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SUBMISSION

TO

Department of Planning and Infrastructure

ON

The Planning White Paper

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for Clarence Environment Centre

Submission to Planning White Paper

Preamble

The Clarence Environment Centre has maintained a shop-front in Grafton for over 23 years, and has a proud record of advocacy for the environment. On 2nd November, 2012, we wrote a submission on the Planning Green Paper. In that submission we made the point that recommendations from the planning review, undertaken by highly experienced former Minister for the Environment, Tim Moore, and former Minister for Public Works, Ron Dyer, had largely been ignored.

The Moore – Dyer recommendations were the result of extensive community consultation and assessment of more than 600 submissions, which we believe should have been taken seriously. However, their findings apparently did not fit the current administration's agenda.

Key matters of concern.

Ecologically Sustainable Development.

Ecologically Sustainable Development incorporating the Precautionary Principle, and the principle of Generational Equity must be the cornerstone of any planning regulation. The omission in this White Paper of the concept of “ecological sustainability” and the principles of Generational Equity and the Precautionary Principle, is a major concern and signals a return to the development free-for-all that once saw Australia as the world's worst land clearer.

Protection of high conservation values

With the knowledge that threatened species and endangered communities are still in decline, and the list of threatened species continues to grow, the protection of high conservation values must be a priority. The watering down of environmental protection laws has to stop.

Off-setting the destruction of high conservation values for development always results in a net loss of those values. Therefore, off-setting must only occur where there is absolutely no other option available, and should involve the rehabilitation of land, not simply placing a covenant of habitat that already exists, that should already be protected to some degree by existing legislation.

Continuing with the protection of high conservation values, and we believe it is imperative that ecological consultants employed to assess the impacts of developments be independently selected, not chosen by the developer or proponent. The current nexus between developer and consultant invariably results in impact assessments that favour the developer, so must be broken.

Climate change

Climate change is widely acknowledged around the globe as one of the greatest environmental, social and economic threats facing the world today. This in turn presents enormous challenges to planners yet, remarkably, the term “climate change” or the predicted impacts of sea-level rise, coastal erosion, and weather related disaster, receive no mention in the Planning White Paper.

The impacts of climate change must be formally acknowledged, and realistic measures outlined in the new planning system to cope with those impacts. These must include consideration of sea level rise and increased severity of storm events, which should lead to the strengthening of building codes.

Likewise programs such as BASIX should be reviewed to include serious consideration of measures to reduce carbon footprints, through simple measures such as banning dark coloured roofs.

Community Consultation

Presenting the general public with the opportunity to comment on plans that have been formulated by councils and government agencies, is what has always occurred.

Generally however, less than 1% of the community bother to respond to the invitations to comment on legislative changes, and it is highly unusual for any significant changes to result from those submissions.

In the past, this very limited opportunity for input was compensated to some degree by an opportunity to appeal poor planning decisions before final approval is given. This White Paper removes all individual appeal rights. This is particularly concerning given developers will be allowed to vary planning guidelines if they can show that environmental and social impacts are not increased.

Genuine community participation in the planning process must be ensured. Therefore, we strongly believe third party rights to appeal against individual developments that have unacceptable social or environmental impacts must be retained.

Protection against mining

Urban drinking water catchments must be placed out of bounds to all mining, both above and below ground. A number of rivers in NSW, the Hastings, and Mole Rivers to mention just two, are already polluted beyond the point where they can be rehabilitated.

No longer can we allow ourselves to be conned by mining executives and bureaucrats using terms like “worlds best practice” to justify risking basic resources like drinking water. **The White Paper fails to protect water catchments from mining or other polluting development, and must be corrected.**

We also believe that planners should be required to give serious consideration to environmental and social impacts of mining beyond the immediate impacts of land clearing, and community health. Given the known consequences of continuing to burn fossil fuels, which could see global temperatures rise by 6 degrees in less than 90 years, planners must be required to assess those potential impacts before granting approval to any mining development. **Not only does the White Paper not consider total impacts of mining, but openly facilitates mining development applications by removing many existing constraints.**

Off-sets under schemes such as BioBanking, which are supposedly protected “in perpetuity”, are currently not protected against mining. This situation must be addressed to assure BioBank sites, State Conservation Areas, and all properties placed under voluntary conservation agreements, are all placed out of bounds to mining. **The White Paper does not protect dedicated conservation areas from mining.**

Much of the State's prime agricultural land has already been mapped in association with the Regional Plans some years ago. With much of the world's population either suffering starvation or malnutrition, it is imperative that all food producing land be protected against mining, urban expansion, rural residential development, and infrastructure provision. **The White Paper fails to outline any real protection for prime food-producing land, instead referring to the 'wishy-washy' Strategic Rural Land policies where “*agricultural and rural resources*” are to be dealt with as part of a “*final list of initial policies*” that “*will be resolved in due course*”.**

Environmental impacts of the proposed changes

In a world where the environment is under threat as never before, it is imperative that any planning system be underpinned by sound ecologically sustainable development principles including the Precautionary Principle, Generational Equity. However, this White Paper barely mentions ESD in fact the “E” has been dropped altogether.

