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SUBMISSION re FINAL DRAFT COMMUNITY CONSULTATION COMMITTEE GUIDELINES, STATE SIGNIFICANT PROJECTS, February 2016

Introduction

This is an experience-based submission, which I trust reflects a process of rational thought. Neither the experiences nor the opinions are unique to this writer. It is hoped that I am speaking for friends and acquaintances who are unable to participate this time because they are too tired, too disillusioned or deceased.

No government or corporate staffers involved in past consultations will be named, although it would be pleasant to identify the handful of good ones.

Past consultations which I believe to be of particular relevance are:

- F2 Castlereagh Freeway EIS and Commission of Inquiry, Northwest Transport Links East and West pre-EIS liaison, EIS, construction period liaison, post construction corridor rehabilitation issues (1989- 1998).
- M2 Surplus Land controversy re North Ryde parcels nominated for sale by Roads & Traffic Authority and Department of Planning/Department of Urban Affairs and Planning (under consideration from 1990 or earlier, reluctantly divulged to public 1995-1997, evolved into North Ryde Station Precinct liaison 2011)
- Parramatta-Chatswood Rail Link, reduced to Epping-Chatswood Rail Link during EIS period, construction CLG and personal liaison during construction (1999-2009).
- Lane Cone Tunnel Western Surface Works construction CLG (2004-2007).
- North Ryde Station Precinct SSD, UAP, etc, pre-EIS CLG and ongoing personal liaison with UrbanGrowth (2011-2013 formal engagement, individual contact still continuing)

With the exception of the current North Ryde Station Precinct, a NSW State Government department participated in all these activities from proposal through construction. Although this involvement in construction could and did present problems of its own, it at least provided continuity and a point of contact at all times. This generally was more effective and faster than leaving a message on the local council or Environment Protection Authority answering service. Often, a responsive 24-hr hotline link between the builders and the public also helped to provide a cooperative relationship.

I see two major concerns with the Draft Guidelines and will now attempt to address them as concisely as possible. They are the content of the document/s, and the implications of the document as part of an overall change in environment and planning policy.

The Draft Guidelines documents - content

As a member of the public (not a parliamentarian, public servant, contractor to a government department, or indeed anyone with much to gain pecuniarily from relaxation of controls on property development) I find the Draft Guidelines deeply disturbing. My reasons are as follow:-

1. Appointment of members, operation and even existence of a CCC under the Draft Guidelines will be subject to the preferences of parties other than the potentially participating public.
2. CCCs for State Significant Projects apparently will be an enhanced version of those employed since 2007 for mining projects. It appears that the inspiration for this this extension of

mining/windfarming strategies may have been 'The New Planning System' concept supported in 2014 by Mining & Industry within what then was the Department of Planning and Infrastructure. (Ask the ruined communities and bankrupted farmers how well the 2007 model worked. Then ask how or why a 2016 variation will be better for mines, windfarms or urban development.)

3. The Draft Guidelines will be even more *'flexible'* in terms of whether a CCC will be convened at all and/or what period of the project it will cover. There is a suggestion that the Draft Guidelines will allow some, selected CCCs to be convened *"earlier in the assessment process"*. Which projects will be treated to this timing, and will those CCCs extend into the construction period or not?
4. Who will determine which CCCs *"might only be needed during the construction phase, and not necessarily once operating"*?
5. The ambiguous nature of the Draft Guidelines provides little certainty and accordingly, little confidence in the intent. Even the 'Frequently Asked Questions' document raises more questions than it answers. Examples:-
   - reference to "*feedback from a range of stakeholders*" does not specify how many stakeholders, of which nature, contributed. There also is no indication of which feedback, if any, has been adapted. (Interestingly, the Draft Guidelines make a clear distinction between "*the community*" and "*key stakeholders*". Therefore, it is reasonable to assume that community feedback was not 'key' to formulation of the Draft Guidelines.)
   - reference to an "*aim to deliver more effective, current and useful guidelines"* indicates only an intention. The adjectives used are completely subjective . . . "*effective*" and "*useful*" to whose ambitions? What are the apparently inferior "*current*" guidelines?

