

Department at Regulation.Review@planning.nsw.gov.au

<http://www.planning.nsw.gov.au/Policy-and-Legislation/Under-review-and-new-Policy-and-Legislation/EPA-Regulation-review>

<http://www.planning.nsw.gov.au/~media/Files/DPE/Discussion-papers/review-of-the-environmental-planning-and-assessment-regulation-2000-issues-paper-2017-09.ashx>

‘Are there known issues or inefficiencies to address?’ Yes.

‘Can the provisions be reformed to better achieve the objects of the EP&A Act and the Government’s relevant policy priorities, including: – increasing housing supply to meet current and future needs of the State – facilitating faster and more efficient housing approvals, including through the uptake of the complying development pathway’. Yes.

‘Are there digital solutions which could be used to make requirements easier to meet?’ Yes.

- a. A centralised website could make requirements easier to meet and provide access to the public for information that is not readily available particularly with private certifiers who have proved difficult to contact. The time that private certifiers allow between notifying of a building application and when the provision of information will be available is not always clear and then the plans are rushed through without the opportunity to know when they will be available. Please see example in items 1 and 2. A centralised website is a digital way of updating
- b. A notice board outside the site can provide valuable planning information that is not readily available particularly with private certifiers being difficult to contact, as above. Some contractors already use notice boards as a way of notifying of work being carried out. For example, ‘painting in progress’. This alerts the public. This could be extended to waterproofing, acid wash and other chemicals or dust. The notice board could be digital and solar-powered if the electricity is not connected. The notice board could be re-used and is a way to update information.

Environment Planning and Assessment efficiency to get more buildings up quicker must not compromise public health and environment care that ultimately does a disservice to communities, residents and neighbouring homes and future generations by choices we make now particularly of materials, their residue and contamination of air, water and soil as a result of manufacturing, processing, use and ongoing maintenance.

For example, a contractor who acid washes a property wears protective clothing and a mask, yet the public and neighbours are exposed to these without prior knowledge or advice as to protect themselves. Products emit into the air and remain in the soil where they re-emit into the air. Cumulative effects and multiple sources of exposure to toxins and their vapours or residue need to be considered for neighbouring properties particularly with the increase in building and high density building.

It seems that thusfar, making ‘the planning system simpler and faster for all participants’ has not achieved ‘a planning system that enhances community participation,... increases probity and transparency in decision-making’. Please amend the policy and its implementation to ensure that the thoroughness and communication that is required for responsible planning and building is in place for ‘NSW to better accommodate growth, new housing, and economic development across the state, while protecting the environment’.

To achieve 'How to best implement the changes', please take the above and following suggestions into consideration:

1. **Communication** Reliable contact information to communicate regarding a planned proposal. Private certifiers are not easily contactable and the opportunity to comment is not readily available. For example, an elderly individual received a letter from a private certifier stating that no changes could be made to the building to be built alongside their apartment. The certifier was not contactable and we were told by whoever we contacted to call another number and that the information was not available. We did not have the opportunity to see the plans. The Council asked us to contact the private certifier as to when plans would be available. Digital availability on a centralised website and notice board would make the process more efficient including about building proposal, plans and notification as set out below.
2. **Council and State government** should not give such autonomy to private certifiers. This needs to be better monitored. Rushing plans through without opportunities for comment and better options does not build better communities.
3. **Notification** Communication re notification of what building materials will be used is an important public health issue that needs to be a requirement of any building plan with least toxic materials as a priority. For example, the building company involved in the above building do not get back to the owner about what is being done or used so that neighbouring properties can protect their health where required. The supervisor seems to use subcontractors that the building company are not aware of. For example, a pest control van doing acid wash of bricks. The building company do not seem to have a schedule and do not provide information of materials to be used. This could be made easily accessible on a centralised website and notice board.
4. **Building materials and schedule** Notification of building schedules and changes to building schedules including materials to be used is essential to protect the public. A suggested schedule to consider is enclosed.

It could include maintenance work such as waterproofing, house washing, and information about least toxic options for general and garden maintenance.

This should be a requirement in strata complexes and nearby neighbours to provide, prior to any work being started.

It should include 'exempt development' and all planning for the enclosed reasons.

