

Report by Roger Brook, Strategic Planning Co-ordinator & Spiro Stavis, Senior Planner

RECOMMENDATION

That the draft submission prepared in response to the NSW Government's White Paper be endorsed by Council to be forwarded to the Department of Planning and Infrastructure.

PURPOSE OF REPORT

To inform Council of the main reforms proposed in the NSW Government's White Paper – 'A New Planning System for NSW' and to seek Councils endorsement of the draft submission to be forwarded the Department of Planning and Infrastructure.

Council, at its meeting on 7 May 2013, resolved (Minute No. 94/13)

- 1. That Council note the release of the NSW Government's White Paper and proposed changes to the NSW Planning System.*
- 2. That Council support the initiatives to notify and inform the local community.*
- 3. That Council prepare a submission in response to the NSW Government's White Paper.*
- 4. That Council make representation to the Minister to extend the submission period for the Draft Metropolitan Strategy by one month to align with the White Paper submission period.*

This report has been prepared in response to the resolution and to the NSW Government's invitation to comment on the proposed changes to the NSW planning system.

REPORT

Background

The Department of Planning and Infrastructure (Department) announced in late March 2013 their planned release of the 'White Paper – A New Planning System for NSW' and draft Exposure Bills. The White Paper was released for public comment on 16 April 2013 with the submission period closing on 28 June 2013.

On 9 April 2013 Council resolved that it would hold one or more community workshops on the White Paper to inform the local community about the proposals contained within the White Paper and to provide an opportunity for Council staff and Councillors to hear community views on these proposals.

On 7 May 2013 a report was presented to Council informing Council of the release of the White Paper and Council's initiatives to notify and inform the local community about the proposed changes in the White Paper.

On 28 May 2013 a Community Information Workshop organised by Council was held at Strathfield Library. The workshop was attended by both Councillors and members of the community. It included a facilitator and an independent planning consultant who delivered an

independent presentation on the White Paper. The workshop also provided the opportunity for the community to ask questions and to provide feedback to Council on the proposed changes.

Concerns raised at the workshop include:

- Unrealistic expectations in relation to engaging the community in the planning process;
- The effectiveness of the Community participation Charter how it will benefit the community;
- Lack of detail on the structure of the Local Plan and how it is developed;
- The reduced role of Council in protecting the communities interests with less role for Council and community in development approval process and with planned increase in complying and code development and planning panels;
- The reduced ability of the community to have a say or object to development which affects them with up to 80% of all development considered complying or code assessed;
- Impacts on the quality of development with more code assessed development and complying development and reduced timeframes to assess development and lack of detail on design review process;
- Lack of review/appeal rights of approved developments;
- The role of private certifiers in the approval process;
- changes to infrastructure contributions may impact on Council revenue and who pays for local infrastructure;
- Impacts on local infrastructure and traffic with additional growth;
- The short notification period for the community to comment on the proposed reforms;
- The focus on economic growth at the expense of the environment and social aspects;
- Issue of amalgamation (Central Sydney Subregion) proposed in the Metro strategy;
- The impact of the combined timing of all of the local government reform papers.

The issues raised have been included in Council's submission.

Council has also prepared a flyer which has been distributed to all residents in the Strathfield Local Government Area aimed at informing the community of the proposed changes to the planning system and encouraging members of the community to make submissions.

White Paper - A New Planning System for NSW

The following is a summary of the key elements outlined in the White Paper by the Department of Planning and Infrastructure.

Community Engagement

- The White Paper places community participation at the 'forefront' of the new planning system and includes a 'Community Participation Charter'.
- Councils will be required to act consistently with the Community Participation Charter, which will be included in the new planning legislation, when undertaking strategic planning and development assessment.
- The White Paper's emphasis is on community participation in the early strategic planning stage in the development of Regional Growth Plans and Subregional Plans, with less involvement at the development assessment stage.
- The legislation also comprises 7 principles to guide the strategic planning framework.

- The White Paper proposes the development of a more comprehensive online (ePlanning Portal) system to provide access to a number of services including a planning viewer service, application lodgement and tracking service, and discussion threads and news.

Strategic Planning

- The White Paper proposes a hierarchy of strategic plans with NSW Planning Policies and Regional Growth Plans containing broad policy matters. These will be implemented through 'lower order' strategic plans (i.e Subregional Delivery Plans and Local Land Use Plans). These plans provide guidance on desired development outcomes with an emphasis on merit based assessment rather than strict controls.
- Local Environment Plans (LEPs) and Development Control Plans (DCPs) will be replaced by the Local Plans and development guides. Local Plans will provide the planning controls for development and outline the vision for an area and specify zoning, development guides and infrastructure consistent with that vision.

