

June 4th 2014

Claire Bettington
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Director
Planning Co-ordination and Support
Department of Planning & Environment
GPO Box 39 SYDNEY 2001

Dear Sir or Madam,

RE: My submission on Parsons Brinckerhoff's "Northern Councils E-Zone Review": In summary, I think that the report serves to highlight starkly how the entire process from the start of the SILEP transition to the present has been totally wrong, and I can only support the recommendations made at the end of the report "Part 4: Additional recommendations" (pages 81-83).

Thank you for the opportunity to comment on the Northern Councils E-Zone Review.

I live in Sydney, but I am very interested in all matters pertaining to the environment and its protection. I have been a bush regeneration volunteer for the past 14 years on Malabar Headland in the Eastern Suburbs of Sydney, where twice a week our group weed the critically endangered Eastern Suburbs Banksia Scrub. We have continuously removed Bitou bush (noxious weed) and saved the bush from infestations of this and other weeds for over 28 years. I have a degree in Geography from Sydney University, a Certificate IV in GIS (electronic mapping), and I am currently undertaking the Certificate III in Conservation and Land Management. I have read the report by Parsons Brinckerhoff.

My comments:

- The entire process from the start of the review of the original LEP, through to the draft SILEP, up to this latest PB report has been ***totally and grossly inadequate***. This was highlighted by local residents in many of the drop-in sessions and by many of the written submissions. "Community Consultation" was almost negligible: A mere 499 people attended drop-in sessions (2 x 3hrs on the ***one day only***) at ***just five places*** in an area of 7000km², with a combined population of ***205,000***.

How on earth does that constitute any sort of valid "community consultation" on which to base important and far-reaching land use and environmental conservation decisions? It is not even a statistically valid sample. ***It constitutes a mere 0.24% of the population's opinions***, and clearly the various levels of government are not communicating properly (if at all) with the people. Dare I say: Perhaps this is by deliberate design?

Proper communication would consist of teams of council planning employees systematically visiting all affected areas, getting feedback, acting on it, and only *then* making local determinations for local problems of zoning and land use. In cases where there is substantial conflict there should be extensive negotiation with the landowners, asking them what they want, ***and acting upon it***.

Imposing zoning from an office in Sydney is madness, especially when the basic data is flawed or wrong in many cases, as noted throughout the PB report. The paucity of local respondents and participants in the consultation process proves the total failure of communication between governments and the people they "serve".

- Proper vegetation mapping, data collection and ground-truthing needs to be done throughout the 5 shires – how can zones be decided, areas mapped and decisions made on inadequate information and on the basis of

data that is wrong? The PB report points out some of the worst mapping errors in Appendix D, and those examples are drawn from the very small amount of “rapid” sampling that the PB team did.

- Proper ecological surveys should be done for all regions and areas where there is any doubt about environmental values, or where land is thought to be or is in fact wrongly zoned. The NSW government should pay for this, as it is the Dept of Planning and Environment (DoPE – previously DoPI) who are pushing these changes.
- The transition from the old diverse LEP environmental zonings (and condensing of) to the new standard E zones should have been more carefully done, on a “like-for-like” basis. Trying to make “one size fits all” is not a principle that should be employed in planning, and the attempt to do so smacks of the interference of the development sector upon the Minister and the Planning office, who continually lobby for “less red tape” and more streamlined processes and conformity, to make their lives easier and their profits larger.
- Even given the small number of people interviewed face to face at drop-in sessions during the SILEP exhibition period, and from the submissions received, there seems to be very real concern in the community that landowners would lose rights over the use of their land, and lose money if they could not use land that was zoned for conservation. It is therefore **absolutely vital** that every single affected landowner be consulted if there is to be a change from one zoning to another. Really, this cannot be left to a bureaucrat in Sydney to draw a line on a map. These are people’s lives and livelihoods that are being meddled with here.
- There is also very real concern in the community that there may be further loss of protection for environmentally sensitive areas, through down-zoning or re-zoning of significant habitat and vegetation so that agricultural uses or inappropriate development will be permitted. Therefore it is **absolutely vital** that proper surveys, data gathering, mapping and ground-truthing should be done before any zonings are changed or any decisions made.
- Why is it deemed likely that the result of this review of E zones in 5 Northern Shires will then be applied State-wide? Especially when there is a basic admission throughout the review that the consultation, the mapping, the data and the process are all very badly flawed or non-existent. It is madness to make a decision in these 5 Northern shires and then apply it to the rest of NSW, where conditions are totally different. As I stated before, trying to make “one size fits all” is not a principle that should be employed in planning, and I reiterate that the attempt to do so smacks of the interference of the development lobby upon the Minister and the Planning office.
- The very fact that Parsons Brinckerhoff have been engaged to do an “independent review” of the whole process is symptomatic of the fact that people in general have very little knowledge of the planning system and what it means for them and the land they own; it is painfully evident that the Councils and DoPE have comprehensively failed to communicate with the people; this seems to be a general problem throughout NSW, which I have noted in my own area as well.