We are particularly concerned by the way the White paper has manipulated the “objectives of the new planning System”, by quoting the 1987 “*World Commission on the Environment*” definition of Ecologically Sustainable Development but omitting the word “Ecologically”. As a result, we are presented with: “*Sustainable development is development that meets the needs of the present without compromising the future generations to meet their own needs*”.

Despite mentioning that, *the term has evolved into a core set of principles and values to guide development and change, which have been widely adopted by governments and international agencies*”, the White Paper fails to identify those principles, and in a way that can only be described as fraudulent, replaces them with its own set of principles.

Gone is the Precautionary Principle, and the principle of Generational Equity. No mention either of Conservation of Biological and Ecological Integrity, or Valuation of Environmental Resources, with the new “can do” philosophy replacing them with a wishy-washy: “***Protecting threatened species and habitats, using natural resources wisely and minimising, mitigating or addressing environmental impacts***”.

That meagre contribution towards environmental protection is followed by the economic principle of: “*Promoting the development of the economy and the wellbeing of all communities by facilitating housing, business and employment and other forms of activity and improving productivity*”.

In a world under major threat from global warming, we would expect to find a planning system giving serious consideration to the potential impacts of climate change. However, nowhere in the 214 page document is there a single mention of climate change, and no mention of sea level rise or coastal erosion. There is no mention of any strategy to reduce carbon footprints through the existing BASIX program, or any plans to offset the impacts of the predicted severe weather events through the strengthening of building codes.

Existing laws providing environmental protection, the *Threatened Species Conservation Act*; *Coastal Protection Act 1979*; *National Parks & Wildlife Act 1974*; *Native Vegetation Act 2003*; *Protection of the Environment Operations Act 1997*, and all being reviewed, with levels of protection expected to be greatly reduced.

The 'can do' philosophy of the O'Farrell Government has also come to the fore in the White Paper, with destruction of high conservation values set to be allowed through 'off-setting' which always results in a net loss to the environment.

In short, the lack of focus on “ecological sustainability” in the face of climate change, the greatest environmental threat to face the planet since the demise of the dinosaurs, is unacceptable!

The Consultation Mirage

The pre-election pledge to “return planning to the people”, is nowhere to be seen. Even the early 'strategic planning', where we were assured that members of the public can decide on how their communities are developed, has turned out to be a complete mirage.

There will be no gathering of community groups to work out the details, instead the Department of Planning will develop the Government's Planning Policy, under which Regional Growth Plans and Subregional Delivery Plans will have to fit, which will give directions for the development of Local Plans, *“that deliver the strategic vision for a local government area through zoning, development guides and infrastructure”*, that directly reflect the Government's Planning Policy.

The so-called *“partnership between the state, the community, local councils, agencies and the private sector”*, which will *“develop a shared vision for regions, subregions and local government areas”*, will then be presented to the general public for comment. This is the point, the only point, where the community can have its say.

It is a well accepted fact that less than 1% of citizens ever respond to the offer to comment, and it is also a well accepted fact that very little is ever changed as a result of those submissions, and only lobby groups, with significant financial resources, are able to achieve changes to draft legislation.

In this respect, the proposed new planning laws do not differ from previous planning laws. Where it does differ however, is **under the proposed new laws there are no appeal rights**. The community will be stuck with them.

On the other hand, developers will be provided with the opportunity to offer options that are outside the guidelines, as long as they can show that their varied plans do not have unacceptable impacts. The decision on whether those impacts are unacceptable or not, is then determined, not by the community, but by various planning boards selected by the Government.

Recommendations

- Ecologically Sustainable Development, incorporating the Precautionary Principle, and Generational Equity must be reinstated.
- The protection of high conservation value habitat and threatened species must be a priority.
- Off-setting the destruction of high conservation values, something that always results in a net loss of those values, must only occur where there is absolutely no other option available.
- Climate change and the predicted impacts of sea-level rise and coastal erosion, have to be formally acknowledged, and realistic measures outlined to cope with those impacts.
- Genuine community participation in the planning process must be ensured, not simply given the opportunity to comment on plans that have been formulated by councils and government agencies.
- Third party rights of appeal must be retained.
- Urban drinking water catchments must be placed out of bounds to all mining, both above and below ground.
- All conservation reserves, and land covered by voluntary conservation covenants, must also be placed out of bounds to all mining.
- All food-producing land must be protected from mining, infrastructure provision, urban expansion, and rural residential subdivision.

We thank the Minister for the opportunity to comment on the White Paper, and sincerely hope that the issues raised are taken on board

Yours sincerely
John Edwards (Honorary Secretary)