

2.5 State Government "Green Paper" on new Planning Legislation

TRIM REFERENCE: F2004/00526 - D03088857

AUTHOR: Martin Johnson; Manager Land Use Planning and Policy Development

SUMMARY

In July, the NSW State Government released its "Green Paper" on planning reforms titled 'A New Planning System For NSW'. The Green Paper outlines the NSW State Government's broad proposals and policy directions for a new planning system.

The Green Paper proposes 23 'transformative changes' to the planning system which are stated to move the planning system from a heavily regulated and prescriptive system to a simpler, strategic and transparent system.

The Green Paper is the government's response to the report of the independent panel which was established in 2011 to review the NSW planning system. Following consultation, the independent panel, led by former NSW Government Ministers', Tim Moore and Ron Dyer, produced a two volume report with 374 recommendations – (The Way Ahead for Planning in NSW).

This report outlines the NSW State Governments broad proposals and policy directions identifying both benefits and improvements however, it also raises significant concerns for Council's consideration. A draft submission is being prepared in response to the matters raised at the Council Briefing on the 22 August 2012. Following the inclusion of Councillors input the submission will be forwarded to Councillors for further comment prior to being lodged with the Department of Planning and Infrastructure (DOPI).

Access to the reports, *The Way Ahead for Planning in NSW*, and the Green Paper, *A New Planning System For NSW*, is available via the DOPI web site.

RECOMMENDATION

That Council lodge a formal submission to the Director General of the Department of Planning and Infrastructure in response to the Green Paper, "A New Planning System for NSW", in accordance with the matters raised in this report and the draft submission to be finalised in accordance with Councils comments.

BACKGROUND

It has been acknowledged by most if not all stakeholders that the current NSW planning system is in need of a total overhaul. This is because of:

- The legislation which provides the overarching framework for the NSW planning system, The Environmental Planning and Assessment Act, 1979, is over 30 years old.
- The legislation has been modified over 150 times to try to keep pace with changes in the community and changes in economic conditions.

2.5 State Government "Green Paper" on new Planning Legislation (contd)

- The current planning system has become too complex, legalistic, and difficult to understand for many users of the system.
- Businesses and community members have expressed their frustration about the red tape and delays that impact on development applications for both minor and major proposals.
- Environmental and biodiversity conservation issues and the protection of high value agricultural lands are managed in a piecemeal way, and are not proactively and appropriately catered for in current planning processes.
- The 'system' is focussed heavily on process and not on the outcomes that users of the system seek.

In July 2011, the NSW Government established an independent panel to undertake a review of the planning system in NSW, with the aim to create a new planning system in consultation with stakeholders, and the community that meets today's needs and priorities.

The Minister for Planning and Infrastructure, the Honourable Brad Hazzard, appointed joint chairs to carry out the Review, namely former Ministers Tim Moore and Ron Dyer.

In preparing the Independent Panel's Review Report, "*The Way Ahead for Planning in NSW*", extensive community and stakeholder consultation was undertaken. Council previous submission to the Independent Panel's Review is attached as Attachment 1.

The NSW Government's initial response to the Independent Panel's Review Report, "*The Way Ahead for Planning in NSW*", is contained within the Green Paper, "*A New Planning System for NSW*".

The Green Paper is currently on public exhibition, with submissions and feedback being received until Friday 14 September, 2012.

The originally exhibition period, and most importantly the final date for receipt of submissions coincided with the 'caretaker' period leading up to the 8 September 2012 local government election. Therefore, this report was prepared for the 22 August 2012 Ordinary Council Meeting to enable formal consideration of a draft submission. However, a formal submission has not yet been fully prepared on the basis of the need to obtain input from Councillors during today's briefing. It is intended a draft formal submission will now be collated and Councillors will be given further opportunity to provide additional input prior to the submission being lodged with DOPI.

Council has now been advised that the closing date for submissions from local government has been extended to 5 October 2012. However, on the basis that the new Councils first ordinary meeting does not take place until 10 October 2012, the formal submission must be finalised in the absence of further consideration by the elected Council.