A centralised website is a digital, readily accessible way to communicate in addition to other paper-based correspondence currently available for development plans in local neighbourhoods for buildings and infrastructure that is user-friendly for those who do not have digital access or technical know-how. A notice board could be digital.

5. **Strata complexes, high density living, building plans and ongoing maintenance** As we know, more than half of the population of Sydney are now living in apartments and the number is increasing with the building plans as per this document.

Therefore it is imperative that the Department of Planning regulate and make changes to the process of what is used and notification about what is used.

This includes for ongoing maintenance within strata complexes.

Unless regulated by the Department of Planning and related authorities such as fair trading in by-laws, management of new buildings and of strata complexes this information is not available, putting public health at risk given the cumulative, chronic exposures particularly in neighbouring properties and strata complexes that current planning seems to be encouraging to provide for accommodation demand. Please see item 3 re notification.

For example, an agent for an apartment, February 2017, hired a painter who mixed oil based paints outside. The fumes drifted into the above apartment. A contractor visiting the above apartment developed breathing difficulty and the resident was significantly sickened for two months. The doctor requested details of the ingredients. These could not be obtained from the agent who arranged it on behalf of the owner who was not living there anymore. The painter mentioned that he had used a mask as it was high VOC paint and would have been willing to use low VOC paints had he known. The outgassing of the enamel and oil paints were evident in the common property for weeks.

Prior notification by notice boards, including outside the property as with the 'painting in progress' notice board and centralised website are ways to communicate information and update information.

Enclosed is an example of a notification schedule.

6. **Choice** to avoid exposure and the residue of building works is particularly important to protect the public, those who are vulnerable, the elderly, children and health compromised individuals.

Multiple Chemical Sensitivity affords the individual little choice other than to be sitting duck for exposure to maintenance materials without notification regulations being in place by the Department of Planning particularly necessary with the increase in building that is occurring. A centralised website and notice board could be used to provide that choice and access to the environment.

7. **Pesticides** Neither the owner, referred to above in item 1, who is building the property and engaged a building company, or local residents who live near the property have knowledge of what pesticides are being used or when.

For example, even if an owner is willing to communicate with neighbours, there seems to be nothing in place to require the certifier or the building company to provide choices or prior knowledge of what termite barrier is to be used. The owner of the building being built was told it was a non-pesticide barrier of termite mesh. He was later told that that had not been done prior to the laying of concrete and that a reticulation system would be used with residual pesticides in an irrigation system and that these residual chemicals would be reapplied from time to time over the years. He cannot get information about what pesticide will be used. He was not told about a termite monitoring system or non-pesticide options nor such

'Ecologically sustainable development'?

Prior information via a centralised website and notice board would prevent exposure to pesticides and provide other options to termite barriers that an owner could choose and once the choice is made, the neighbours and passers-by could be adequately informed by a centralised website and notice board outside the property.

8. **The Department of Planning need to remove any risk to the public and ensure that residual pesticides are avoided in building plans and alternative, non-pesticide options used. The exposures and residue are an ongoing risk to the public and exacerbate the health of vulnerable individuals and put the environment at risk.**

See Beyond Pesticides "Diseases Database"

<http://www.beyondpesticides.org/resources/pesticide-induced-diseases-database/overview>

9. **Real life exposure cannot be measured or guaranteed by any standards. Variations in moisture content in the air and other factors determine the effects. Please see item 11. We are learning all the time as is evident from organochlorines and organophosphates which were used so readily including in schools and I emphatically ask that the Department of Planning consider the effect of other pesticides that are so readily used. They are designed to disrupt and they do it in ways that are not necessarily measurable by any means. Health, environmental and functional changes provide insight. Hindsight is not the way to learn about public health, but the precautionary principle affords a better option.**

For example, a chemically sensitised individual was walking on the perimeter, outside a shopping centre and nerves were affected. On enquiry, bifenthrin had been sprayed some two weeks before. Claims about safety of products such as this are unacceptable.

There are cumulative and chronic effects from exposures including to multiple sources in public places, roads, neighbourhoods and recreational facilities that are not acceptable.

