



## **WHITE PAPER (WP) OVERVIEW** **20 April 2013**

### **Introduction**

The key objective of the new planning system is to '*promote and enable economic growth and positive development for the benefit of the entire community, while protecting the environment and enhancing people's way of life. It is about enabling development that is sustainable.*' (WP p.15). More specifically, nine new objects are proposed for the new Planning Act (listed on p.15 of the WP).

To meet the objects of the new Act, the WP provides details around five fundamental reforms (WP p.17):

1. Changing the planning culture
2. Community participation
3. Strategic planning
4. Development assessment
5. Provision of infrastructure

Below is an overview of the key aspects of these reforms. The WP gives little detail on how the reforms will be appropriately resourced (see WP p.20).

### **Changing the planning culture (WP pp. 33-40)**

The White Paper outlines the following proposals to change the current delivery culture in NSW:

- The establishment of a culture change action group to design and oversee the implementation of a range of culture change actions across the industry, in conjunction with the implementation of the new planning system.
- A series of training sessions for practitioners and stakeholders in all areas of the new planning system, including details of how the system will work and ways to improve our culture.
- The restructure and other associated changes to the Department of Planning and Infrastructure to emphasise strategic planning and community participation.
- The appointment of a senior executive to enhance relationships between the Department of Planning and Infrastructure and planners within other sectors and to share with local government methods and ideas to effectively improve planning culture.
- Monitoring and reporting on the actions for culture change and lessons learnt on an annual basis, to provide a report card on the health of the culture of the NSW planning system.
- The preparation of a Performance Monitoring Guideline that will provide the methodology and performance indicators for monitoring the planning system.

### **Community Participation (WP pp. 43-57)**

Essentially, what the WP proposes is to remove community consultation on the majority of development applications (80% within 5 years), in exchange for increasing community participation at strategic planning level, where decisions are made about the type, scale and location of development across the State.

To achieve effective community participation at strategic planning level, the WP proposes:

- The preparation of a Community Participation Charter that will form part of the new planning legislation.
- The requirement for planning authorities to prepare a Community Participation Plan to describe how the community will be actively engaged in all levels of plan-making and development assessment
- A high level of community participation will be required, in particular for the development of Regional Growth Plans and Subregional Plans, to help set where growth and infrastructure will occur.
- E-Planning will reshape the planning system by transforming paper based development application and assessment processes and traditional methods of consultation into an online environment. Consultation will build on traditional methods of engagement and include 3D interactive models and development guides to enable the community to have their say.

### Community Participation Charter

In the new planning legislation, a Community Participation Charter will inform the appropriate levels of community participation. The Charter comprises the following principles:

1. *Partnership*: The community is to be provided with opportunities to participate in planning.
2. *Accessibility*: The community is to have access to information that is easy to read and obtain so that planning issues and decisions can be better understood.
3. *Early involvement*: The community is to be provided with opportunities to participate in strategic planning at an early stage before decisions are made.
4. *Right to be informed*: The community has a right to be informed about planning decisions that affect it.
5. *Proportionate*: Community participation in development decisions is to be proportionate to the significance and impact of the proposed development.
6. *Inclusiveness*: Planning authorities are to seek the views of the community through participation methods that are inclusive, representative and appropriate to the needs of the community.
7. *Transparency*: Planning authorities are to make decisions in an open and transparent way and provide the community with reasons for their decisions (including how community views have been taken into account).

### **Strategic Planning (WP pp. 59-109)**

The WP proposes four layers of strategic plans in the new system: NSW Planning Policies, Regional Growth Plans, Subregional Delivery Plans and Local Plans.

NSW Planning Policies will include broad state-wide objectives, priorities and policy directions. The WP states that they will be prepared by the NSW Department of Planning and Infrastructure, working closely with relevant state agencies and local councils, and will be underpinned by up-to-date evidence and research. In addition, '*legislation will also require that these policies are prepared with participation from the community and stakeholders, who will be involved early and throughout the process*' (WP p.68). The NSW Planning Policies will be endorsed by the whole of government and made by the Minister for Planning and Infrastructure.

It is understood that current State Environmental Planning Policies (SEPPs) will be repealed under the new planning system, and that some of the strategic elements in these policies, where applicable and relevant, may be incorporated in to the NSW Planning Policies (WP p.68).

Regional Growth Plans will be prepared next and will include the vision for each region, objectives, planning policies for housing, employment, environment and infrastructure and key regional areas such as airports and major renewal corridors. The WP states that Regional Growth Plans will be prepared and

endorsed by the NSW Government, and made by the Minister for Planning and Infrastructure. The WP also states that Regional Growth Plans will be the subject of significant community participation (WP p.73). The *Draft Metropolitan Strategy for Sydney* will be the Regional Growth Plan for Sydney (WP p.74).

Subregional Delivery Plans will be prepared next and will provide the delivery framework for the Regional Growth Plans. They will include the delivery targets for housing and will specify and rezone areas of planning significance. The WP states that Subregional Delivery Plans will be prepared by newly established Subregional Planning Boards and made by the Minister for Planning and Infrastructure. Like other plans, the WP states that the preparation of Subregional Delivery Plans will include significant community participation (WP p.81). Subregional Boards will be made up of Council-nominated representatives, up to four state representatives/experts appointed by the Minister and an 'independent' chairperson appointed by the Minister with the concurrence of Local Government NSW (WP p. 83).