   Throughout the Draft Guidelines document, an overall plethora of 'weasel words' and platitudes potentially provides numerous strategic advantages for the developer community and no reliable process for the public. For example: *an open forum for discussion . . . Work together towards social environmental and economic outcomes that benefit immediate neighbours, the local and regional community, and the development . . . appropriate information . . . may act . . . may be appointed . . . may propose . . . may be deferred . . . fair, transparent and mutually supportive . . . impartially and in the best interest of the local and broader communities . . . committed to open and shared dialogue . . . at the discretion of the Company.*
6. At every turn, the Draft Guidelines offer almost unlimited opportunity for subjective decision-making. The possible beneficiaries are someone unnamed in the Department, or the developer/builder, or the Independent Chair appointed by someone unnamed in the Department. For this unfortunate reason, the purpose of comment on individual peculiarities of the document is open to question. Nonetheless, some of the changes from previous CCCs (and CLGs) surely must be questioned . . .
   - What are the better ways to engage the community when a CCC is not deemed to be required?
   - Why would community representatives now have no role in appointing their alternates?
   - Why would determination of confidential items be identified only by the Independent Chair?
   - Why would Observers attend by invitation of the Independent Chair, with no need for the agreement of the Committee?
   - How will it be possible to engage professional, competent Independent Chairs without paying them?
   - How reliable would be the process by which the Company nominates two candidates for Independent Chair, and the Department may or may not accept one of them?
   - How could the Community have confidence in representatives chosen by a Chair of questionable independence?
   - How could it be acceptable for the Independent Chair to choose Environment representatives without consulting an umbrella environmental group with connections to the affected, local area?
   - How can members of the community be expected, without payment, to repeatedly devote their time and expertise to CCCs? They are acting as consultants, but unlike those employed to serve the Company's interests, they work for the CCC without remuneration. Tiny sandwiches and possible cab fares do not cover CCC hours of work inside and outside the actual meetings.
7. Assuming that under the Draft Guidelines, a CCC or other consultation device somehow comes into

being, it is vital that well-considered project management plans are provided for information, and for an opportunity for comment and improvement. (There appears to have been no change to the often-observed political and corporate belief that the community's knowledge is irrelevant and its opinions are worthless.)

The Draft Guidelines documents – implications

I view the Draft Guidelines as one more aspect of an ongoing assault which is systematically dismantling best practice planning and environmental protection. Unlike many other countries/states/cities, we *had* workable legislation in place by 1979. A decade later, efforts to undermine the intent of the Environmental Planning & Assessment Act already were well underway.

From personal experience in the 1990s, examples that come to mind are:-
- an orchestrated SLAPP (Strategic Lawsuit Against Public Participation) initiated by an international law firm which would have been familiar with this tactic since the 1980s in the USA. This multi-targeted SLAPP was designed to simultaneously intimidate protestors including local residents at a blockade site, a Native Title claimant, and a spokesperson representing a local community group.
- development of the REF (Review of Environmental Factors) as a faster and less demanding alternative to the EIS (Environmental Impact Statement).
- a surreal period during which one person served simultaneously as toll road project manager, State Government employee, 'independent' chairman of community liaison groups, and witness for the prosecution in SLAPP court actions against roughly 100 protestors against the toll road project. Some community representatives on the CLGs were among the arrestees. Some local residents who had been arrested and bailed found that they would be breaking bail conditions by going to their own homes or attending CLG venues.

It may seem funny now, but the stress at the time was dreadful and the scars remain.

