-Planning and recognises the significant advantages of moving to such a system. The improved delivery of e-Planning services to identify local planning controls, lodgement of plans and alternative consultation methods is generally supported. However, the delivery of e-Planning services by the State should have regard to individual Council information technology contracts and the compatibility of the proposed platform with existing systems. The funding responsibility for any rollout of e-Planning , including the funding of Council integration with the e-Planning system, should lie with the State.

Strategic Planning Framework

The new planning system will introduce a Strategic Planning Framework designed to shift the emphasis away from development assessment towards an evidence-based, whole of

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government approach. This change in emphasis is supported. Ten strategic planning principles are to be incorporated within the legislation to ensure that all strategic plans clearly establish the framework to facilitate good development, while addressing social and environmental outcomes. Councils and State agencies will be required to demonstrate that they have satisfied these principles when preparing, amending and reviewing plans or policies.

No objection is raised with respect to the incorporation of these principles. However, there is a distinct emphasis given to achieving economic outcomes above all other matters. The legislation should be strengthened and clarified in respect to the importance of environmental and social outcomes so that there is an appropriate balance between outcomes that will properly fulfil the promise of the White Paper.

The rationalisation of State level planning policies is generally supported; however, a policy relating to heritage should be included to ensure consistency of application throughout the State. Importantly, NSROC Councils are of the view that the opportunity to comment on the new planning policies and associated guidelines should occur before the requirement to prepare subregional plans.

A range of more detailed concerns with respect to particular aspects of the proposed new strategic planning framework have been raised in the individual NSROC Council submissions on the White Paper. The NSROC Councils have offered constructive suggestions for improvement in a number of areas and due consideration of these is supported. As previously stated it is not intended that this NSROC submission repeat all those concerns and suggestions, however, the following issues reflect some key shared concerns amongst NSROC Councils.

- Subregional and Local Plan timeframes – there is significant risk that subregional plans may not be developed in the timely manner anticipated by the White Paper, thereby eroding capacity to achieve housing and employment targets while developments continue to be approved under existing plans. The grounds for allocating growth targets between Local Government Areas (LGAs) need to be published and agreed on with a subregion's Councils before Local Plans can be prepared. Logically, the 18 month timeframe for Local Plans should be completed after the two year timeframe for Subregional Plans, rather than before.
- Subregional Planning Boards need clear, transparent criteria for resolving competing interests such as infrastructure priorities and funding between Councils within a subregion, to ensure efficient and effective decision making and that outcomes are delivered..
- The proposed Central Sydney Subregion proposed in the *Draft Metropolitan Strategy for Sydney to 2031* is considered impractical and sub optimal for effective collaboration and decision making. This proposed subregion is totally inconsistent with *NSW 2021* and the Regional Action Plans. Further, it bears no relationship to the existing groupings in Regional Organisations of Councils where long established and effective lines of communication and cooperation already exist. Community

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consultation would be difficult in terms of physical constraints such as travel times and other logistical considerations.

Having regard to matters such as governance, growth management, service delivery, infrastructure provision and community consultation, NSROC's preferred position is that a subregion be formed of all of the 11 LGAs of the NSROC and Shore Regional Organisation of Councils (SHOROC) to form a Northern Sydney subregion. NSROC and SHOROC have been operating for over 20 years and have established clear regional identities which offer the building blocks for an effective planning subregion. The Minister should not be allowed to amend a Subregional Delivery Plan by declaring a site "...a regional priority area "without consultation with the local community and Council.

- In the interests of ensuring good governance, openness and transparency, NSROC would also submit that the Chair of a Subregional Board must be independent of government.
- NSROC also has concerns in relation to State Significant Development and the proposal in the draft legislation to allow the Director General to issue a Strategic Compatibility Certificate for development prohibited by a Local Plan.

Provision of Infrastructure and Contribution

The Independent Pricing and Regulatory Tribunal (IPART) report titled *Revenue Framework for Local Government* identified that there is a backlog of Council infrastructure works in NSW that needs to be addressed. For some NSW Councils that backlog could threaten their future financial sustainability. This backlog was recently estimated to be some \$7.4b and highlights the critical necessity to ensure that necessary infrastructure is in place before housing and employment growth occurs.

The proposal to legislate for integration of infrastructure provision and strategic land use planning is generally supported as it will facilitate a consistent approach to the delivery of infrastructure to cater for increased demand for services. Benefits will include greater certainty for the community and Councils as to future plans for national, state, regional and local infrastructure in their LGAs.

The preparation of a *NSW Infrastructure Planning Policy* by the State Government and the setting up of governance arrangements that bring infrastructure agencies together with Subregional Planning Boards is strongly supported.

The introduction of *Growth Infrastructure Plans* is generally supported, provided that, as stated, these Plans inform individual government agency infrastructure plans and are prioritised to align with annual funding allocations.

Whilst the integration of infrastructure with land use planning is supported provisions to manage the risk that infrastructure programs may be delayed or not be delivered at all are needed. Taking this into account means having measures in place to enable effective deferral or retreat from delivery of land use outcomes which rely on related infrastructure being in place.

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A new *Infrastructure Contributions System* will be introduced. Under the new system Councils will be responsible for collecting local contributions, as well as collecting regional contributions on behalf of State Government. The existing \$20,000 (infill) and \$30,000 (Greenfield) caps are proposed to be removed.

NSROC strongly supports the removal of the arbitrary and rapidly dating cap. The concept of a numerical cap that bears no relationship to actual infrastructure costs and fails to keep pace with the real value of money over several years has no place in a properly planned and documented system. It is also essential that contributions keep pace with the real value of money over time. A clear and transparent inflationary mechanism must be incorporated into the contributions component of all Local Plans.

The proposed three year limit on holding contributions is blatantly inadequate and NSROC is strongly opposed to such a restrictive and unrealistic proposal. A three year period does not allow for downturns in the construction industry or the time required for consolidation of fragmented site ownership and is not reflective of the processes to plan and deliver infrastructure. It should be increased to a more realistic timeframe reflecting at a minimum the timeframe of Councils' Delivery/Operation Plans, to ensure that needed infrastructure is delivered in advance of demand..

Such unrealistic timeframes do not reflect the administration and planning lead time to coordinate the relevant range of agencies or the differing timeframes of various types of infrastructure to be constructed. Additionally, any requirement to spend infrastructure contributions within a specified period should also equally apply to the NSW Government.

NSROC strongly objects to the proposal for provisions for deferring payment of local infrastructure contributions closer to the point of sale, rather than prior to construction certificate or subdivision certificate. There are significant implications for Councils in such a system including the transfer of major unsecured financial risk to local government and the community, and the involvement of local government in the costly collection of unsecured debt. Additionally, the introduction of an immediate cash-flow lag impacting Councils with infrastructure under construction and delivery will impact unfairly on those Councils who are meeting their obligations by having a rolling works program to deliver assets from contributions.

Other issues

There are a number of other issues raised and suggested improvements put forward within the individual NSROC Council submissions on the White Paper around the areas of development assessment and building certification and these are supported by NSROC.

There are also significant financial implications associated with the introduction of the new planning system. Some of these are raised earlier in this submission. In addition, the process of translating existing LEPs and DCPs into the new framework is a significant body of work requiring extensive resourcing. This will require a significant workload on Councils. NSROC requests the new planning system explicitly provides for transitional planning arrangements to ensure greater certainty to both the public and private sectors during the implementation phase of the new legislation.

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