THE PROPOSAL

The NSW Government's blueprint for change to the NSW planning system is based around 5 fundamental reforms;

- 1 **Community Participation**
A major shift in the planning system is to engage communities as an integral part of making key planning decisions that will reflect the growth of their communities.
- 2 **Strategic focus**
A major shift to evidenced based strategic planning in terms of planning effort, community and stakeholder engagement.
- 3 **Streamlined Approval**
A shift to a performance based system in which duplicative layers of assessment have been removed, decisions are fast and transparent, and code complying development is maximised.
- 4 **Provision of Infrastructure**
A genuine integration of planning for infrastructure with the strategic planning of land use so that infrastructure that supports growth is funded and delivered.
- 5 **Cultural Change**
A fundamental change in culture to a 'can do' attitude.

The Green Paper recommendations are high level, broad proposals and policy directions. Very little detail is provided. The detail, including drafted legislation, will be produced and released later this year when the NSW Government, following consideration of submissions, releases its 'White Paper'. Further opportunity will be afforded stakeholders, including local government, to review and provide input following release of the 'White Paper'. With this in mind, the comments provide below can only be high level.

Details of the Reforms

Purpose of the planning system

The overarching purpose of the new planning system for NSW as set out in the Green Paper is to:

- Promote economic development and competitiveness
- Connect people and places
- Protect the environment
- Improve peoples quality of life
- Resolve land use trade-offs on social, economic and environmental factors
- Effectively manage growth and change

To meet the challenges, the new planning system proposes:

- **Simple** – reduced complexity and remove red tape
- **Certain** – provide predictability and certainty about how decisions are made for both investors and the community
- **Transparent** – base decisions on strong community participation and evidence.

- **Efficient** – achieve time frames for completion of planning processes through increased accountability for efficient decision making
- **Effective** – planning strategies facilitate investment and manage changes.
- **Integrated** – promote greater cooperation and partnerships between all levels of government, and balance environmental protection with economic growth.
- **Responsive** – provide flexibility to respond to change and ensure markets are competitive.

These are both the objectives of the broader planning system but they are also intended to inform the objectives of the new Act. It is stated that the achievement of sustainable development will remain the main objective of the Act. Whilst this is supported, caution is needed to ensure an appropriate balance between economic, social and environmental consideration, particularly as the NSW Government have clearly stated that the new planning system will support the achievement of their priority to drive economic growth.

The new Act will be an 'enabling' Act which will establish the broad framework for the planning system rather than contain detailed prescriptions for how land use planning and development assessment is to be carried out. Under this model land use planning and development assessment policies will still be provided but will be in the form of delegated instruments or practice guidelines.

This approach will provide greater flexibility to respond to change without the need to amend the Act. It may also provide local government a greater say in land use planning, development assessment and policy detail.

Community Consultation

There is no doubt that restoring community confidence and integrity in the planning system is a laudable NSW Government aim.

Four changes are proposed by the NSW Government to empower the community in the decision making process.

A Public Participation Charter – is proposed to require appropriate community participation to occur in plan making and development assessment.

Strategic Community Participation – the community will be engaged early at the strategic planning stages in the setting of the overall planning outcomes for an area.

Transparency in Decision making – Community confidence in decision making is proposed to be increased through:

- Evidence based decision making with full community participation
- A clear strategic context for decisions and a clear line of sight through the hierarchy of plans
- Readily accessible planning information with plans at all levels written in plain English.
- Public tracking of the decision making processes and public reporting of time frames.

Use of information technology and electronic planning - allow the community to access planning information and decision making through use of electronic planning, notification and engagement tools.

Details of the Public Participation Charter have not been provided within the Green Paper. It has been suggested that a Charter would assist in the creation of new community participation strategies and could include:

- Recognition that the community expects and has a right to participate in plan making and development assessment
- Requirement to provide information that is easy to understand as the basis for consideration
- Support for new methods of engagement and interactive participation.
- Provision for clear feedback in response to issues raised prior to a decision being made.

