



Australian Institute of Building Submission to the *NSW Government Green Paper - A New Planning System for New South Wales*

Introduction

The Australian Institute of Building (AIB) welcomes the opportunity to respond to the *NSW Government Green Paper – A New Planning System for New South Wales*. The AIB is keen to see more efficient and workable planning legislation, and welcomes this inquiry.

Vision

The vision of the AIB in regards to this review is to ensure that:

- The building and planning sector in NSW is improved through higher educational standards;
- The building industry is a viable and growing sector for the benefit of the state, consumers and builders;
- One bureaucracy is not simply replaced with another; and
- Builders are involved in the review process, and are not there just to be scrutinised.

Nature of the Inquiry & AIB Response

AIB refers to the document 'Frequently asked questions for industry and business', which can be found online at the following address:

<http://www.planning.nsw.gov.au/LinkClick.aspx?fileticket=d9iNMIIA7Dc%3d&tabid=68&language=en-US>

AIB has structured its submission based on this document.

WHY IS THE GOVERNMENT OVERHAULING THE NSW PLANNING SYSTEM?

The legislation which provides the overarching framework for the planning system in NSW is over 30 years old.

The legislation has been modified over 150 times to try to keep up with changes in the community, but it has reached a point where the State Government believes a new planning system is required.

AIB is in agreement with both of the above statements. The new planning system must provide certainty so finance can be arranged for commercial projects. Councillors reject development applications because they want to be re-elected, the issue then goes to the Land and Environment Court, and more often than not the developer loses.

WHAT ARE THE PROBLEMS WITH THE EXISTING SYSTEM?

The current planning system has become too complex and difficult to understand for many users of the system.

Businesses and community members have also expressed their frustration about the red tape and delays that impact on development applications for minor and major proposals.

Environmental and biodiversity conservation issues and the protection of high value agricultural lands are managed in a piecemeal way, and are not proactively and appropriately catered for in current planning processes.

AIB agrees with the above three statements.

There are three forms of consent:

- 1.) Exempt consent
- 2.) Complying consent
- 3.) Local consent

Local consent is the most difficult of three, as almost every significant development application becomes a local and political issue.

HOW DOES THE GOVERNMENT INTEND TO FIX THE PROBLEMS WITH THE EXISTING PLANNING SYSTEM?

The Government is completely overhauling the planning system to make it more simple, user-friendly and better suited to the needs of the community and industry.

AIB agrees with this statement. The planning system in NSW must be less complicated and preferably remove local consent, with the accompanying 'not in my backyard' ('NIMBY') attitudes. Communities currently feel disempowered, as they are stuck with the bad developments, while at the same time worthwhile developments are rejected.

Following extensive consultation with the community and industry throughout NSW, the Government has released a Green Paper – A New Planning System for New South Wales, which outlines major changes to the way the planning system will operate in New South Wales.

AIB agrees that a new planning system is needed for NSW.

However, some protections must remain. For example, regarding the farm-belt around Sydney, a person cannot complain if they buy land in a rural zone, and then cannot build an office block on that site.

WHAT IS A GREEN PAPER?

A Green Paper is a document which outlines the broad changes and reforms the Government intends to undertake for a major area of policy, in this case the NSW planning system.

The Green Paper – A New Planning System for New South Wales is effectively the ‘blueprint’ for fundamental changes to the planning system and provides an outline of how the Government intends to deliver those changes.

AIB commends the NSW Government for the *Green Paper – A New Planning System for NSW*.

HOW WILL THE NEW SYSTEM HELP ME TO DO BUSINESS IN NSW?

The NSW Government is creating a planning system for the 21st century. A key focus of the new system is to facilitate sustainable growth by providing upfront certainty to investors and the community at large.

AIB is in agreement with this key focus.

The new system’s increased focus on strategic planning and upfront, early community participation will allow many developments to access a streamlined assessment where they meet these pre-established planning ground rules. The range of development types able to be dealt with as complying development would also be increased.

AIB agrees that the new planned system’s increased focus on strategic planning and upfront, early community participation would be a positive development for NSW.

The Green Paper recognises that financial and market feasibility should be at the core of strategic land use planning, zoning and development controls.

AIB generally agrees with this statement. However, there must be reasonable guidelines to protect and safeguard the interests of local communities. For example, a development application for a brothel in a rural town, may be too controversial to go ahead, even if there may be a financial case for such a development.

The Green Paper promotes the cutting of red tape by eliminating duplicative processes such as referral and concurrence within an agreed strategic context.

