

New Planning System,
Department of Planning and Infrastructure,
GPO Box 39, Sydney NSW 2001

**SUBMISSION FROM SAVE HUNTERS HILL MUNICIPALITY COALITION (SHHMC)
RE: PLANNING WHITE PAPER AND DRAFT BILLS**

Dated 23 June 2013

A – INTRODUCTION

1. The White Paper and draft Bills are fundamentally flawed. They represent ‘worst planning practice’ and must be withdrawn.
2. The Government before the election promised to ‘return planning powers to the local community’. The ‘White Paper’ and Planning Bill do no such thing.
3. The Government is in breach of the goals it set in 2011 in its own State Plan ‘NSW 2021’:
 - *Goal 22 ‘The NSW Government will work with the community to protect our local environment’,*
 - *Goal 27 ‘Recognising and protecting the State’s most significant heritage places and values’,*
 - *Goal 29 ‘The implementation of a new planning system will centre on merit and public interest’,*
 - *Goal 31 ‘The community has the right to openness, accountability and transparency’,*
 - *Goal 32 ‘People to have a real say and be involved in localised decision making, including through local government’.*
4. The community has no confidence in the Government’s consultative process. It rejected most of the recommendations from its own Independent Report (Moore and Dyer), it has rejected every submission from the community (72% of all submissions) made in relation to the Planning ‘Green Paper’ (see Attachments ‘A’ and ‘B’) and every submission from its own Heritage Office.
5. Given the above matters it appears probable that the Government will at this time continue to bury its head in the sand in spite of the overwhelming opposition of the community and informed organisations motivated by public interest.
6. We do however believe that the Government will eventually realise that the communities’ submissions are valid and that appropriate growth can be achieved under a best practice planning model.

B – WHITE PAPER AND DRAFT BILLS FUNDAMENTALLY FLAWED

1. Planning Policies

The first matter that should have been tackled in partnership with community was to identify the Planning Policies and their contents that oversee the system. Obviously proper policies are needed to cover a number of matters including environment, heritage, infrastructure and housing. None of these Policies have yet been drafted and no drafts shown to the community.

2. Protections

The next issues that should have been considered were provisions in the proposed Planning Act properly protecting the environment, including such matters as biodiversity, natural and built heritage, and residential amenity. There are no detailed substantive provisions in the Bill dealing with these important matters. This defies belief as they lie at the heart of any proper planning system. Without this there will be no community support for the proposed changes.

3. Growth

It is only when the above matters are properly determined with community support that one can and should consider what areas are suitable for growth and to what extent. Matters then for consideration would include infrastructure, transport, good design and the like.

4. Objects

The proposed objects clause in the Bill promotes economic growth as the driver of the system. Environmental and social considerations are to be secondary to growth - to be 'had regard to' before in all probability being disregarded.

The main objects of any Planning Act should be the protection of the environment and community well-being and include strong protections for natural and built heritage, aboriginal heritage, local character, residential amenity, biodiversity, water and food resources, and should safeguard against environmental risks present and future such as climate change.

5. Principles

The Strategic Planning Principles also highlight growth and development:

Principle 1: 'Strategic plans should promote the State's economy and productivity having regard to environmental and social considerations.'

Principle 3: 'Strategic plans are to allow for streamlined development assessment'

Principle 10: 'Local plans should facilitate development and should not contain overly complex or onerous controls that may adversely impact on the financial viability of proposed development.'

These are not appropriate planning principles – indeed the opposite. The words 'having regard to' legally give no real protection. Where are the principles protecting environment, heritage, residential amenity and the like? They are just not there.

6. Strategic Planning

The reality is that the Strategic Planning as in the 'White Paper' is going to be controlled by Government, through the Minister for Planning and the Director-General of his Department, and appointed bureaucrats. By the time planning gets down to the subregional level and certainly at the local level, the role will be to simply deliver growth that is dictated from above.

This top-down approach is the opposite of what was promised. Local government will be dominated and controlled by State Government and will be unable to protect its communities from the onslaught of poor and inappropriate development.

7. Infrastructure

It is important that infrastructure planning should not only cover new growth areas, but also established areas intended for infill development. There are areas however where further growth is just not possible or desirable.

