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Please see below for the Greens NSW responses to the planning survey.

Enhancing Community Participation

What do you think of the community participation principles?

The principles remain a positive, though incomplete first step.

Involving the community in planning decisions is still secondary to ensuring that they are active participants and collaborators in the planning process. This should not just be limited to strategic plans, but should be the ideal in all planning decisions.

The community should have enforceable rights to protect the amenity of their area, and third party appeal rights where planning laws are breached or inappropriate developments are approved. They should be approached at the early stages of planning, rather than presented with plans that are the results of years of work by bureaucrats and planners and asked to sign off on them.

Does the 2013 Model (charter, minimum standards, community consultation plans) remain a good approach or would you like to see changes?

The 2013 model is a step in the right direction, but it needs to be strengthened to be truly effective. It needs to start with mandatory minimum standards and a genuine respect for community participation.

How can we help consent authorities go beyond the minimum requirements to engaging the community?

The Department of Planning will have little credibility on encouraging other consent authorities to go beyond the minimum required unless it itself does the same. The Department should be leading the way and modelling best practice planning. Its current practice is often poor at best.

We suggest you look to the community engagement offered by the City of Sydney as the most publicly successful and community focused engagement in NSW. Start with the City of

Sydney as your model, not NSW Planning, and the end result will almost certainly be superior.

Proposed Changes to the EP & A Act

Plan Making and Development Controls

Would it be helpful for councils to have a strategic planning overview at the local level?

Having local councils developing strategic plans is supported, in fact this is generally the current state of play. These should be under the control of those councils rather than having them answer to State or other bodies.

A sensible long term strategy would be for local councils to also collaborate on a regional level for strategic planning with some clear statutory principles and procedures in place to allow this to occur. This aspect of local government reform has sadly been sidelined as a result of the anarchic forced amalgamation process undertaken by the NSW Government.

If so, should it be a standalone document such as a land use strategy, or part of the LEP?

Whatever the document, it must not be allowed to become an annual watering down or rewriting of the LEP or other planning documents. This would erode the predictability and integrity of the local planning controls and allow for unhealthy property-developer interests to effectively push for endless spot rezonings under the guise of annual reviews. If this was the outcome of the review it would be a corruption-ready mechanism that will be exploited to erode the public interest and sustainability goals of local planning instruments.

How frequently should LEPs be reviewed/refreshed?

The suggestion to review LEPs as part of council's regular business cycle is not supported as a blanket rule, they need to stand in place for sufficient time to actually be strategic and not just the current state of play subject to political intervention. Please see the comment above on the corruption risk of allowing regular reviews of planning instruments.

If NSW Planning is not already aware of the corruption risks in such an approach, where property owners and developers have potentially many millions of dollars in profit from persuading local councils to increase their development yields in these proposed regular strategic reviews, then this is a serious failure to understand the real-life dynamics in the NSW planning system.

Before NSW Planning goes down this path they should refer to the repeated concerns raised by ICAC on property developer influence in NSW planning and seek the guidance of ICAC about the corruption risks of such a model.

What do you think of creating a standard template for the content of a DCP?

We oppose the idea. It is a foolhardy suggestion that you can have common planning requirements for environments as diverse as the foreshore of Sydney Harbour and the

outskirts of Orange. Striving for consistency over content in order to have a simplified set of planning rules that are designed for use in an online portal rather than for sensitive application in the real world would be a serious step backwards for good planning in NSW. There are groundbreaking and detailed local DCPs such as the one that has protected the Paddington Conservation Heritage area, that are very place specific, tailored to the individual circumstances of the area they are protecting and likely to be badly damaged by a more simplified and standardised DCP. Standardisation is almost certainly designed, not for the interests of protecting local amenity and environmental values, but rather to ease the way for inappropriate development. It is not supported.

Local Development

Pre-lodgement consultation between neighbours

☐What do you think of encouraging pre-DA consultation between neighbours?

Pre-DA consultation is supported, and NSW Planning should assist by the provision of quality advice to those involved in the process. However it is not a panacea. Clear planning controls that protect neighbour's amenity are far more likely to produce a harmonious outcome than laissez-faire planning controls and a pre-DA neighbourly exchange. Good planning starts with good controls, not cups of tea.

☐Can you see this approach being more appropriate for some cases/types of developments than others (e.g. residential)?

In cases where there is a clear imbalance of finance or power like a large development and a single residence for instance it's hard to see how consultation could be particularly meaningful. In these cases mediating the contact through the offices of the local council would be most appropriate. If there is a required pre-DA process in place it may become non-feasible if the neighbour is a strata property with numerous individual owners. Some careful thought will be required in these circumstances to ensure it does not become a bureaucratic nightmare for the applicant. Similar concerns arise in commercial settings in central business districts.

Role of Panels

☐What do you think of JRPPs and how they are working?

The JRPPs are an unaccountable and undemocratic decision making body, and have been responsible for approving a number of clearly inappropriate developments across the state. They continue to erode trust and confidence in the NSW planning system. This is especially the case given the bulk of their membership comes from the property industry, not the communities on which they are imposing their values.

Like the PAC, JRPPs are chaired by Ministerial appointees and have a history of approving developments which are opposed by local communities and which ignore local planning controls.

Is there scope for independent panels in determining local development applications?

Local development applications are best determined by local councils who are the closest to the decision and accountable to the people who will be affected by the decision. Retaining democratic input into planning together with removing developers and real estate agents from local councils is the best outcome for planning in the long term.

If planning panels are to be retained then, at a minimum, a more robust and democratic selection process should be undertaken to ensure the same old property interests do not dominate them in the future.

Change to Complying Development

Should NSW move to a system where if proposals meet the pre-determined standards and other requirements, they must be dealt with as complying and not be submitted as a DA?

No. There is a history in this State of successive Governments trying to expand SEPP 60 on exempt and complying development to include larger and bigger impact developments. Even where a development complies with the existing laws there may be reasons why it's impact would be of concern to neighbours or others, it is better than these concerns are able to be considered as part of a DA process, than subject to later court battles.

The minor inconvenience of a DA is considered warranted for the purposes of accountability and scrutiny.

Improving Concurrences and Referrals

What has been your experience obtaining concurrences and referrals from state agencies?

The delays in the process are not a reason for removing concurrences. Increased financial support and a system modelled on the final report on the 2013 Moore and Dyer report would be a step forward in this regard. Concurrences and referrals are essential for protecting important environmental, social and public interest values in the planning process. It is dangerous to water these safeguards down.

Would the proposed model help with bringing down determination times?

We refer to the above and to the Moore and Dyer recommendations in this regard.

Kind regards,

David Shoebridge MLC