Far from following “best practice” principles, the Councils and DoPE could hardly have done worse. They really don’t have the first idea how to do proper “community consultation” and to say that they did so is a joke of huge magnitude. **The whole process should begin anew**, following a logical method, eg:

1. Proper, thorough and comprehensive mapping and ground-truthing should be done to **establish accurate data** upon which to base decisions;
2. There should at the very least be program implemented of **education** for people and communities about the planning system, what it means, how it works, why it is being changed, what are the implications: after all no-one can or should give an opinion upon a subject about which they are ignorant;
3. Any **feedback** should be acted upon, not just ignored, to build trust and two-way communication;
4. Finding out which particular land zoning is being disputed and where the people agree with the land zoning proposals;
5. Manage the areas of disagreement;
6. Make final decisions on zoning only when all the above has been exhaustive.

- Everything mentioned in Section 9.1.1.2 “Consultation Activities” (p 52-53 of Appendix B) should have been implemented. These suggestions are a no-brainer, and obviously should have been done if the Councils were serious about doing a proper and bona fide “community consultation”.
- The suggested use of **overlays** to allay conflict between land use is a good move (page 37). It is an implicit admission by DoPE that the “one size fits all” approach to planning is not valid, although in theory it is an attractive idea – people don’t like complexity and confusion. Unfortunately it just doesn’t work with land use and planning.
- **Camphor Laurel.** I see that at least two of the Councils have meticulously excluded Camphor Laurel (CL) infestations from E zones, but is this a good decision? CL dominates a lot of country, but it can also be seen as a resource for wood working, furniture making, useful for habitat and food to support biodiversity; it could be managed and turned back to native rain forest, or it could possibly be used for biofuel.

I think it is a shame that CL infested areas are “written off” so to speak, and not included in E zones – could there not be a special E zone for rainforest dominated by CL, due to its potential uses and its potential to be returned to native rainforest? If people see that it is zoned for agriculture or some other zoning, they will be tempted to see it as good only for development purposes. Indeed, people might deliberately encourage it to grow and spread just so that the land can be declared weed infested and of no environmental use.

I personally have seen and been involved in a process where native vegetation values can be destroyed by invasion of exotic pests (Bitou bush) and I have seen how subsequently it can be brought back to such good quality as to be made into a National Park (Malabar Headland National Park, gazetted in late 2012). The secret is long-term committed effort by local people, in our case by a handful of members of Friends of Malabar Headland over the past 28 years: we have held twice weekly hand-weeding sessions during this time, and it has paid off; it needs to be continued however, until the soil weed seed bank is exhausted.

- The State government explicitly states that all “**existing land use rights are intended to be maintained**” (page 39), but the fact that many people believe otherwise is a huge fault of lack of communication by the State govt and the local Council. On this front, so much trouble could have been avoided!

The PB report’s Recommendations: (from p 75 on)

- Firstly, the PB report recommendations ***should not have been made***, as the basis upon which they were made is lacking in breadth and depth, as stated throughout the report: The survey of peoples’ opinions that was done by the Councils during the SILEP exhibition period was grossly inadequate – PB should have done their own more extensive survey; and the PB “rapid assessment” of the vegetation in a small number of sample sites was only general in nature (Appendix A, pages 44-45). What PB found was that everything about the process and approach had been done wrongly:

“Overall, the mapping of EZones should be revised and refined at a finer scale than presented in the LEPs as ***there are currently too many anomalies with on ground conditions for an effective LEP to be enacted in any of the councils.***” (page 26, my emphasis)

In my opinion, that is the key statement from the PB report.

Therefore, ***the whole process should be put on hold*** until the eminently sensible recommendations in “Part 4: Additional Considerations” (pages 81-83) have been put in place; although these are “outside of the scope of the review”, the fact that they are there highlights the severe deficiencies in the whole process to date, so that PB felt compelled to add them as a guide to what should ***REALLY*** be happening in these 5 Council areas.

Under absolutely no circumstances should the main recommendations of this report be implemented in the 5 Council areas of this review, or extrapolated and applied throughout the whole of NSW.

Yours sincerely,

Claire Bettington.