The Charter will set standards of community participation depending on the planning issue under consideration.

Under the NSW Government proposed reforms, it is intended that there will be a genuine engagement with the whole community in the development of 'Sub Regional Delivery Plans'. As detailed later in the report, this is at the expense replaces of the community participation at the development assessment stage. Likewise, no reference is made to community engagement at other levels of plan making, that is, state, regional, local etc. This is clearly a deficiency and needs to be raised, clarified, and addressed by the NSW Government.

Improving community confidence in decisions made under the new planning system is clearly an important objective and should be endorsed by the Council. Transparency in decision making is proposed to be achieved by developing a strong evidence base, improving access to planning information and providing accountability and a strategic context for decisions. It is proposed that there will be clear strategic context for decisions, and a clear line of sight through hierarchy of plans right from the state level policy to local land use control.

To "depoliticise" decision making the NSW Government has proposed that decisions on development applications will be categorised to appropriate independent and expert panels. State and regional scale development will continue to be assessed by the Planning Assessment Committee (PAC) and the Joint Regional Planning Panels (JRPP's). In addition, one option being considered by the NSW Government is for local level development applications to also be considered by a local expert panel (see further comments later in the report).

Significantly greater use of information technology and electronic planning is proposed under the reforms.

Strategic Planning

Strategic planning is proposed to become the cornerstone of all planning decisions. This will mean a significant and substantial shift in emphasis and resources to a strategic planning framework.

Major structural change is proposed at all levels of the planning system to remove complexity and duplication.

- **NSW Planning Policies** – will articulate the NSW Government's policy direction and position on major planning issues, such as housing, housing affordability, employment, mining, coastal planning, conservation will inform strategic plans at all

levels. The NSW Planning Policies will replace the myriad of State Environmental Planning Policies and 117 Directions currently in place.

- **Regional Growth Plans** – including the current Metro Plan for Sydney, will become integrated growth plans, linked with the NSW Long-Term Transport Master Plan and the Sydney Infrastructure Strategy. Growth Plans for the regional areas of NSW will be strengthened and include provisions to facilitate growth and change.
- **Subregional Delivery Plan** – prepared in growth areas based on groupings of local councils will be:
 - underpinned by a series of Sectoral Strategies that will provide a strong evidence base for housing, employment retail, environment, rural, mining and other areas of focus.
 - linked to Growth Infrastructure Plans which will provide a costed, funded infrastructure pipeline to support growth within the subregion.
 - prepared in partnership with Local Government, state agencies and stakeholder and in consultation with the community
 - able to directly deliver the new zones once approved
 - based on new sub regional boundaries that will group local councils based on economic growth patterns, natural resource boundaries, and infrastructure catchments.
- Local Land Use Plans will include 4 parts, a strategic context, spatial land use zones, an infrastructure growth and serviced delivery component and development guidelines and standards
- New Zones to maximise flexibility, provide opportunities for investment capture and protect suburban character in certain circumstances.

The new strategic focus will mean more decisions regarding land use zoning and development control will be made in the strategic stages of the planning process. It is proposed that all levels of strategic plans, regional and local will now have common elements including:

- Strong community and stakeholder engagement upfront and mechanisms for involvement in decision making.
- A strong evidence base incorporating research and data to support credible strategic outcomes.
- Financial feasibility that reflects market demand and feasibility of development outcomes
- Integration of land use and infrastructure planning
- Operational components to deliver infrastructure and services
- Incorporation of all government agency requirement hence switching off concurrences or referrals at the rezoning or development application stage
- Opportunities for streamlining decision making at development stages, including exempt/complying development and strategically complying development
- Performance measures monitoring and public reporting of outcomes.

It is important that all levels of strategic plans have legislative statutory support. This is not clear in the Green Paper. The Green Paper suggests an implementation timeframe of 2 years for the development of regional, subregional and local plans. Based on past practice and experience this time frame is clearly unrealistic. Considerable additional resources and funding would be required to achieve the outputs and timeframes outlined in the Green

Paper (at both the State and Local Government level). The Green Paper is silent on these issues.