Local Plans will be the final plans to be prepared and will be the principal legal document for a local government area to deliver the vision consistent with the rest of the plans in the hierarchy. Local Plans will be prepared by councils in consultation with their community and made by the Minister of Planning and Infrastructure. The Minister will have the power to amend Local Plans (WP p.92). Local Plans will consist of four sections: Part A: Strategic, Part B: Planning Controls, Part C: Development Guides and Part D: Contributions. As an interim, transitional measure, it is understood that the existing Local Environmental Plans, Development Control Plans and contribution plans will be incorporated into the relevant parts of a transitional Local Plan. This transitional Local Plan will stay in effect until the preparation of a new Local Plan is complete.

The WP proposes 13 new zones that will replace the existing zones used in Local Environmental Plans across the State. These zones are listed on p.95 of the WP and will include a Suburban Character Zone which will be a subset of the broader Residential Zone. The suburban Character Zone will allow council to nominate areas that it and the community believe should be preserved, however the significance of the character will need to be proven. The WP does not propose a specific heritage conservation zone but there is an 'environment protection and hazard management zone'.

The Enterprise Zone identified in the Green Paper has been retained and will have minimal controls and ensure that development in the zone has minimal adverse environmental impacts.

The WP states that each plan will be informed by background evidence such as studies and analysis.

The WP also states that strategic plans will need to be 'certified' by the planning authority as being consistent with the objects and principles of the planning Act and with the rest of the plans in the hierarchy.

*'In circumstances where a council has failed to comply with its obligations under the legislation, the performance of a council in dealing with planning and development matters is unsatisfactory, or where the Independent Commission Against Corruption recommends, the Minister for Planning and Infrastructure may appoint an planning administrator to carry out all of part of the council's functions under the legislation. The legislation will ask the council to explain why a planning administrator should not be appointed before any actions is taken.'* (WP p.102).

### **Development Assessment (WP pp. 113-149)**

The WP proposes five development assessment tracks: Exempt, Complying, Code, Merit and Prohibited.

Within five years, 80% of all developments will be complying or code assessment, thus requiring no community consultation.

#### Exempt Development

Exempt development will not require a development application in order to be carried out. The types of development that are proposed to be classified as exempt development are listed on p. 126 of the WP.

#### Complying Development

Complying development will be expanded under the new planning system to include for example new houses up to 2 storeys on land zoned residential and industrial buildings up to 20,000 m<sup>2</sup> on land zoned

industrial. The types of development that will be able to be classified as complying development are listed on p. 127 of the WP.

Complying development will be submitted for approval by a certifier, private or otherwise, and must be approved in 10 days or less. Neighbours will be notified but have no right of comment.

#### Code-assessed development

Code-assessed development will be identified in the Local Plan during the local strategic planning process, and will include major development as listed on p. 130 of the WP.

Any code-assessable development application will require a judgement by a council-employed planner as to whether the proposal meets the criteria for code-assessed development identified in the Local Plan Development Guide. If it does, it cannot be refused and will need to be approved in 25 days or less, without community consultation.

Where a development complies with the Local Plan Development Guide, neighbours to that development will be informed of the proposal but submissions will not be sought. Where there are non-compliances and it is determined – in accordance with the Local Plan– that consultation with neighbours is necessary, council can only consider submissions or parts of them that directly deal with the non-compliance aspect of the proposal (ie- not the entire proposal).

#### Merit- assessed development

Merit-assessment development is development that will be subject to a full merit assessment, including community submissions and environmental, social and economic impact assessments. For more detail about merit-assessed development, read pp. 134-136 of the WP. Merit-assessed development will include development that exceeds the code and high-impact developments such as mining. The WP also retains state-significant development.

#### Prohibited development

Prohibited development is development that is prohibited within a particular zone in the Local Plan.

#### Other issues

At Local Government level, Independent Hearing and Assessment Panels will be encouraged, but not made mandatory, by the NSW Department of Planning and Infrastructure. The panels will be promoted as the best-practice approach to depoliticising the decision-making process for development assessment at local level (WP p. 137).

The WP proposes to reduce the number of agency concurrences in the system by dealing with the issues at the strategic phase of the planning process, and through guidelines and assessment tools. Where this is not possible, a 'one stop shop' will be set up by the Department of Planning and Infrastructure. The one stop shop will act as a single point of contact for stakeholders, Councils and the industry (WP pp. 103-108).

### **Infrastructure (WP pp. 151-176)**

The WP outlines the following key changes suggested for the provision of infrastructure:

- Growth Infrastructure Plans will be introduced as a key mechanism for the integration of land use planning and infrastructure provision (see WP pp. 157-158).
- Growth Infrastructure Plans will include contestability assessments to involve the private sector earlier in the planning process.
- A new infrastructure contribution system will be introduced (see WP pp. 163-170).
- Public Priority Infrastructure, for example major projects identified in a government strategy such as the Long Term Transport Master Plan, will be approved at the outset and the private sector will now be able to contribute earlier in the design and planning process in the knowledge that projects have been authorised to be carried out.