It is astonishing to note the much more rapid erosion of safeguards occurring now. On behalf of miners and frackers, our State Government has dramatically increased the penalties to anyone protesting current or threatened, irreparable damage to land, water and all present and future inhabitants. At the same time, an array of State and Federal rulings encourages and actively abets freebooting land-grabbers and property developers. We are facing a future where:
- owners enjoy greater profit from leaving properties to stand empty while the numbers of homeless and the working poor multiply.
- the destroyers enjoy bargain rates for water and electricity, while charges place these necessities out of reach for many in affected communities. Residents have their utilities cut off. Farmers give up. Country towns die. Dams, rivers and even the water underground is wasted and lost, at no cost and no penalty to perpetrators and abettors. Incredibly, some of the mega-miners find Australian governments more understanding than home countries such as India.
- constraints are lifted or overlooked on construction at all levels from single dwellings to absurd high-rises. (It's okay to build higher and closer to property boundaries. Any controls which cramp a builder's style during initial approvals can certainly be lifted during an application for 'modifications'. If a tree might spoil the view, let's say it must be cleared to protect against an improbable bushfire. If lots of native vegetation is in the way, offer an 'offset' planting of little biodiversity somewhere else. At all costs, promote and nurture urban sprawl – placing impossible demands on roads, water, sewers, schools, hospitals and the general level of amenity which keeps us sane. Shove the needed services and service people to outer suburbs, because land is too expensive in nice suburbs for that sort. One need not dig very deep into the NSW UrbanGrowth website and conversation to know that all development is considered good, and all intensified development is described as "urban renewal". Even the prettiest, best-functioning neighbourhood is contemptuously rated as ripe for renewal.)
- since there is small hope of overturning all the bad legislation and quick-buck attitudes in a hurry, the immediate necessity is to stop or at least slow the slide. In New South Wales, the review of the National Parks and Wildlife Acts, The Environment Planning and Assessment Act, the Fisheries Management Act

and the Threatened Species Conservation Act combine to form the greatest immediate threat. The Government claims that it is proposing to 'cut the red tape'. The underlying objective is to remove ESD as the foundation principle on which these laws were based. If there is no need to ask if a proposed development is ecologically sustainable, we will enter an era of unprecedented open slather. (Note that modern environmental vandalism is much more effective than those employed by robber barons of the past. The machines are so much bigger. The methods are faster and infinitely more destructive. The greed for short-term profit is global.)
- at least in part, the awful damage is being done by an extreme interpretation of what was once a perfectly acceptable conservative philosophy. Over-development for quick profit is close to becoming an extreme religion. Something to think about, isn't it?

Summary

Returning to the precise topic of this submission, I suggest that the Draft Guidelines sit comfortably, cheek by jowl, with numerous 'initiatives' made or about to be made in the name of efficiency and getting rid of red tape. Sham community consultation, facilitated by meaningless 'guidelines' like these, is another weapon against people who need their water and air and appreciate the value of native flora and fauna.

The Draft Guidelines and the increased penalties for protest would dovetail nicely with Local Government Amalgamations. Gateway Determinations, Joint Regional Planning Panels, revised SEPPs, etc as ways to distance elected representatives from the people whom they purport to represent.

Another strand of current Government philosophy appears to be a vigorous effort to shield politicos and even heads of State Government departments from responsibility. Anything that can be hived off to consultants will be contracted out quickly. (An example is the Guidelines document itself. I understand that it was written if not conceived by the Acting Engagement Officer for the Department of Planning, who also has been available for inquiries during the submission period. The AEO's contract has been a part-time arrangement. Two-three days of each working week represent a return to the consulting firm where she also works. In my experience, the firm is a reputable one, and as Department of Planning AEO, its associate has tried hard to encourage submissions. However, it is disturbing to think that the private firm which supplied the person who wrote and discussed the Draft Guidelines also might supply the Independent Chair for a CCC operating under those very loose Guidelines. I also understand that the AEO or someone like her may be given the chore of summarising submissions which in some cases will be critical of the Guidelines. I am advised that the AEO soon will be replaced by a fulltime Department staffer. There goes another little link in the chain of responsibility.)

An example of what to avoid in the CCC process are the two North Ryde Station Significant State Development sites currently under construction by private developers. After years of pre-EIS engagement, the community now can turn only to City of Ryde Council. The Council is likely to become less responsive after amalgamation with more distant municipalities. The community has seen no construction management plans. UrbanGrowth was the last Government body involved in the lengthy project. Now that it has withdrawn, there are no more meetings and no publicised hotline numbers. Contact has been largely limited to promotion of off-the-plan sales.

Recommendation

I strongly recommend that the Draft Guidelines should be junked and a fresh start should be made. Next time, the objective should be real consultation, leading to outcomes which benefit the entire community. By consultation, I mean true transparency in providing information and a genuine path by which public input can exert a positive influence throughout a project from concept to completion.

- Mrs Diane Michel, a North Ryde Resident, 30 March 2016

Diane Michel