Our ref: R13/0015 Out-22302

17 October 2013

The Hon Brad Hazzard MP
Minister for Planning and Infrastructure
Governor Macquarie Tower
1 Farrer Place
SYDNEY 2000

Dear Mr Hazzard

Comment on your responses to LGNSW Conference outcomes on planning

I appreciate the prompt attention you have given to the planning outcomes from the LGNSW Annual Conference and your timely response. I am pleased that you have addressed the planning outcomes of the Conference in a constructive manner and have provided a positive response in many instances. This includes specific amendments to the Planning Bills and undertakings in relation to implementation processes.

LGNSW has carefully reviewed your response in relation to each of the matters raised and confirm that we have made the following assessments of your responses:

- Respond to the concerns that have been expressed by Local Government and the broader community about the proposed new planning system.

The changes you have assured me you will make to the Planning Bills and implementation processes as a result of LGNSW representations demonstrate that the NSW Government has been responsive to Local Government.

- Enter into a Memorandum of Understanding (MOU) with LGNSW to specifically deal with the partnership and the new planning system.

LGNSW appreciates your agreement to enter into discussions on an implementation MOU.

- Form an implementation steering committee including the Department of Planning and Infrastructure (DP&I) and LGNSW to oversee the transition process.

- Ensure Local Government participation in DP&I expert working groups, to develop details and options for addressing particular issues.

- Establish consultation processes for the development of the Community Participation Guidelines, State Planning Policies Model Codes, etc.

I welcome your assurances that LGNSW and councils will be closely involved in all implementation and transition processes. We acknowledge that LGNSW is already involved in expert working groups, and discussions on greater engagement are already underway.
• Work with Local Government in designing and establishing suitable mechanisms and/or groups through which Councillors can have ongoing involvement in planning and decision making at the regional level.

LGNSW appreciates your agreement to do so.

• Engage with state agencies and Local Government to develop the one-stop shop for concurrences.

LGNSW acknowledges your agreement to do so.

• Engage with Local Government to further develop the governance framework for subregional planning boards and ensure Local Government Board members have a decision-making role on these Boards and that they are not merely consultative mechanisms.

LGNSW appreciates the undertaking that operating procedures for the Subregional Planning Boards will be developed in conjunction with councils. It is also significant to Local Government that councils are guaranteed majority membership of the Boards and LGNSW supports this.

• Commit funding for community engagement, revision and development of new sub regional and local plans and for the development of the Planning Portal.

LGNSW notes that funding has been committed and that the Planning Reform Fund is being repositioned to support implementation.

• Include the objects of existing Environmental Planning and Assessment Act covering ecologically sustainable development (ESD) and the polluter pays principle in the new Planning Act, ensuring they are central.

I note that the Government’s response falls short of the position sought in this action statement. I recognise you are choosing to use an alternate definition relating to the triple bottom line. I note that the Bill will adopt a definition of sustainable development that is consistent with ESD. I also acknowledge the undertaking that the Planning Bill will be amended to incorporate the promotion of sustainable development as an Object of the Act and to ensure a triple bottom line assessment of development applications as it does under the Section 79c of the current Act. Nonetheless, I ask you reconsider your position on this point.

• Expand a ‘plan first’ type levy to fund council resource requirements for implementing a new planning system.

LGNSW notes the advice that the Planning Reform Fund (previously known as Plan First) is being repositioned to support implementation, as sought by the resolution.

• Commit to a further round of public consultation on revised proposals following considerations of current submissions.

The advice that the Bills will be only be available for review when they are tabled in Parliament fails to respond to this action statement. However, I understand that you have made commitments to legislate this year and are working to a November deadline for legislation to be considered by the upper house.
- Highlight the importance of the agricultural sector in the planning process and the strategies by which agricultural land can be protected.

LGNSW supports your undertaking to develop a NSW Planning Policy to specifically address the importance of agriculture. I acknowledge that all stakeholders including Local Government will be consulted in developing the policy.

- Tighten the regulation and supervision of Private Certifiers.

LGNSW recognises that a key focus of the Bill is the tightening of regulation of private certification.

That LGNSW:
- Oppose any planning legislation that doesn’t include the following principles:
  - That community participation is enshrined at all stages of planning.

LGNSW acknowledge that the Community Participation Charter has been strengthened in the Bill.
  - Councils are given equal status to the Minister for Planning and Infrastructure (the Minister) in planning decisions.

I note the absence of a response on this point but acknowledge your view that this is a very difficult point to find common ground on.
  - Requires triple bottom line outcomes for planning decisions.

LGNSW is pleased with your assurances that triple bottom line assessment is to be restored by amending the Bill to ensure triple bottom line assessment of DAs as it does in the existing Act (s79c). I again acknowledge and support the undertaking that the Planning Bill will be amended to incorporate the promotion of sustainable development as an Object of the Act.

- No requirement to rewrite standard instrument Local Environment Plans (LEPs) which are less than ten years old.

Your advice that LEPs will remain the backbone of Local Plans which will be made over an appropriate period of time will be strongly appreciated by Local Government as will the associated retention of exiting zones.

- No Strategic Compatibility Certificates (SCCs).

The response goes some way towards addressing Local Government concerns in relation to SCCs but falls short of satisfying this point. It is noted that the Planning Bill has been amended to tighten the process of issuing SCCs including: subjecting applications to public exhibition and determination by Regional Planning Panels rather than the Director General. However, I must ask you reconsider your position on this.

- Further, that any re-written legislation be placed on public exhibition for a reasonable time.

LGNSW appreciates the commitment to exhibit the new legislation, but notes that this is unlikely to be regarded as sufficient by Local Government generally.
• Call on the Minister to return to his fundamental objective of a central cadastral database and a single document of development controls applying to each land parcel, similar to the title details available on the register.

I appreciate your advice that this is the intent of the work you are doing with eplanning.

• Call on the NSW Government to conduct then release the results of a comprehensive analysis of the White Paper submissions.

I appreciate your commitment to release a feedback report in the near future.

• Express strong concern about the removal of community consultation from any stage of the planning process and call on the NSW Government to ensure all planning considerations are made with infrastructure commitments, for example childcare and transport etc.

LGNSW appreciates the advice that community participation will be strengthened in the Bill (as above).

As is evident from the above assessment, I consider that there has been a positive response to most of what Conference sought, with exceptions or shortfalls in relation to ESD, further public consultation on the Bills and Compatibility Certificates.

I also appreciate that the Department of Planning and Infrastructure has also closely reviewed our submission on the Planning White Paper and has provided a comprehensive response. This has also resulted in a number of amendments to the Bills and changes implementation arrangements sought by LGNSW.

Yours sincerely

[Signature]

Cr Keith Rhoades, AFSM
President