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Dear Ministers

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 environmental advocacy.

The Centre has had a close involvement with a range of planning decisions over the past decade, including the development of the Regional Strategies, Biobanking offsets Plan, and numerous other innovations. As a result, we have serious reservations about a number of the currently mooted changes to planning laws, which appear to focus more on facilitating development rather than the critical need for ecological sustainability.

The recent unilateral decision by the Minister to excise all E2 and E3 environmental protection zonings in north eastern NSW is a case in point and was, in our opinion, beyond belief, and an indication of the way planning may well occur in the future.

Therefore, we feel compelled to make the following comments for Ministers' consideration prior to endorsing the White Paper in Cabinet.

Community Consultation

Despite the efforts of various non-government organisations, the vast majority of NSW residents are still unaware that any changes are proposed, much less the details, mainly due to the Government's community consultation failure. As a result, we feel a minimum six month exhibition period should be allowed, to ensure NSW residents are fully aware of the implications of these reforms in terms of their long-term viability.

We ask that Cabinet ensure that sufficient study has been undertaken to ensure the proposed planning process is evidence based, and that sufficient resources are provided to ensure the community is made fully aware of the implications of the proposed changes, and are provided with the opportunity for meaningful involvement.

Ecologically Sustainable Development (ESD)

In our submission to the Green Paper, we made the point that the Paper largely ignored many of the Dyer - Moore report's considered recommendations, one of the most important of which (#6), was to *"provide an ecologically, economically and socially sustainable framework for land use planning and for development proposal assessment"*.

We asserted this recommendation had been downgraded by the Green Paper which actually prioritised economic development well ahead of the environment, citing the proposed range of "exempt and complying" developments, that will be allowed to occur with no assessment of environmental impacts.

Moore and Dyer's recommendation (#12) calling for a strategic planning processes that considers cumulative impacts of existing and approved developments, was completely ignored by the Green Paper. The failure to consider cumulative impacts is contributing to the "death by a thousand cuts" that is driving hundreds of species to extinction across the State. These are listed threatened species, almost all of which have been identified by the NSW and/or Federal Scientific Committees' as being in decline as a direct result of habitat loss.

Moore and Dyer's recommendation (#131) favouring an independent planning commission with its own Act, was ignored in favour of regional planning boards that gave a statutory right for developers to sit on those boards whereas representatives of environment groups can, at best, be "invited' to participate. We cannot accept a planning process that is not independent, transparent, and free from undue pressure from those with pecuniary interests.

We feel the term ESD has been cynically introduced by many planners, to give the community a "warm and fuzzy" feeling that all is well with our planning instruments, while many of those responsible for planning have little real understanding of the ESD concept.

That lack of understanding of what ESD should be about is, we believe, widespread throughout the general populace, whose only information is obtained through strident feedback from disgruntled developers and landowners, usually under the emotive banner of 'landowner's rights', who have been refused permission to carry out some outlandish environmental vandalism.

To date, successive governments across the country have failed to counter these claims of 'over regulation', and provide the clear guidance that is needed. Landowners need to know that what they do on they properties, potentially effects their neighbours, and all residents downstream in their catchment, and that includes those residents that cannot speak for themselves, our unique wildlife and exceptional biodiversity.

If it is a matter of clearing native vegetation, landowners needs to understand that they have a responsibility to protect the eco-services that vegetation provides to the entire community, particularly in relation to the clean water we drink, and the air that we breathe.

Over the past three or four decades, a raft of environmental planning laws have been established. At the same time we have seen biodiversity management plans and strategies developed at national, state and local government levels, many of which have been reviewed within the past 3 years. Every one of those plans identify the shocking, though not surprising, fact that **biodiversity is still in decline across the country**. We are still experiencing widespread land clearing, both legal and illegal, threatened species are heading towards extinction because of habitat loss, and pollution levels, both on land and in the marine environment, are on the rise threatening our very existence.

This is not an indication that the laws are necessarily flawed, but a sad indictment on those responsible for their implementation. However, it has to be said that some laws are indeed flawed, with the BioBank scheme being a prime example.

Biobanking allows a developer to purchase and conserve land "in perpetuity", to offset the habitat loss at the development site. Whether the developer is required to conserve double or even triple the amount of land compared with that which is to be cleared, the simple fact remains that you end up with a net loss of that biodiversity that is bulldozed.

Even the conservation covenant that is supposed to protect that BioBank site in perpetuity, is nothing more than a cynical smoke and mirrors trick, because the covenant does not protect that land from development of critical infrastructure, such as highway upgrades, airports, etc, and it isn't even protected against mining.

Biodiversity offsets should only ever be contemplated where the destruction of existing habitat cannot be avoided, and should require the rehabilitation and revegetation of currently degraded land, not land that already provides habitat. At the same time that offset land must be totally protected in perpetuity, not available for total destruction to develop a coal mine.

Climate change

The effects of climate change must be addressed. Sea level rise cannot be ignored during the planning process. Currently, the Clarence Valley Council is allowing over 1,000 homes to be built at West Yamba on land just one metre above sea level. Council insists the area be filled to a level that should prevent inundation until the year 2100, thus creating a suburb with a use-by date.

The enormous quantities of fill required for that project has to come from elsewhere, and entire hillsides are being removed to achieve this madness. That is not sustainable development in any sense of the word.

Any new planning system must ensure the impacts of climate change, extending well beyond 2100, are taken into account. Further development on flood plains should be stopped.

Building standards must be reviewed (i.e. BASIX) to ensure full effects of climate change are catered for. Cyclone proof standards must be extended further south; innovations in roofing that incorporates solar panels etc.

Other priorities for planning consideration

- Water catchments and prime agricultural land must be protected from the impacts of development, particularly mining.
- Community amenity, our heritage must be protected by the new planning system.
- Strategic planning decisions must be based on sound environmental, heritage and social studies.
- The rights of community to comment on major developments such as new housing or industrial estates, must be maintained. Code-complying development must be limited to low risk, low impact development.
- The concurrence and approval role of key Government agencies must be upgraded, with strict compliance monitoring and enforcement of consent conditions. Many issues, such as bushfire risk, cannot be addressed solely at the strategic planning level
- Infrastructure must be assessed and provided prior to any development dependent upon their provision (not after).
- We strongly believe there should be no employment relationship between developers and certifiers.
- There must be an avenue for appeal by third parties against any reported breaches of the new Act.
- There must be regular reviews of strategic plans with genuine community engagement in the review.

- We believe existing environmental planning protection, including SEPPs and Section 117 Directives, must be retained following a thorough review. An example is SEPP 44 Koala protection plan which desperately requires a review of what constitutes core and potential habitat, and a review of feed tree species.

We hope these comments will prove helpful during your deliberations.

Yours sincerely

John Edwards
Honorary Secretary.