8. Consultation

The proposed process involves in reality mock consultation. What is being promised is that the community will be consulted at the top regional level so it won't have to bother about being consulted at the development application stage. This is disingenuous as the Government knows that it is very difficult to meaningfully engage the community in strategic planning. The Government will dictate, as is shown by the fact that the regional plan for Sydney, called the 'Growth Plan', has already been drafted and is on public exhibition. It contains targets for housing and jobs and identifies the areas for growth.

The Government is carrying out the wish list of the big property developers and their lobbyists, who do not want the community to have a say about the size, density and design or lack of design of actual developments to be built in their area. However the public interest demands that the community be consulted at both the strategic level and at the assessment stage.

9. Local Democracy

Local plans will be strategically dictated from above. They have to facilitate development and not contain onerous controls affecting the viability of projects - Principle 10. The White Paper is recommending that panels be used, not elected local representatives, for decisions on planning. Most assessments will be automatic approvals by ticking boxes, not merit assessed.

This is the worst attack on local democracy and local government in its 150 year history. It is the community that elects its own local council, it is the community that is being stripped of its rights to have a say in what happens in its area. State Government has little idea about local communities and how they work, and clearly does not want to listen to their legitimate concerns.

10. Environment and Heritage

There are no substantive provisions protecting the environment and heritage in the Planning Bill. No protections for conservation areas or for heritage items or places next to heritage items, or for the natural environment. There are no mechanisms to protect heritage places and items yet to be identified. This is a disgrace and a throwback to the 1960s. It shows an appalling failure to understand what planning is all about, and what is truly valued by communities. Not only should there be substantive provisions in the Bill, but special heritage zones should be established.

11. Character Zones

It is not only heritage conservation areas and items that are valued by communities. There are also many areas and places, it could be a shopping precinct or a recreational area, that people feel a close connection with and don't want to lose. Protections should be able to be placed over such areas through character zones.

12. Residential and Environmental zones

What is proposed is to collapse the existing low, medium and higher density residential into one residential zone, thereby allowing much denser forms of housing like units in what are presently low

density zones of detached houses. It is a similar pattern in relation to environmental zones and their breakup into other zones. These proposals undo protections put in place over many years as a result of considerable public consultation and thought and local knowledge. This must not be allowed to happen. Community well-being and the value of property depend on the certainty of what can and cannot be done in an area.

13. Complying and Code Assessment

One of the aims of the 'White Paper' is to expand complying development to include demolition and the building of two storey homes, with no consultation and approval by a private certifier within 10 days paid by the developer. Code assessment proceeds by ticking boxes with no consultation, and must be approved in 25 days if the ticks 'are right'. Code assessment includes blocks of units and rows of two storey terraces up to 20 in number. It is aimed to have 80% of all development approved by complying and code assessment within 5 years.

This development is all being carried out without public input and without merit assessment. Important matters such as amenity, privacy, views, overshadowing, design, heritage, character and the public interest will not be considered.

Complying and code assessment will lead to uniformity and will make Sydney a sterile and bland place, not vibrant and exciting with differing designs and real character. It must be confined to minor matters that cannot cause adverse impacts on neighbours or the community. Any private certifier should be properly qualified, independently appointed and paid from development fees lodged with councils.

14. Appeal Rights

Appeal rights for both proponents and objectors, and judicial review, are important for any transparent and healthy planning system, and are a safeguard against bad or illegal decision-making. This must not be watered down as is proposed.

15. Powers of the Minister

The Planning Minister in the 'White Paper' not only approves state significant development, but gets to sign off on State Policies, the appointment of bureaucrats and others to the Planning Assessment Commission and to other Planning Boards, can change regional, sub-regional and local plans, and appoint the Director-General in place of a council that is 'not carrying out its obligations in a satisfactory manner'.

The Director-General also has wide powers including issuing a 'Strategic Compatibility Certificate' that allows a developer to carry out development that breaches the requirements of a local plan.

This is mind blowing in its stupidity. Powers like these encourage corruption as has been well documented by the Independent Commission Against Corruption (ICAC).

16. Power of Developers

In the 'White Paper' property developers will be able to put in a development application in breach of planning controls, which application must then be assessed in accordance with the State objective of promoting growth and development. They can seek a 'Strategic Compatibility Certificate' allowing them to over-ride zonings and controls. Developers can approach the Government to create an Urban Activation Precinct which sweeps aside all constraints or get the Minister to call it in as a State

significant development. New Enterprise Zones will have few controls. There will be no protection or certainty for the community in this proposed system – simply a free for all for developers. Property developers are motivated by profit and not the public interest. Large sums of money are involved. The submission from ICAC to the Green Paper highlighting corruption concerns has been ignored.