With the increase in building and the use of pesticides as a choice for these buildings and the risks they present to public health and the increase it presents to multiple sources of exposures increasingly in residential areas, commercial areas, on the way to work and school, the Department of Planning need to require non-pesticide options in building plans and to monitor that this is offered as a choice with incentives to do so and by educating the public on a centralised website and notice boards.

It appears the building company did not provide such a choice to the owner. The effect is that individuals who cannot tolerate these or their residue, have to keep moving and recover their health or later individuals are affected and do not know what has affected them. That is not sustainable nor is it protecting public health. Please learn from these individuals as beacons for a better planned future in growing cities.

10. **Multiple Chemical Sensitivity (MCS)** in some individuals possibly as a result of past chemical exposure or injury, or greater susceptibility was described by L. Bartha, et al in "Multiple Chemical Sensitivity: A 1999 Consensus", defining the criteria as '(1) a chronic condition (2) with symptoms that recur reproducibly (3) in response to low levels of exposure (4) to multiple unrelated chemicals and (5) improve or resolve when incitants are removed', have an additional

criterion, 'symptoms occur in multiple organ systems'. Put succinctly, 'The presentation of MCS may vary greatly among cases and over time'.ⁱ

MCS is alerting decisions makers that these toxins are affecting the health of individuals and quality of life that can be a learning process for prevention and taking action to educate the public and advise leaders and decision makers about best practice in maintenance of land and property and a thorough review of all levels of society: the home, neighbourhood, workplace, public venues.

The Department of Planning could educate the public on a centralised website and notice boards.

11. **Low dose exposures, mixtures, cumulative effects.** *Environmental Health Perspectives* have published an article, "Low-Dose Mixture Hypothesis of Carcinogenesis Workshop: Scientific Underpinnings and Research Recommendations", by Mark F. Miller, et al. and note in the 'Background' that 'The current single-chemical-as-carcinogen risk assessment paradigm might underestimate or miss the cumulative effects of exposure to chemical mixtures, as highlighted in a recent work from the Halifax Project. This is particularly important for chemical exposures in the low-dose range that may be affecting crucial hallmark mechanisms that serve to enable carcinogenesis' concluding that 'The restructuring of many existing regulatory frameworks will require adequate testing of relevant environmental mixtures to build a critical mass of evidence on which to base policy decisions' (p. 163)ⁱⁱ and explain that a chemical need not necessarily be carcinogenic, but 'support two hallmarks, another a third hallmark and so forth until the sum of results is the same as though there had been an exposure to a single complete carcinogen' (ibid p. 169).

The Department of Planning could educate the public on a centralised website and notice boards.

12. **Claims about safety** of anything needs to be controlled by the Department of Planning. Pesticides, solvents, antibacterials and disinfectants can affect individuals. Glyphosate, for example, is excessively used across the community and considered a contributor to anti-biotic resistance. In an article "G20 Health Ministers Craft Plan to Address Antimicrobial Resistance", Beyond Pesticides note that 'Because glyphosate disrupts a crucial pathway –the shikimate pathway—for manufacturing aromatic amino acids in plants –but not animals— many have assumed that it does not harm humans. However, many bacteria do use the shikimate pathway, and 90% of the cells in a human body are bacteria. The destruction of beneficial microbiota in the human gut (and elsewhere in and on the human body) is, therefore, a cause for concern –and a major contributor to disease. In addition to impacts on human health, glyphosate has been linked to adverse effects on earthworms and other soil biota'ⁱⁱⁱ. As more communities are built, please consider the materials to be used in the landscape.

This could be made a requirement of planning and building sustainable communities.

The Department of Planning could educate the public on a centralised website and notice boards.

13. **Public education.** Learn from those who have been compromised to protect the community and future generations. Building plans need to put in place organic land care.

14. **Organic land care in building plans, roads, parks, and other infrastructure plans**

See Beyond Pesticides overview of organic 'Lawns and Landscapes'

<http://www.beyondpesticides.org/programs/lawns-and-landscapes/overview>

15. **Quality of life** for all is the aim of a healthy society. In addition to the toxic chemicals used on building sites close to other residences and within building complexes for initial and ongoing maintenance, there are aesthetic qualities and landscapes that are affected by development that is being rushed through without opportunities to make better choices or changes.