AIB supports this statement.

New land-use zones are proposed including an ‘enterprise zone’, which will provide a flexible planning approach to target employment-generating development.

AIB supports this statement.

WILL THESE CHANGES MAKE MY DEALINGS WITH GOVERNMENT AND COUNCILS EASIER?

Yes. The Government will champion cultural change at all levels of planning.

AIB supports this statement.

This will require state and local government, as well as the private sector, to adopt an outcome based culture of delivery, transparency, customer service and community engagement.

AIB supports this statement. When a person buys a block of land in a particular area, they should have a reasonable amount of freedom to build what they choose, subject to the zoning, without gaining the permission of their neighbours.

HOW WILL THE NEW SYSTEM ACHIEVE BETTER ECONOMIC OUTCOMES FOR NSW?

Economic growth will be promoted by better balancing the consideration of economic, social and environmental goals. It will also align planning and infrastructure delivery to provide certainty to the community, development industry and infrastructure agencies.

AIB supports this statement.

Importantly, the new system will remove barriers to efficient and cost effective delivery of housing and jobs by aligning infrastructure delivery with planned growth, introducing a fairer and simpler system for infrastructure contributions and streamlining development approvals.

AIB supports this statement.

The Green Paper encourages councils to introduce independent expert panels at the local level, who together with the council’s staff under delegation, would decide on all local development proposals. Such panels are already in place in many councils across NSW, including around a quarter of Sydney councils.

AIB supports this statement.

Regular mandatory performance monitoring will be introduced to measure strategic planning outcomes. This monitoring will track the delivery of infrastructure, as well as the number of dwellings and jobs planned for and delivered.

AIB supports this statement.

WHAT OTHER CHANGES ARE PROPOSED TO REDUCE COSTS AND STREAMLINE THE SYSTEM?

For large-scale projects dealt with by the Government, the state significant assessment system will be reformed to enable more integrated assessments with government agencies working together on applications requiring multiple agency approval.

AIB supports this statement.

The introduction of a strategic compatibility certificate would allow good development, which implements metropolitan or regional strategies, to be considered straight away without having to wait for the local land use plan to catch up.

AIB supports this statement, but it is necessary to know who will issue the certificate and what their qualifications are.

The requirement for concurrences and referrals will be switched off once subregional strategic planning is complete. The Green Paper also proposes to integrate the assessment of regional development in the same way as state significant development, removing the need for separate agency approvals.

AIB strongly supports this statement. In many local councils, if something is to be built on any land zoned “bushland”, “residential” or “conservation”, an “environmental survey” has to be performed, which undertaken by an “environmental consultant”. However, “environmental consultant” is not defined by statute (and nor is “heritage architect” or “engineer” in NSW). Also there is no uniformity amongst councils, and it would be preferable to have conformity.

HOW WILL THE USE OF CODE ASSESSMENT AND COMPLYING DEVELOPMENT BE EXPANDED?

By placing a far greater emphasis on upfront strategic planning where communities are consulted early and agreed planning ground rules are established at the regional and subregional levels, the new system will allow far greater use of streamlined assessment processes at the local level.

AIB supports this statement.

The Green Paper proposes that the elements of a project, such as height, scale or building setback, that meet the criteria already established at the strategic planning level, should not have to be re-assessed and re-debated at the local level.

AIB has no issues with this statement.

These elements will be able to access a fast-tracked code assessment still overseen by the local consent authority (usually the council), while elements that do not meet the agreed criteria would be subject to a full merit assessment.

AIB has no issues with this statement, and recognises that this is the way that it has to be.

It is also proposed to expand the types of small-scale, low risk development that can access 10-day approvals by accredited certifiers (council and private). These may include industrial facilities, townhouses and villas on land already identified for these uses. Access to the Electronic Housing Code would also be expanded.

AIB commend the NSW Building Professional Board for the review regarding the checking of qualifications, character and technical knowledge of A-class certifiers.

ARE DECISIONS GOING TO BE FASTER?

Increasing the number and types of development that will be able to access streamlined assessment at the local level will not only speed up decisions for these projects, but will also free up council resources to process applications that require full merit assessment.

AIB supports this statement. Increasing the number and types of development by streamlining the assessment would be very welcome.

At the State level, eliminating duplicative processes such as referral and concurrence amongst State agencies will also speed up the decision-making process.

AIB supports this statement, and hopes this will become a reality.

HOW DOES THE GREEN PAPER PROPOSE TO DEAL WITH THE PROVISION OF INFRASTRUCTURE?

