

2 July 2013

Department of Planning and Infrastructure

Submitted online:

[www.planning.nsw.gov.au/
newplanningsystem](http://www.planning.nsw.gov.au/newplanningsystem)

To Whom It May Concern,

Re: White Paper – A New Planning System for NSW

Consult Australia welcomes the opportunity to respond to the White Paper – A New Planning System for NSW. Our members support this review of the *Environmental Planning and Assessment Act 1979*, and congratulate the Department of Planning and Infrastructure's effort supporting the "root and branch" reform outlined in the White Paper.

Consult Australia is the industry association that represents the business interests of consulting firms operating in the built and natural environment. Our member firms' services include, but are not limited to: design; architecture; technology; engineering; surveying; legal; and management solutions.

We represent an industry comprising some 48,000 firms across Australia, ranging from sole practitioners through to some of Australia's top 500 firms. Collectively, our industry is estimated to employ over 240,000 people, and generate combined revenue exceeding \$40 billion a year.

The challenges facing NSW associated with population growth, demographic and climate change, and the need for a more sustainable approach to urban planning, affordability, liveability and governance are substantial. We agree that a simpler, more transparent approach is required in developing the new planning system.

Alongside the White Paper, Consult Australia is also supportive of the work of the Local Government Review Panel. We believe there should be a clear alignment between the planning White Paper and the local government review. Both reviews present significant implications for planning in New South Wales and should continue to proceed in parallel and provide for effective cross-consultation to ensure complimentary outcomes.

Whilst our members are generally in support of the white paper and what it is trying to achieve, there are a number of areas where enhancements and clarifications to the draft legislation should be considered, and recommendations in these areas are set out below.

Community participation

We welcome the strong focus in the White Paper on increased community participation in decisions affecting the local population. The introduction of the Community Participation Charter

and the focus on up front community engagement should be applauded. The objective of obtaining early community involvement at each planning level (state, regional, subregional and local) is supported, however, we are concerned that the proposed approach could be bogged down by encouraging multiple, non-strategic issues to be realised at the strategic and regional planning levels and lead to community consultation 'burnout'.

Consult Australia has been looking at the issues surrounding planning and the community for some time. In our 2009 report, *Sydney Towards Tomorrow* we explain the need for better understanding and support by the community for infrastructure development and investment.

Increased community understanding, trust and support must be based on substantive attitudinal change; a high level political focus; and agreement that community participation must be prioritised. It also requires communication and participation based on an integrated, well configured and majority supported strategic plan that the community can feel it has had a role in developing. Engagement and participation should include methods that encourage bona fide interest groups, professional associations and other collective participation at the strategic and regional levels.

To support the application of best practice engagement, Consult Australia is currently developing a *Guide to Procuring Engagement Services* for use by government agencies and authorities as they implement engagement practices. We would be pleased to work with the Department of Planning as we finalise and communicate this guide in the months ahead.

Strategic Planning Framework ***Sustainable development***

We note the introduction of 'sustainable development' and stakeholder concerns expressed throughout the consultation regarding the ambiguities of this term. These concerns have been raised by our member firms particularly in relation to the current use of 'ecologically sustainable development' which is no longer separately captured in the draft. We reiterate the concerns expressed in the submission made by the Property Council of Australia that the lack of a definition of 'sustainable development' removes certainty and this would arguably increase the potential for disputes. It is critical that the issues addressed through both the concepts of sustainable development and sustainable ecological development are addressed properly in the act to ensure effective implementation.

Establishing a 'One Stop Shop'

While we strongly agree with the development of a 'One Stop Shop' to streamline interaction with government and its agencies, we believe turnaround times could be improved. We understand that agencies currently have a turnaround time of up to 70 days. The initial application of a 40 day turnaround time for the One Stop Shop is an improvement, but remains generous and provides ample opportunity for improvement in the medium term. It is important to note however that a lack of resources may prevent shorter turnaround times for agencies. These resources should be reviewed and additional resources provided as required.

Provision of Infrastructure

Infrastructure contributions

The following comments relate to sections in the Planning Bill 2013 – Exposure Draft:

Section 7.3 Principles for infrastructure contributions

This section sets out five principles for the provisions of infrastructure. It is recommended that a sixth principle be added that allows proposed infrastructure contributions to be based upon a reasonable estimate of the value created by or added to private land and real property by a public infrastructure investment. Innovative infrastructure financing methods, such as value capture, tax increment financing and other methods being trialled in other states and used overseas, should be specifically encouraged in the legislation.