For example, an elderly individual had purchased an apartment many years ago with a quality of life on a balcony with views across the bush. A little compromise of a huge roof of a single dwelling built next to the apartment has completely removed the view of the landscape that affords so much quality of life both for the resident and the birdlife that has been compromised by the unnecessary removal of a few trees nowhere near the new dwelling, but in front of the property. Local government is asking for monitoring of bird life, but rushed applications are compromising this work and the sustaining habitat for native birdlife. This is not achieving:

'The objects of the EP&A Act are: To encourage: – The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment'...

'The protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats'.

These are instead non-target recipients of toxins without proper communication, notification and better choices being considered as an option.

16. Thank you for the opportunity to comment. I hope that what I have shared will assist in making better choices in planning community spaces and requirements for the plans and prior consultation by making information more readily accessible including on a centralised website and notice boards.

'To provide increased opportunity for public involvement and participation in environmental planning and assessment.'

In summary: including a centralised website for communication about development proposals and plans, including what materials will be used and when, that can be updated as schedules may change, will certainly make the process easier for all and make information accessible particularly where managing and preventing health issues, by protecting public health, require prior knowledge about the materials (e.g. waterproofing, pesticides if at all, or non-pesticide options) to be used. The digital option of a centralised website in addition to current paper

approaches, could make information accessible that is currently difficult to access with the rushing of certification through private certifiers and not through local government who do not seem to have the information and the plans are certified before residents can view the proposed plans. Please include this requirement for accessible information about when these can be viewed when planning 'minimum public exhibition requirements for development proposals'. There does not always seem to be accessible information about the opportunity to view these particularly with private certifiers, as in the above example.

It seems that this is considered in 'The review of the Regulation will consider streamlining and consolidating these requirements for greater clarity and ease of access'.

Affordable housing is important, but not at the expense of public health.

Better choices can be made in building materials and products by choosing non-toxic materials and low-maintenance materials for ongoing care that reduces the cumulative effects of toxins within the community.

The personal, social and economic (e.g. health system, lack of productivity, contaminated land, air and water, threat to flora and fauna) cost to the community from toxins and their residue has to be considered as a priority in building housing for a growing population.

It is important that neighbouring residents have accessible ways to respond about this and make suggestions and requests including for prior notification of schedules and materials and the choice of least toxic options, particularly for health requirements. The alternative is the status quo and that can make a quality of life inaccessible in a neighbourhood. A centralised website and notice board can assist in countering this.

Please refer to Section 2.8 and 'environmentally sensitive area'.

It is appropriate to consider other 'sensitive areas' including that of individuals whose quality of life and protection of their health requires detailed prior notice of what is to occur and when and the option of least toxic building materials and maintenance in the long-term.

Please refer to the enclosed example of a notification template.

This could be updated on a centralised website and notice board outside the property that could be digital and re-used.

Including this could be required for development proposals and for ongoing maintenance within neighbourhoods and in strata complexes and placed on a website for regular update. That would prevent the unnecessary effects described above in item 5.

Affordable housing will likely be in strata or high density complexes and better planning prevents the cumulative effects of toxins and their residue on residents in these communities.

Environmental impact statements and protection of environmentally sensitive areas is important and to make these accessible.

Human health effects and protection of public health and those who are sensitive or susceptible to the materials and the residue of these, that are used in building, requires documentation that

is accessible and often indispensable to the vulnerable and preventing avoidable public health issues from cumulative effects and exposure to toxins from building (e.g. waterproofing, washing of bricks, pesticides and toxins in landscaping). These can be minimised by better choices and public education including by government and building companies. A noticeboard outside the building with a schedule of work being carried out and to be carried out, could complement other notification and be accessible to local communities.

Referring to 3.1, 'To improve transparency, the review could consider inserting a requirement for public agencies to make their environmental assessments publicly available' needs to include human health assessments. This includes those items in box 14 that could be made relevant to human health:

'• Earlier and better engagement with affected communities • Improving the quality and consistency of EIA documents • Developing a standard approach for applying conditions to projects • Providing greater certainty and efficiency around decision-making, including assessment time frames • Strengthening monitoring and reporting on project compliance • Improving the accountability of EIA professionals.'