Subregional Delivery Plans are an important element of the proposed strategic planning framework. Subregional Delivery Plans will provide the implementation mechanism for the objectives and priorities outlined in the higher level, the Regional Growth Plans. They will also be a key to guaranteeing consistency between strategic planning and local land use plans.

Subregional Delivery Plans will be the principal tool for effecting land use change and for the setting of development parameters and criteria within a region.

The subregional Delivery Plans will:

- Determine the distribution of the targets defined in Regional Growth Plans (eg housing affordability and growth, employment, retail, environmental protection) taking into account the state of the market and development feasibility.
- Identify the required supporting infrastructure and inform the preparation of a Growth Infrastructure Plan.
- Identify key growth centres, precincts, and corridors, environmental protection or prime agriculture land to be protected.
- Identify priority growth areas where changes key for delivery of the Regional Growth Plan. For each priority growth area provide the necessary planning framework to facilitate its delivery.
- Rezone key areas and provide for streamlined assessment of development in those areas
- Provide for integrated approvals in line with development parameters and guidelines.

Growth Infrastructure Plans will be a component of the Subregional Delivery Plans. These will be integrated and funded infrastructure plans agreed by the NSW Government.

The stated key benefit of the new subregional planning approach is that the NSW Government will work together with local Councils to ensure that key strategic planning objectives and key local matters are reflected in statutory planning controls effective immediately upon approval of the Subregional Delivery Plan.

Community reference groups and "Regional Planning Boards" (see details later in report) are proposed to manage the preparation of the Subregional Delivery Plan.

The planning reforms propose to reform local planning by moving away from rigid development controls to local plans that provide strategic context and deliver fast merit based planning decisions and "strategically based" development standards and guidelines. Whilst it is unclear, the local plan may replace the current Local Environmental Plan and Development Control Plan.

Local Plans will become plain English special land use plans that reflect the State, regional and local priorities for growth and community expectations. The changes proposed are:

- An upfront focus on providing a clear explanation of the strategic intent of the plan to facilitate growth, including desired development outcomes to meet state and local planning objectives
- Integration of future land use and local infrastructure provision
- Guidance on desired development standards with a focus on merit based assessment

- Full delegation to Council to undertake amendments to plans that are consistent with NSW Planning Policies, applicable Regional Growth Plans and Subregional Plans.
- No concurrences and referrals as key issues will be addressed at the regional or subregional level.
- Provisions to ensure performance is monitored
- Allowing development that is consistent with the strategic plan to proceed in a timely and straight forward manner, and development that seeks to exceed base standards can still be approved based on its inserts in the context of the plan objectives.

The Subregional Delivery Plans and the Sectoral Plans will set the applicable development parameters and criteria. These will be translated in the Local Land Use Plan.

The Government's clear intention for this area of development assessment is that guidelines should facilitate outcomes desirable to the market and not dictate solutions that preclude choice and flexibility. Development guidelines will guide development through merit assessment but will not mandate a result.

The NSW Government proposes to introduce these new zones, namely

- Enterprise Zone – to capture investment opportunities.
- Future Urban Release Zone – to indicate future use prior to programming infrastructure investment.
- Suburban Character zone – to give greater certainty in areas where the local community want to preserve local character.

The new zones are self explanatory. The third zone is intended in order to give greater certainty about what can and cannot be developed in an area the local community wants to preserve because of the importance of the urban character.

To improve the delivery of the planning system new governance initiatives are proposed:

- A Chief Executive Officers Group to integrate and drive implementation
- Regional Planning Boards to advise on regional and subregional strategic plan-making, infrastructure and planning issues. Membership of the Planning Boards would include:
 - Independent local chair
 - Key stakeholders with relevant experience (eg CMA)
 - Representatives of local government
 - Ex officio members representing relevant NSW Government agencies
- Mandatory performance monitoring against clear indicators with regular public reporting and review.
- Major organisational reform program to address the structure and culture of planning at all levels and within both the public and private sectors (a "can do" attitude)

Development Assessment and Compliance

Development that is consistent with the strategic plan will be able to proceed in a timely and straight forward manner, and other development will be assessed on its merits against strategic outcomes. Code complying development will be maximised and where more detailed assessment is needed, the level of assessment is proposed to match the level of impact.

