

## **NSROC Submission relating to:**

### **The NSW - Land and Environment Court Review.**

The Northern Sydney Regional Organisation of Councils, representing the Councils of Hornsby, Hunter's Hill, Ku-ring-gai, Lane Cove, North Sydney, Ryde and Willoughby, has, for some time, been concerned at the impacts that decisions of the Land & Environment Court are having on both the physical environment of the Northern Region and its planning processes. NSROC welcomes an opportunity to make a submission to the Working Party reviewing the legislative basis upon which the Court reviews decisions, in relation to Development Applications.

1. NSROC would wish to see the nature of matters addressed by the Court be limited to those of planning law.
2. NSROC is firmly of the view that questions of merit should be addressed by its member Councils only. Member Councils have fashioned their Development Controls against which applications are assessed to suit their particular circumstances, and these are only put in place following extensive consultation with their communities. As such, it is inappropriate for an external body to be in a position where those fundamental planning controls could be overridden.
3. In the event that the Working Party concludes that there is still a role for the Court in assessing merit issues, NSROC believes that it is inappropriate for one person, although technically qualified to make a decision, overrides democratically elected Councillors decisions. Therefore, NSROC would argue that, as a minimum, 2 Commissioners should hear every appeal.
4. NSROC is of the view that SEPP No.1 should be completely re-drafted. While it has acknowledged that there is a need for some flexibility in the planning process to enable minor variations to occur, from development standards, to suit a particular site, SEPP 1 has been used in the manner, which undermines the Planning Instrument. SEPP 1 should be drafted in

such a manner, as to allow a variation where, but for that development standard the development could otherwise be carried out.

5. The practice of amending plans before the Court has been a major issue for NSROC member Councils for many years. It affects both the cost of Councils running their cases and has limited the rights of others to comment on a later application. It is our view that any variation from the plan submitted to Councils should not be considered by the Court, and that if the Court is proposing to amend the plan by way of condition that it should be referred back to the Councils for acceptance prior to the Court issuing any consent.
  
6. NSROC is concerned that applicants use the Court and the timeframe set by the Court for the hearing of an Appeal as a means of forcing Councils to accept, in some instances, a less-than-desirable development, due to the cost of such action. A mechanism should be found by which any person wishing to take their application to the Court, should first demonstrate that all avenues of negotiation with Councils have been exhausted.

NSROC appreciates the opportunity to make this submission.