It is not easy to access information at present, as in the example in item 1. and 7.

Digital information on a centralised website could include options of:

- i. text alerts
- ii. email alerts
- iii. phone alerts
- iv. updates
- v. scheduled work, particularly to:
 - (a) avoid chemical usage in neighbouring properties.
 - (b) better access to notification of chemical application.
 - (c) centralised way to provide and make information accessible
- vi. incentive to make:
 - (a) Website accessible to a wider audience, compatibility with mobile devices
 - (b) Where public can go to get information that is not easily accessible or known
 - (c) Positive outcome of an interface where the public and community can go to get information
 - (d) Make community aware builders and local authorities are interested
 - (e) Consolidate information in one place
 - (f) A one stop shop, useful for customers
 - (g) Convenience
 - (h) Effectiveness of information to public
 - (i) Community building space, something want to do to keep community informed
 - (j) Community will have better information, makes for building better futures
 - (k) Prevention by raising awareness, avoiding exposure to toxins and their residue
 - (l) Preventative model, incentive to improve health by making aware
 - (m) Want an informed community, increases accountability, transparency and confidence.
 - (n) Increasing trust with public
 - (o) Community benefit
 - (p) Make readily accessible information not always easy to find
 - (q) Mobile friendly content to public

(r) Disability access and user friendly format for notification: deaf, blind and chemically sensitive who need usable formats to make choices about accessing environments.

(s) Compliant with web content disability standards 2.0,

<http://www.australia.gov.au/accessibility>

e.g. good colour contrast so can view it well, video and image descriptions, etc.

Community awareness with readily available information on a centralised mobile website has the potential to assist in protecting public health from unnecessary exposure to the use of toxins by better prior notice of building plans, materials and schedules.

Centralising notification is important to make the information more easily accessible to the community.

The enclosed is an example of a notification template, if you, a contractor or anyone on your behalf is going to do any maintenance work (e.g. paintwork, etc.) so that any chemical use and the residue can be avoided. **Prior notification for proposed chemical use:-**

1. Before, during (if any changes and until complete).
2. Within (see 'what') and outside maintenance and sub-contractors, e.g. garden service.
3. Reminders for when change of staff, e.g. garden service.
4. Communication so anyone who wishes to or has to avoid usage and residue, can.
5. Request to use alternative, least toxic option. Please communicate what is used and if there is not an alternative that can be used, to please communicate what will be used.

What, e.g. Any pesticide based item, traps/baits, etc. Garden chemicals, herbicide, fertiliser, fungicide, etc. Solvents, VOC's, sealant, waterproofing, fibreglassing, adhesives, cleaners, carpet cleaning, acid wash, chlorine, bleach, etc.	Product name in full	Product Ingredients e.g. active constituents and other ingredients.	Where e.g. brickwork outside, in front, etc.	When Date and time start.
When Date and time to be completed	How and how much e.g. spray, gel, pesticide bomb, bait, trap, equipment and total volume and concentration	Extent of area covered e.g. only gel in cracks, crevices, details of spot application.	Purpose of	Alternative considered for use

By whom and contact number of whom to contact about planned work e.g. maintenance person or subcontractors such as garden service.	If application does not occur on date given who will make contact re new date or if cancelled altogether	If application does not get completed on date given who will make contact re new schedule	Notice given and confirmed by e.g. person who gives notice, signs that it has been given.	Area sign-posted Prior to and post application.

i L. Bartha et al., "Multiple Chemical Sensitivity: A 1999 Consensus," *Archives of Environmental Health* 54, no. 3 (May/June 1999), pp. 147-149.

ii "Low-Dose Mixture Hypothesis of Carcinogenesis Workshop: Scientific Underpinnings and Research Recommendations", by Mark F. Miller, et al. *Environ Health Perspect.* Volume 125, Number 2, February 2017; DOI:10.1289/EHP411, p. 163-169.

iii "G20 Health Ministers Craft Plan to Address Antimicrobial Resistance", *Beyond Pesticides Daily News Blog*, 23rd May 2017.
<http://beyondpesticides.org/dailynewsblog/2017/05/g20-health-ministers-craft-plan-address-antimicrobial-resistance/>