The NSW Government proposed transformative changes for streamlining development assessment within the new planning system.

Depoliticising decision making, so that decisions on development applications are made based on evidence by independent expert panels.

Strategic compliance to reduce costs and speed up delivery of development that is consistent with strategic planning including:

- introducing a strategic compatibility certificate so that good development implementing metro or regional strategies can be considered straight away, before the local land use plan catches up.
- providing the courts and other consent authorities cannot refuse a proposal that complies with detailed building envelopes and standards developed through subregional planning code assessment with any remaining components to be merit assessed by the consent authority.
- removing concurrences

Reforming State Significant Assessment to deliver major projects sooner to drive economic growth.

- by exploring new opportunities for further integration of assessment, including agencies working together in new ways to complete major assessments.
- improving environmental impact assessment processes
- ensure State planning principles and state regional issues are considered along with local impacts
- facilitating strategic level approvals and tailored assessment for subsequent stages.
- streamlining measures – including matching the level of assessment to the stage of the approval, case management and standard requirements

Smarter and timely merit assessment to promote economic growth through all levels of development assessment.

- matching information requirements to the assessment stage
- speedy assessments
- bringing JRPP's into the assessment process
- adopting an amber light approach
- letting the market bear the risk
- smart consent conditions

Increasing Code Assessment (complying development) to reduce transaction costs and speed up approvals.

- increase the range of development types that are exempted from any approval
- extend the development types that can be approved by accredited certifiers.
- allowing councils to vary standards for specific applications.
- expanding the electronic housing code
- working with councils, industry and planning and building professionals to make code assessment simpler and more user friendly

Extending review and appeals to make government Councils more accountable.

- allow proponents to seek an independent review of a Council's decision on whether a rezoning should go ahead.
- allow councils and proponents to seek an independent review of the Department of Planning and Infrastructure's decision on whether a rezoning should continue
- allow proponents to seek an independent Infrastructure's decision to issue a Strategic Compatibility Certificate or a Site Compatibility Certificate.
- ensure more independent post approval review

Development that is consistent with the Strategic Plan will be able to proceed in a timely and straight forward manner, and other development will be assessed on its merits against strategic outcomes. Code complying development will be maximised and where more detailed assessment is required the level of assessment will match the level of impact. A significant shift is proposed in order to meet the NSW Governments objectives of successfully meeting the challenges of promoting economic competitiveness, managing growth and change, and improving the community's quality of life.

The NSW Government strongly supports a fundamental shift in the planning system that will see decision making on development applications streamlined to appropriate, independent and expert decision makers. State and regional scale development will continue to be assessed by the PAC and the JRPP.

The NSW Government has proposed that all Councils will follow the example of a number of major Councils in adopting the use of independent expert panels to determine development applications. This would mean that Councils current role in determining certain applications would be further restricted. The use of independent expert panels is expected to assist in removing individual councillors from potential corruption risk which can arise when elected councillors are responsible for making decisions on private development proposal. The expectation is that when elected councillors are not involved they are much less likely to be exposed to lobbying, and political pressures that can influence decision making.

A shift towards independent experts/panels for development decision making reflects a change in community attitudes about how decisions on development should be made and the role of elected councillors. The shift will involve elected Councillors assuming a strong leadership role in engaging with the community and advocating for their policy and planning priorities.

The assessment of development proposals will be streamlined through a code assessment. Development which conforms to the standards and requirements set out in the Subregional Delivery Plan must be approved.

There is proposed to be two types of code assessment. The first is code assessment where the consent authority, generally the Council will make the decision. The second is where an accredited certifier whether private or Council, decide.