The Green Paper promotes 'contestable infrastructure provision' to provide opportunities for increased private sector participation.

AIB supports this statement. The NSW State Government should discuss with industry the possibility of projects being built via public-private partnerships (PPPs), not councils.

The new system also introduces Growth Infrastructure Plans which will integrate infrastructure and services as part of land use planning.

AIB supports this statement.

Public infrastructure projects which are seen as a priority will be specifically recognised at the strategic planning level (where community engagement will be enhanced). The subsequent development application process for these projects will then focus far more on how these projects should be delivered, as distinct to whether they should proceed at all.

AIB supports these statements.

HOW WILL INFRASTRUCTURE BE PAID FOR UNDER THE NEW SYSTEM?

The Green Paper sets out principles for a fairer, more transparent and more efficient infrastructure contribution system. The funding of public infrastructure should reflect who will benefit, meaning new homeowners should not have to bear the full cost of new infrastructure which will also be enjoyed by the broader community.

One option being considered is that local levies would only cover the local infrastructure needed to support development: local roads, local drainage works and land for community facilities (not including open space or drainage).

A regional infrastructure contribution will be included in Growth Infrastructure Plans for an area. This levy will contribute to new and upgraded regional roads and land for new health, educational and emergency services facilities.

For the above statements, AIB is a disinterested party. However, we look forward to new funds being made available by the private sector for new projects.

WILL BUSINESS BE ABLE TO APPEAL AGAINST ZONING DECISIONS?

The Green Paper proposes that if a council refuses or delays preparation of a requested rezoning, proponents should be able to request a review by the relevant Joint Regional Planning Panel.

AIB supports this statement.

Either the proponent or the council would also be able to request a review if a rezoning proposal is knocked back by the Government at the Gateway stage. This review would be undertaken by the Director-General of the Department of Planning and Infrastructure with advice from the Planning Assessment Commission.

AIB questions whether the Director-General of the Department of Planning and Infrastructure should be involved in any review process. Industry players and local professional building institutions should be involved in any review.

These proposals are consistent with a discussion paper released by the Government in March this year to improve the plan making system.

AIB supports this statement, and agrees that the proposals are consistent.

Further Information

For further information, please contact the AIB Chief Executive Officer or Policy & Advocacy Manager on (02) 6247 7433 or ceo@aib.or.au or policy@aib.org.au

Appendix 1

About the AIB

The Australian Institute of Building (AIB) was founded in 1951 and is the peak body for building and construction professionals, acknowledged for its ability to bring individuals together who share a common interest in improving the standing of the building profession and their career within Australia and overseas. The AIB was incorporated by Royal Charter in 1969 (the same year as the Australian Academy of Science and the Australian Academy of the Humanities).

The AIB is incorporated by Royal Charter and is the pre-eminent professional body for building professionals in Australia and the Asia-Pacific region.

Unlike the various industry associations which service the building and construction sector, only individuals (as opposed to businesses) may join the AIB - for example senior (if not venerable) construction firms such as Hansen Yuncken may be a member of the Master Builders Association, but its two most recent Executive Chairmen, Peter Hansen OAM and Peter Kennedy, are both Fellows of the AIB (and the latter is also National President of Master Builders Australia).

Similarly with firms known as the 'majors', whilst the firms themselves may be members of the Australian Constructors Association, both Murray Coleman OAM (former Global CEO of Bovis Lend Lease) and Mr Wallace King AO (former Executive Chairman of Leighton Holdings) are also Fellows, as are among many other industry notables along with the senior management and project managers of most (if not all) of the nation's leading construction firms.

It has been custom for each State's outgoing Chapter President to present a report to his/her Governor as to the state of the building (including: construction and project management; quantity surveying; building surveying and certification; and property and facility management) profession during their tenures, and to present their successor's to their Excellency's.

Recognised as the accrediting body for building, construction and construction management degrees (as distinct from architecture and engineering degrees - at both Bachelor and Master degree level) at the nation's leading universities. These degrees major in Construction Management, Quantity Surveying, Valuation, Building Surveying, and Facilities and Property Management.

The AIB has a long and proud history of supporting and servicing the building profession.

The NSW universities which conduct AIB accredited and endorsed degrees (including double bachelor and master degree programmes) include:

- **University of New South Wales**
- **University of Newcastle**
plus its distance education degree in Tasmania
- **University of Sydney**
specialist Master degrees in building services
and facilities management only
- **University of Technology Sydney**

With the re-accreditation of the programme at the **University of Western Sydney** expected to be announced in forthcoming months.

