

Submission from The Coastwatchers Association Inc
PO Box 521, Batemans Bay
27 June 2013

WHITE PAPER AND DRAFT PLANNING BILL

Dear Sir/Madam,

Members of The Coastwatchers Association take a keen interest in how development in the Eurobodalla Shire is planned and carried out. They are particularly keen to see **ecologically sustainable development** implemented here and believe our Shire can be a showcase for how this can be achieved.

We do not support the Government's White Paper and draft Planning Bill in their current form. The regions of NSW are too different from one another to try to make the one narrow planning system fit them all. The proposed system is a particularly bad fit for a region such as ours which is heavily dependent on its "nature coast" image to maintain our economically important tourism industry.

Some parts of the Bill are worth keeping:

Improved environmental impact statements – We support the proposal to ensure that consultants are accredited. They should only be indirectly employed by the proponents of a development to lessen the influence of the developer on the recommendations of the consultant.

Early consultation - Provided it is properly resourced and legislated, increasing community participation at the strategic planning stage is commendable. However, this should not replace the community's right to be involved at the development assessment stage.

The integration of infrastructure and strategic planning – Both types of planning should include moving quickly towards low carbon emission technology and adaption to climate change.

Other sections of the Bill should be omitted or changed, for example:

Ch 1 The focus on economic growth is short sighted since our economic and social well-being are dependent on our environment. A healthy environment does not preclude economic growth – catchment protection is vitally important for agricultural industries; and the development of our renewable energy industries would boost employment while reducing the impact of climate change.

Sustainable Development - The Bill uses the words "sustainable development" but these are inadequate to ensure the foundation of our well-being is maintained. **Ecologically Sustainable Development (ESD) should be clearly stated in the Bill as the basis of decision making.** ESD encompasses the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity, and improved valuation, pricing and incentive mechanisms including the polluter pays principle. This wider scope is necessary to ensure development is truly sustainable.

Ch 4 The Community Participation Charter –No matter how well the early consultation is there will always be a large majority of people who do not take an interest until a proposal affects them personally. And no matter how well the planning instruments, including local guidelines, are prepared there will always be instances where some factor – such as topography of the neighbourhood – can result in what appears to be a complying development being very detrimental.

There should be opportunity for community participation at all stages of the planning process and this needs to be clearly provided for in the Bill.

The government's main selling points for this legislation are that the system will be much better at involving the community in regional and local planning and will build integrity and transparency into decision making. Yet the Bill will allow the Minister to over-ride what the community wants and give them no say in the matter. The Minister should not be able to make or change Plans, planning controls or planning codes without properly consulting the community.

Ch 5 Strategic Planning

Objectives, Outcomes and Indicators – The Bill should set clear objectives based on achieving social and environmental outcomes. These should be in the framework for strategic plans, with measurable outcomes that can be used for monitoring the success of the plans. Examples can be found in Eurobodalla's LEP 2012. For the E3 zone (deferred) the objectives were:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*

These objectives have definite and measurable outcomes. The same can be said for most of the other zone objectives in the LEP and for broader objectives in documents such as [the Eurobodalla Settlement Strategy](#) ???.

Environmental protections – Over many decades governments have recognised the need for laws, policies and regulations to protect our environment. These need to be kept in the new planning system, improved if necessary and be enforceable at law.

Evidence based strategic planning – We commend this aim but find it hard to believe that the government will properly implement the evidence. Eurobodalla Shire had good evidence-based strategic planning as the foundation of the LEP 2012 which looked at hazard prone land, acid sulphate soils, slopes, vegetation types, etc. Planning for dealing with coastal hazards was well underway but has since been halted by the state government. Instead of the data being refined it is being ignored. It is essential that the Bill specifies that the government must ensure there is reliable and robust data for the whole of the state, that the data is available to everyone, and that it must be used.

Environment zones - Development guidelines have proved to be much too weak and easily abused to be used to replace clear objective based zones. The proposal to lump many current zones into a few larger ones will result in very poor outcomes for the environment and the community.

The environment protection zones (E1, E2, E3 and E4) need to be kept as distinct zones in the new system. The mapped zones make the identification of sensitive areas much more effective and allow such conservation management as the protection of wildlife corridors and endangered ecological communities. The zones are essential for the ecologically sustainable management of natural resources and biodiversity.

In our shire the rural zones [R5 Large Lot Residential](#) and [RU5 Village](#) need quite different management and development to the general residential areas and should remain as separate zones.

Chapter 6 Development Assessment

Strategic Compatibility Certificates – The whole idea of these certificates goes against the rest of the stated aims of the new planning system – to give the community a say in the making of strategic plans. The community has at least had some opportunity to develop existing plans and these should remain in force until new plans are finalised. What this section of the Bill is proposing is to sideline the community and give the decision making power to the Director General for Planning.

What makes these unacceptable certificates even worse is that the developer can appeal a decision relating to them but the community cannot.

Subregional Planning Boards and Subregional Delivery Boards– We do not support these Boards as they are proposed in the Bill. Once again decision making is taken from the community and given to the Minister who appoints the Board members. Despite the urgent need to plan for such things as biodiversity conservation and climate change impacts there does not appear to be any provision for the necessary experts to be appointed.

Complying or Code Assessment – Again this part of the Bill seems designed for metropolitan areas and does not suit environmentally sensitive coastal land such as our Eurobodalla Shire. Some of the proposals that could be assessed in this way, with no consultation with the community and very little environmental assessment, could have a major impact in the wrong location.

Criteria for merit assessment and decision making - As the Independent Commission Against Corruption pointed out last year, giving people broad discretionary power when making planning decisions is an invitation to corruption. It certainly undermines public confidence in the planning system.

The Bill needs to clearly set out strong, objective criteria to be used when making such decisions. Similar methods are already being used for implementing such laws as the one governing native vegetation and it should be relatively simple to adopt criteria for making decisions about planning and development.

Transparency and accountability will not be improved unless the Bill lifts the restrictions on judicial review proceedings and third party environmental appeals.

The clauses allowing proponents of developments to seek reviews of zonings should be removed. Developers, like everyone else, will have the opportunity to have input into the development of strategic plans and the regular reviews that the public will also be invited to comment on.