In some cases, it will not be possible to provide for all necessary standards and requirements in the Subregional Delivery Plan. In those circumstances the consent authority will conduct a combined code assessment and merit assessment for the proposal against strategic objects in the plan. The consent authority's merit assessment will be strictly limited to those areas where there are no pre determined standards and requirements in the plan.

In some circumstances it will not be possible to develop the necessary standards and requirements for consent authority code assessment when the Subregional Delivery Plan is developed. It is proposed to allow those standards and requirements to be developed through a subsequent concept development application in which the community will be involved. Once granted subsequent stages of the development would also be approved through code assessment.

Joint Regional Planning Panels

It is proposed to expand the role of JRPP's namely:

- JRPP's to be involved in pre-lodgement meetings or briefings or at least issue identification early in the assessment process.
- Regular briefings of the JRPP's between the Council and the applicant so that the JRPP can hear both sides of the story.
- Consideration to be given to providing dedicated staff to the JRPP's assessment/determination interface.

The changed role of the JRPP's does raise issues of transparency. It has been suggested that this can be managed through briefings with protocols.

It is proposed that the new planning system formalise an obligation on consent authorities to provide advice to an applicant where a proposal may be refused and allow the proposal to be modified.

Appeals

The existing appeal regime is to be maintained but expanded in the following ways.

- It is proposed to formalise the existing practice of seeking independent reviews for some rezonings (eg maybe to the JRPP's).
 - Pre Gateway Reviews – maybe requested by a proponent. This may occur where a Council refuses or delays preparation of a planning proposal.
 - Gateway Review – may apply where the Council or the proponent do not agree with the Gateway determination.

The decision to rezone or not to rezone land has generally been the domain of local government. No appeal or review right has been available to proponents of planning proposals. This is a significant shift from past practice and could be argued to interfere with the obligations of local government to set policy and strategic plan for local government areas.

Reviews and Amendments

Existing S82A and S96AB review mechanisms are proposed to be retained and expanded. The following changes are proposed.

- Where the decision was made by DoPI staff – PAC to review
- Where the decision was made by elected Council – JRPP's to review
- Where the decision was made by Council staff – a mechanism to be established where senior staff of the adjoining council(s) undertake the review
- Where the decision was made by JRPP's or PAC – no review mechanism
- No review on Public Priority Infrastructure, ie Applications by the Crown or Government Agencies.

A number of the above proposals raise considerable concern as JRPP's, PAC, and Public Priority Infrastructure represent the "major" category of development which has the potential for the greatest impact. It is recommended that some form of review be considered by the NSW Government (details of which would be in the White Paper to be released later this year).

Infrastructure Planning & Co-ordination

The main initiative proposed for the new planning system is the alignment of funding and delivery of infrastructure with strategic planning to support growth. If this was achieved, (which successive governments have indicated an intention to do but have never delivered), one of the most significant current shortfalls in land use planning would be addressed.

The major changes to infrastructure delivery are:

- Contestable Infrastructure provisions to enable greater sector participation in the delivery of infrastructure that supports growth.
- Growth Infrastructure plans to link strategic planning with infrastructure planning and provision, hence strengthening certainty and accountability for delivery.
- Fair, simpler system of infrastructure contributions to support the rapid supply of housing and improved affordability.
- Public Priority Infrastructure to streamline assessment for major infrastructure delivery and provide upfront certainty accounting for increased public private delivery models.

There is a view that Voluntary Planning Agreement (VPA's) need to be phased out or significantly modernised and simplified. It has been suggested clear minimum VPA benchmarks should be developed, that will feature:

- Defined infrastructure performance outcomes (rather than simple list of traditional assets) to enable the private sector to innovate and optimise scope.
- Defined negotiation timeframes recognising holding costs and the need for urgent action to boost housing supply
- More developer contributions in-kind

Developer Contributions

The NSW Government intends to reform the development contribution framework for state and local government infrastructure. The framework will be based on a number of key principles, namely:

- Levies should be based on the principle of contributing to cost recovery
- Levies must be competitive with comparable markets in other jurisdiction
- Levies must not compromise housing affordability or inhibit housing delivery
- The “beneficiary pays” principle and the principle of avoidable cost should apply in appropriate circumstances.
- Levies should demonstrate an element of cost reflectivity – demonstrating that the provision of infrastructure in some areas is higher than others, and the levies should reflect at least some of the cost.
- The contribution should spread costs to the broadest base of beneficiaries including over time where possible.
- Levy framework should avoid any unnecessary concentration of costs on consumers
- Levy system should support contestability
- Levy system should encourage providers to cater for diverse range of market expectations and demands for infrastructure and services
- Some gross subsidisation of infrastructure costs can occur.
- There must be a clear, transparent link between levy revenue collected and infrastructure programming and delivery.
- Levy revenue must not be hoarded or banked to consolidate an authority's fiscal position

The government is still considering a number of options and models for reform to implement the new principles for infrastructure levies.

The new framework for development contributions will provide for payment of levies as late as practically achievable in the development process. The NSW Government recognises the need to limit any unnecessary cost burdens on the development industry. When details are provided of the preferred option/model, detail analysis will be required to ensure the timing for the delivery of infrastructure coincided with the new population (not post population which has occurred in the past).

OPTIONS

Council has the option of making a submission to the exhibition of the Green Paper or not. It is recommended that Council lodge a submission outlining the issues covered in this report.

STRATEGIC LINKS

N/A

CONSULTATION

The Green Paper including Fact Sheets have been placed on public exhibition by DoPI from July until 14 September 2012. The closing date for submission (Councils only) has been extended until Friday 5 October 2012. Whilst the documents are all available on the Department's website it is questionable whether the general public would be aware of the process and the ability to make a submission.

GOVERNANCE AND POLICY IMPLICATION

The Green Paper is a high level strategic policy document, setting out the NSW Government's broad proposals to the reform of the current planning system in NSW. Until the NSW Government releases the "White Paper", including draft legislation, the implications for Governance and Policy cannot be determined.

CONCLUSION

The Green Paper outlines the NSW Government's proposed direction for the reform of the current NSW Planning System. There are a number of reforms which have considerable merit. Likewise, there are a number of reforms which raise significant concerns and impacts on Council's decision making, current roles and responsibilities and ability to fund infrastructure.

Some of the positive reforms which may flow from the review of the NSW Planning System are:

- The retention of sustainable development as the main objective of the Act
- Signification greater focus on upfront strategic planning
- Streamlined development assessment approval process
- Alignment of funding and the delivery of infrastructure with the Strategic Plan
- Shifting culture and resources to focus more on strategic outcomes and innovation

Sources of the concerns identified with the broad policy directions outlined in the Green Paper are:

- Whilst economic development and growth is a key fundamental underpinning the reforms, this should not be at the exclusion of environmental and social considerations. There is very little if any discussion with the Green Paper concerning the environment or people.
- The Green paper proposes a fundamental shift in Community Engagement from the Statutory process to the upfront strategic process. Whilst the change is supported, the mechanism for changing the community's focus from the "DA next door" to broader, land use considerations, has yet to be identified. How do we change 30 years of thinking?
- The removal/restriction of Community Engagement in the approval process
- The potential removal of the Councils ability to consider and determine particular types of development proposals, both at a staff and elected Council level.
- The ability of proponents to appeal/seek review on a planning proposal (historically the domain of Council)
- The lack of detail concerning the funding option/model and the conditions relating to infrastructure funding and provisions
- The lack of detail regarding who will be responsible for the funding of infrastructure and the potential reduction in developer levies.

2.5 State Government "Green Paper" on new Planning Legislation (contd)

- The lack of detail of Councillor and community representation on Regional Planning Boards

The overall high level objectives for the proposed reformed NSW Planning System are generally supportable. However, the devil is in the detail. Until the NSW Government releases the "White Paper" and draft legislation, the detail will not be known.

ATTACHMENTS

- 1 Council's submission to the Independent Panel's Review Enclosure