Concurrences

- The White Paper proposes to undertake a whole-of-government review of the existing system of referrals, concurrences and other planning related approvals by mid August 2013. The intention is to reduce the complexity and remove unnecessary aspects of these requirements.

New Zones

- The White Paper seeks to rationalise existing zones with more general zones. This includes an Enterprise zone and suburban character areas which will be included in the broad 'Residential Zone' (e.g R2, R3, R4 zones will be replaced with 'Residential Zone').

Development Assessment and Compliance

- The White Paper streamlines assessment into five tracks: exempt, complying, code, merit and prohibited.
- The White Paper proposes to streamline development assessment and depoliticise decision making by encouraging Council's to establish independent panels to make decisions on local development applications.
- The ability for Councils to use stop the clock will be restricted
- Councils will not be able to request additional information above which is necessary to assess a development application.
- Applications cannot be refused if they meet agreed standards or performance criteria

Code Assessment (Complying Development)

- The White Paper proposes “that 80 per cent of all developments will be complying or code assessment within the next five years.”
- The White Paper extends the types of development which can be approved by private certifiers as complying development
- Applicants will also have the ability to apply to Council for a ‘variation certificate’ for a minor non compliance with development guide provisions of the Local Plan to certify that a non compliance is a permissible variation. The proposed development can then be approved by an accredited certifier or the relevant Council as complying development.

Right of Review & Merit Appeals

- The White Paper proposes that Council’s decisions on rezoning can be reviewed.
- There is no right of appeal in relation to a decision of a consent authority following a public hearing by the Planning Assessment Commission, the determination of a CDC or the decision of a Council to issue a variation certificate for complying development.

Developer Contributions

- The White Paper proposes a new system of developer contributions for providing local infrastructure, regional infrastructure, biodiversity offset contributions as well as regional growth funds.
- Developer contributions currently provided for under the existing legislation will be carried over into the new system through Local Plans, which will specify the amount of local and regional infrastructure contribution payable for particular kinds of development in that area.

Building Regulation & Certification

- The White Paper seeks to clarify the minimum acceptable standards and requirements for the regulation and certification of buildings.

Transitional Arrangements

- The White Paper indicates that transitional arrangements will be implemented to allow planning and assessment processes that began before the new legislation starts to be completed under existing requirements.

Reporting Requirements

- The White Paper indicates that Council’s will be required to report on how their Local Plan achieves key planning, development and local infrastructure provision outcomes on a quarterly basis.

Council Submission on White Paper

The key issues of concern raised by Council regarding the White Paper are addressed in Council's draft submission (refer Attachment 1).

Council has raised concern that its role in protecting the community's interests, built form character, lifestyle and social wellbeing is potentially under threat and being eroded. This includes the reduced role of Council and the community in the development approval process and increased role in complying and code development and of planning panels (i.e 80% targets).

Council supports the decision to retain the role of elected councillors in the development assessment process which is a policy shift from the position of the Green Paper, which previously stated that all development assessment decision making would be removed from elected councillors.

Council supports community participation at all stages of the planning process, not just the strategic planning stage as proposed in the White Paper. It is important to ensure that the community is fully 'engaged' and plays a genuine, not just 'token' role in the planning and assessment processes.

There is a concern that Strathfield's unique character and local planning controls will be eroded with the proposed streamlined controls which focus on desired development outcomes and merit based assessment rather than strict controls. There is concern also that the Metropolitan Strategy when adopted might mandate that certain housing targets must be achieved within specified timeframes and councils might be forced to comply without the control of where these dwellings are located.

Furthermore, Council's submission outlines various other concerns including, but not limited to, lack of detail on the transitional arrangements; lack of right of review regarding rezoning process or the determination of a complying development certificate; Council resourcing and funding for the new strategic planning framework; the role of developers in submitting rezoning proposals; cost and resource implications of preparing and implementing the new strategic planning framework; the Ministers delegations to remove, amend or make any provisions of a Local Plan and regional infrastructure contributions being levied in addition to the local infrastructure contributions process.

These items are further detailed in Attachment 1.

REFERRAL FROM OTHER DEPARTMENT

Council's Planning & Environment, Strategic Planning, Engineering Works and Services, Finance and Community Land and Services sections were consulted on this matter.

FINANCIAL IMPLICATIONS

The financial implications of the proposed reforms cannot be fully assessed until more information is available.

ATTACHMENTS

1. Draft Council Submission – White Paper - A New Planning System For NSW

Report approved by:

Ash Chand	David Hazeldine
A/Manager Strategic Planning	A/Director Technical Services