17. The historic Municipality of Hunters Hill

The Municipality of Hunters Hill (1861) is Australia's oldest 'garden suburb', a place of detached houses set amongst gardens and trees. It was placed on the register of the National Estate in 1978, described as 'an exceptional low-density garden suburb'. Hunters Hill, with its nineteenth-century stone and timber houses, tree-covered environment and bushland areas, is recognised as one of the most significant heritage and historic places in the nation. Much of the municipality lies within conservation areas and has more heritage items per head of population than any other area of the State.

With no protections in the Planning Bill for heritage and conservation areas and heritage items, with the removal of the low-density zone and the removal of merit assessments by elected representatives of the community, and with no ability to comment, Hunters Hill will be defenceless against inappropriate development that will destroy its heritage values.

These heritage values must be protected for the benefit of all, including future generations. No civilised Government destroys its people's history and heritage.

18. Hunters Hill Public Meeting

Hunters Hill residents packed out the Town Hall for a Public Meeting held on 6 June 2013, with over 275 people attending. Speakers included Anthony Roberts MP the local State member and Minister for Fair Trading, Richard Quinn Mayor of Hunters Hill and President of the Northern Sydney Regional Organisation of Councils (NSROC), Philippa Hayes Strategic Planner, Ross Williams Co-convenor Save Hunters Hill Municipality Coalition and Emeritus Mayor, Robyn Christie President Hunters Hill Trust and Board Member National Trust, and Corinne Fisher Convenor Better Planning Network, a network of over 400 community groups across NSW.

A [short video](#) was made of the Meeting (see Attachment 'C'). Issues discussed, in relation to the NSW Government's proposed changes to Local Government and Planning, included amalgamation, regional organisations of councils, code assessment, changes to residential zones, and the failure to protect heritage and the environment. Those attending were considerably concerned by what they heard.

The following resolutions were passed by an overwhelmingly majority:

1. That Hunters Hill Municipality retains its independence and historic boundaries.
2. That the NSW Government recognises and protects the significant character and heritage values of Hunters Hill Municipality and the whole of the State.
3. That the NSW Planning 'White Paper' and draft Bill, the Metropolitan Strategy and the Local Government Review Panel final discussion papers do not reflect the following goals in the NSW Government's State Plan 'NSW 2021':
 - Goal 32 'People to have a real say and be involved in localised decision making', and
 - Goal 27 'Recognising and protecting the State's most significant heritage places and values',

and that these discussion papers should be withdrawn, given their current flawed content.

19. Save Hunters Hill Municipality Coalition (SHHMC)

SHHMC is a community group whose aims are to preserve and protect the independence, and heritage and community values, of the historic Municipality of Hunters Hill. Amongst its large number of supporters are many of Hunters Hill's leading citizens. It is non-party political and is guided by the public interest. More information is available on the website www.savehuntershill.org

C – CONCLUSIONS

1. What is being proposed is not good planning. If it proceeds it will lead to anarchy and many poor outcomes. There will be no fairness or balance in the planning system, communities will feel marginalised and it will be back to the 1960s when the environment was pillaged by developers.
2. What resulted then was green bans and direct community action. Something similar is likely to happen if these planning proposals go ahead. Undoubtedly social media would also play an important part in keeping the community informed, and in expressing their concerns and determining what actions they take.
3. The Government must withdraw its 'White Paper', the Draft Metropolitan Strategy for Sydney and the Local Government Review Panel's Discussion Paper. It should listen to the community and properly consider the many helpful and constructive submissions that have already been made. These submissions would form a firm base to recommence a genuine and proper consultation process aimed this time towards a 'world's best practice' planning system.
4. This submission also relies upon the attachments set out below.

ATTACHMENTS

'A' – Green Paper Feedback Summary page 44 re Community Submissions December 2012

'B' – Submission to Green Paper from Phil Jenkyn dated 3 October 2012

'C' – Video of Hunters Hill Public Meeting 6 June 2013 – which can be seen on YouTube at:
<http://www.youtube.com/watch?v=Qdf8G8a3emo>

We consent to the submission and its content being made public.

This submission has been sent by post and has also been sent to:
newplanningsystem@planning.nsw.gov.au

23 June 2013

Yours sincerely,



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