Section 7.7 Nexus for contributions

This section requires the consent authority to require a direct or indirect contribution for local infrastructure if the development concerned will or is likely to require the provision of or increase the demand for that local infrastructure. This definition is too limited in that renewal investment in infrastructure would not be included. For example, resurfacing or replacement of pedestrian surfaces in a public space such as a transit centre would be excluded from direct and indirect contributions under the present definition. The nexus for contributions should be expanded to also include capital expenditures which renew, maintain or increase the quality, functionality, value and/or standard of infrastructure when and where these criteria are relevant.

Section 7.9 Payment of local infrastructure contributions

This section sets the time for local infrastructure contributions to be paid as the time of or before the transfer of land to which the infrastructure relates. The requirement for and reliance on up-front contributions to infrastructure have been conclusively shown to stifle economic activity, increase housing costs and slow job growth.

This provision should be expanded to also allow for infrastructure contributions to be paid over time as recurring payments, lump sums or other forms of payment where and when reasonable, appropriate and consistent with the staging, investment and funding methods of the relevant infrastructure.

Section 7.13 Local infrastructure may be provided outside of NSW

This section allows a direct contribution to infrastructure to be imposed in another State or Territory if the area in which the development “adjoins” the other jurisdiction. There are likely to be instances where the beneficiaries on an infrastructure investment do not directly adjoin the area of the development. For example, a transport improvement district could extend into the ACT from NSW while the actual transport station is wholly located within NSW. The benefits of that infrastructure, such as improved public transport services and increased property values, could extend to residents in the ACT, even though their land does not “adjoin” the station.

It is recommended that the wording of this provision be expanded to allow for the “beneficiaries” of an infrastructure investment to contribute to the infrastructure, without necessarily requiring the development to adjoin the beneficiaries’ area.

Section 7.15 Imposition of regional infrastructure contributions

Subsections (3) and (5) should be changed to reflect similar changes at the regional level recommended to Section 7.7, 7.8, 7.9 and 7.13, above.

Section 7.20 Growth infrastructure plans

Subsection (3) provides that growth infrastructure is to include a contestability assessment to provide “opportunities for infrastructureto be provided and operated by the private sector”. This concept is strongly supported and should be greatly expanded and specifically encouraged in the new legislation in the areas of design, procurement, financing, delivery and operation. Unfortunately, this critically important provision is not well developed in the draft legislation and requires considerable more thought and detail in the final legislation.

Public Priority Infrastructure (PPI)

The introduction of Public Priority Infrastructure (PPI) requires further consideration and detail in relation to its implementation. Transparency in the identification of what constitutes PPI is critical to ensure community buy-in and remove the risk of disenchantment where the identification of PPI overrides community interest.

We believe the development of clear guidelines explaining the criteria and process for PPI will help manage the tension between transparency and certainty of delivery that are likely to be characteristic of these projects. Consult Australia would be pleased to work with the Department as these guidelines are developed.

Building Regulation and Certification

Our members have flagged a number of issues regarding the certification of specialist engineering professions. We are in the process of preparing a paper outlining these issues and will address our concerns with the Department of Planning and Infrastructure and the Building Professionals Board.

The white paper states “that to further assist building certifiers, and improve confidence in built outcomes it is proposed that peer review, by specialist panels and qualified individuals, and referee services be established for certain complex building matters” – as the white paper doesn’t provide any further information on who will form these groups it is difficult to support or otherwise.

“Future accreditation of other design professionals is under consideration by the BPB”. Our members believe this needs a clear business case, including evidence of the failures that this would rectify. It should be taken into account that this will come at an additional cost that needs to be offset.

Our members essentially do agree with the up skilling of trades to ensure they can design, install and commission properly. One of the biggest issues will be time for the industry to come

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to terms with any changes and the government will need to plan a communication campaign carefully.

Ongoing consultation and next steps

Consult Australia welcomes the proactive consultation that has been characteristic of the Government’s Planning Review. We note that further work on the detail arising from the review will remain ongoing and welcome opportunities to contribute and provide representation on relevant task forces and working groups established to support this process. For example we would be pleased to provide representation as part of the Infrastructure Contributions Task Force, and as mentioned above would be happy to assist in further work supporting PPI.

I welcome you to contact me to discuss any aspect of this submission further and wish you well in your more detailed deliberations in the months ahead.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Amy Lowe", is positioned above the printed name.

Amy Lowe
State Manager