With accredited degrees in other jurisdictions, which include those at:

- Central Queensland University
- Curtin University of Technology
- Deakin University
- Holmesglen Institute
- Queensland University of Technology
- RMIT University
- University of Canberra
- University of Melbourne
- University of South Australia

Whilst the accreditation is pending for the programme at:

- University of Southern Queensland;

For more than sixty years, the Institute has worked with the building and construction industry, government, universities and allied stakeholders to promote the building profession, support the development of university courses in building and construction whilst promoting the use of innovative building techniques and a best-practice regulatory environment.

At each of these universities we conduct the *AIB Address*, a brief annual oration designed to *bring to the fore issues which may not normally be associated with the building profession* - be they construction/project managers, quantity surveyors, building surveyors/certifiers or property/facility managers. Past speakers have included:

- **The Honourable Sir Laurence Street AC KCMG QC HonFAIB**
Former Chief Justice and Lieutenant Governor of New South Wales:
'The Role of Mediation in the Settlement of Building Contract Disputes'
- **The Honourable Sir Llewellyn Edwards AC**
Former Deputy Premier, Treasurer of Queensland and medical practitioner
who commenced his career as an Apprentice Electrician:
'The Role of the Building Industry in a Buoyant Economy'
- **The Honourable Sir James Gobbo AC CVO QC**
Former Justice of the Victorian Supreme Court and Governor of Victoria:
'Skills Shortages in the Building Industry and the Role of the ISS Fellowship'
- **Colonel Ian Cumming CSC RAE FAIB**
Commanding Officer 1st Combat Engineering Regiment Aceh Tsunami Relief:
'The Aceh Tsunami Relief: Total Project Management'
- **Sir Eric Neal AC CVO HonFAIB**
Chancellor of Flinders University,
Former Governor of South Australia and former Chairman of both Boral and Westpac Bank,
who commenced his career as an Apprentice Plumber:
'Management in the Building Industry: from Technical through to General Management'
- **Sir John Holland AC HonFAIB (vale)**
Founder of the John Holland Group, and Colonel WWII North Africa and Special Operations:
'Building: One of the Noblest of Professions'
- **Lieutenant General Ken Gillespie AC (Mil., AO) DSC CSM**

Chief of Army, and former Deputy Chief of the Australian Defence Force,
who commenced his career as an Army Apprentice Bricklayer:
'A View from the Top, Military Building and Engineering: a Personal Experience'

- **The Honourable Terence Cole AO RFD QC**
Federal Royal Commissioner into the Australian Building Industry,
Chair of the Enquiry into the Australian Wheat Board's sales to Iraq,
Former Justice of the New South Wales Supreme Court
and Commodore of the Royal Australian Navy:
'Construction in the 21st Century: Understanding Risk'
- **James Service AO (AM) HonFAIB**
Deputy Chairman of Australand,
Chairman of the Australian National Museum Construction Committee,
Former Chairman of the Australian Capital Territory Energy and Water Authority:
'Builder, Heavy Hitter or Paper Shuffler: What is Your Life's Aim?'
- **Janet Holmes a' Court AC (AO) HonFAIB**
Chairman of the John Holland Group and
Chairman of the West Australian Symphony Orchestra:
'The Role of Culture in Safety'
- **Professor Murray Coleman OAM FAIB**
Then Global CEO of Bovis Lend Lease (now Lend Lease),
Professorial Fellow (Building and Construction) at the University of Melbourne
Adjunct Professor (Building and Construction) at the University of New South Wales; and
Former Commissioner Construction Work Skills(UK):
'The Construction Industry and Sustainability - Saints and Sinners'
- The Australian and former Chief Scientist of the UK,
Professor Lord May (Robert MacCredie May) of Oxford OM AC Kt HonFAIB FRS
Copley Medal recipient (as were Captain James Cook RN and Benjamin Franklin);
Professor at [Sydney](#), [Princeton](#), Oxford Universities and the [Imperial College London](#),
both:
'Re-Thinking the Dynamics of Financial Networks'
and:
'Climate Change: Facts, Uncertainties and Appropriate Actions in the Aftermath of Copenhagen'
- **Dr Harry Triguboff AO (AM) PhD (Honoris Causa – both Griffith and Hebrew Universities)**
Founder of the Meriton Group:
'Reflections and Recollections from a Challenging and Successful Career as a Builder'
- **The Honourable Sir Anthony Mason AC KBE QC**
Hong Kong Court of Final Appeal Justice,
Former Chief Justice of the High Court of the Commonwealth of Australia,
Former Justice of the Supreme Court of New South Wales,
Former Solicitor General of the Commonwealth of Australia:
'Liquidated Damages and Penalties in Building Contracts'
- **Major General Aziz Gregory Melick AO (Mil., and AM) RFD SC**
Chairman of the Enquiry into the Beaconsfield Mine Collapse,
Chairman of Cricket Australia's Enquiry into Corruption,
who commenced his Army career as a Private:
'The Role of Leadership and Ethics in Management'
- **Dr Mukesh Haikerwal AO FRACGP**
President of the World Medical Association,
Former President of the Australian Medical Association:
*'Healthcare in the New Age:
Building Technology in Care Delivery, OHS and Keeping the Work Place Safe'*
- **Major General Michael Jeffery AC AO (Mil.) CVO MC**
Chairman of the Global Foundation,
Former Governor General of the Commonwealth of Australia,

Former Governor of Western Australia,
Former Commandant of the SAS Regiment:
'Combating Climate Change through Greening our Cities'

- **Lieutenant General, Professor Peter Leahy AC** (Mil., AO and AM)
Former Chief of Army,
Professor of Strategic Studies at the University of Canberra:
'Leadership, Management and Administration – What is the Difference'
- **The Honourable Mark Vaile AO**
Former Deputy Prime Minister (National)
Former Australian Minister for Trade
Former Federal Minister for Regional Development
'NSW Planning – Challenges for the Construction Industry'
- **The Honourable John Anderson AO**
Former Deputy Prime Minister (National)
Former Federal Minister for Regional Development
'Australia in Asia – Opportunities and Risks for the Construction Sector'

With the former Deputy Prime Minister, **the Honourable Professor** (and Reverend) **Brian Howe AO** was also to deliver *an Address* for us at UWS shortly (upon October 15th 2012).

Forthcoming speakers in 2013 include:

- the former Chair of the ACCC, **Graeme Samuel AC**;
- the former Chairman of Lend Lease, **Stuart Hornery AO**;
- the former Chief of Staff to the then Prime Minister the Honourable John Howard OM AC, **Senator Arthur Sinodinos AO**;
- the noted architect, **Professor Philip Cox AO LFRAIA PhD**.

Others who have made a commitment include both:

- the Federal Minister for Tertiary Education, Skills, Science and Research, **Senator Chris Evans**; and
- the Assistant Governor (Economic) of the Reserve Bank of Australia, **Dr Christopher Kent PhD – but we are still to finalise the dates for these.**

The AIB is proud of its role in promoting the exchange of information amongst individuals and accomplishes this through publications including the *Construct* magazine and the Australasian Journal of Construction Economics and Building (AJCEB).

We also developed and maintain ethical and professional standards of individuals in practice and education, provide graduate development programmes as well as the National Building Professionals Register, and this as per our accredited degrees are often cited by industry bodies (e.g. the Master Builders Associations of NSW and Queensland) when giving advice to their members about the standards to be met by the building and construction management cadets that they employ – they don't call up the standards of, or degrees accredited by, IEAust.

The AIB uniquely conducts a Professional Excellence in Building Awards programme (which uniquely requires the client to grant permission to enter) which rewards the technical and managerial skill in delivering projects to the specified quality, as well as to the contracted time and price. With several billions dollars' worth of projects entered in each State.

Past Presidents include industry icons such as Sir Manuel Hornibrook OBE FAIB, Sir Keith Morris CBE FAIB, Sir Albert Jennings FAIB (CQU honorary Professor) and Jack Hutchinson AM FAIB.

The AIB has had only nine (9) Honorary Fellows, these include:

- **His Royal Highness, the Prince Philip, Duke of Edinburgh KG KT OM AC HonFAIB;**
- **Sir Eric Neal AC CVO HonFAIB;**
- **Janet Holmes a' Court AC (AO) HFAIB;**
- **James Service AO (AM) HonFAIB;**
- **Sir Laurence Street AC KCMG HonFAIB QC;**
- **Sir John Holland AC HonFAIB (*vale*); and**
- **Professor Robert Lord May of Oxford OM AC Kt HonFAIB FRS**
(the Australian, Robert MacCredie May).

With most recently:

- **Dr Kenneth Michael AC HonFAIB; and**
 - **Her Excellency, Professor Marie Bashir AC (AO) CVO HonFAIB**
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For more information about the Institute, our policies, history and role in society please see our website www.aib.org.au.