



Planning Reforms

The highlights

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ACCEL Environmental Law Year in Review – 10 August 2018

Outline

- Overview of recent reforms
- Housekeeping changes
- Community participation
- Strategic planning
- Changes to integrated development
- Decision making: LPPs
- Staged commencement of reforms



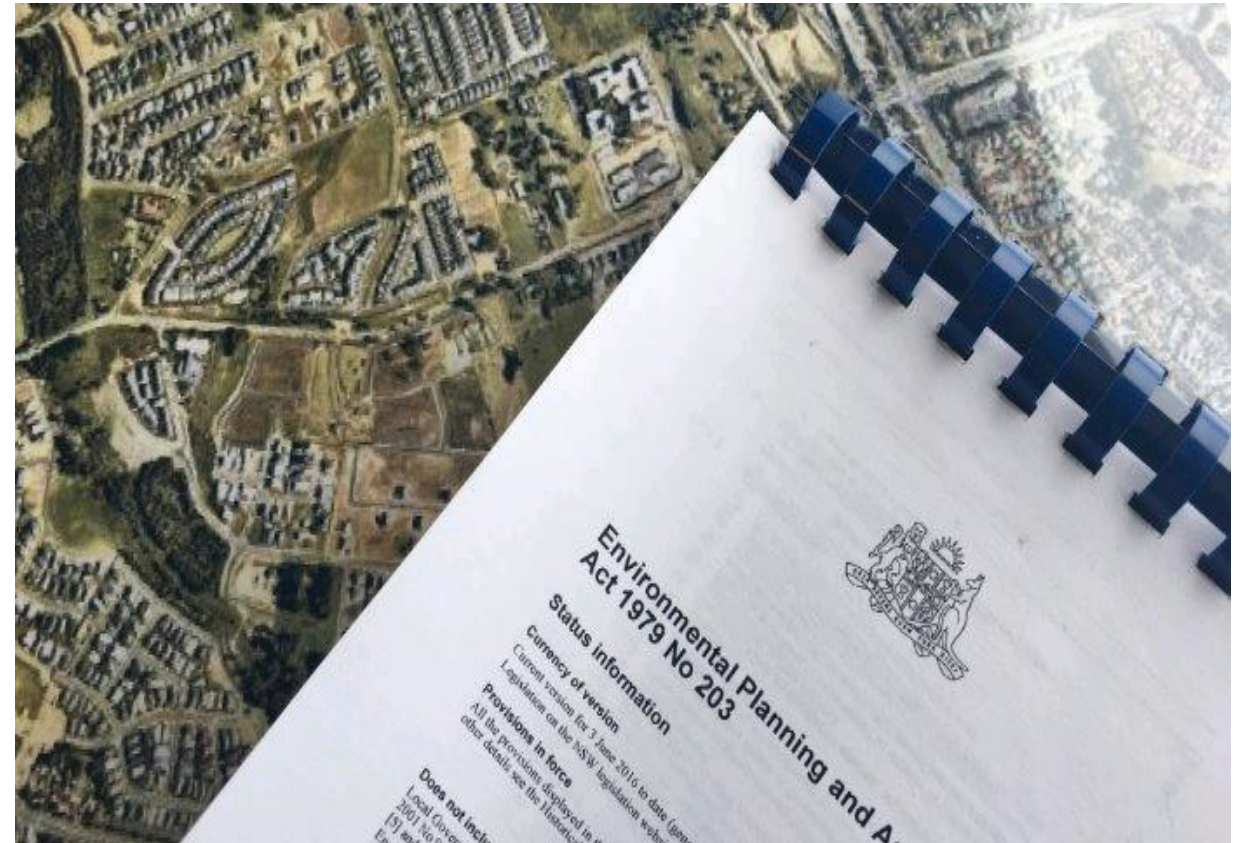
The story so far.....

| | |
|----------------------|---|
| December 2013 | Planning Bill defeated |
| Nov 2014 | EP&A Amendment Bill 2014 assented to (enforcement) |
| Nov 2015 | Greater Sydney Commission Bill 2015 assented to |
| August 2017 | EP&A Amendment (Staged Development Applications) Act 2017 assented to |
| August 2017 | EP&A and Electoral Legislation Amendment (Planning Panels and Enforcement) Act 2017 assented to |
| November 2017 | EP&A Amendment Bill 2017 passed |
| 1 March 2018 | Local planning panels commenced EP&A Amendment Bill 2017 commenced |

2017 updates: The best of the left over bits

Aims

- to enhance community participation
- to promote strategic planning
- to increase probity and accountability in decision making
- to promote simpler, faster processes for all participants



Source: <https://www.linkedin.com/pulse/key-planning-reforms-developers-miners-major-projects-michael-zissis>

Housekeeping amendments

- New 10 part structure
- Decimal numbering
- Bye bye to the lingo
 - No more “section 79C”



Source: <https://ronnydejong.com/2018/04/11/keep-your-microsoft-intune-tenant-clean-and-tidy-w-azure-automation-graph-api/>

Community Participation Plans

- “Planning authorities” to prepare a community participation plan
- Must have regard to principles in s. 2.23(2) of EP&A Act
- Regs to provide further detail
- To be published on NSW Planning Portal



Source: <https://www.planning.nsw.gov.au/assess-and-regulate/development-assessment/independent-hearing-and-assessment-panels>

Community participation requirements

- Schedule 1, Part 1 – Mandatory requirements
 - Current minimum public exhibition requirements to be updated
eg 14 days for all local development
 - Mandatory notification requirements for certain decisions:
 - the decision
 - date of the decision
 - reasons for the decision (having regard to any statutory requirements applying to the decision)
 - how community views were taken into account in making the decision
- Regulations can require applicants to consult in relation to DAs (Sch 1, cl 24)

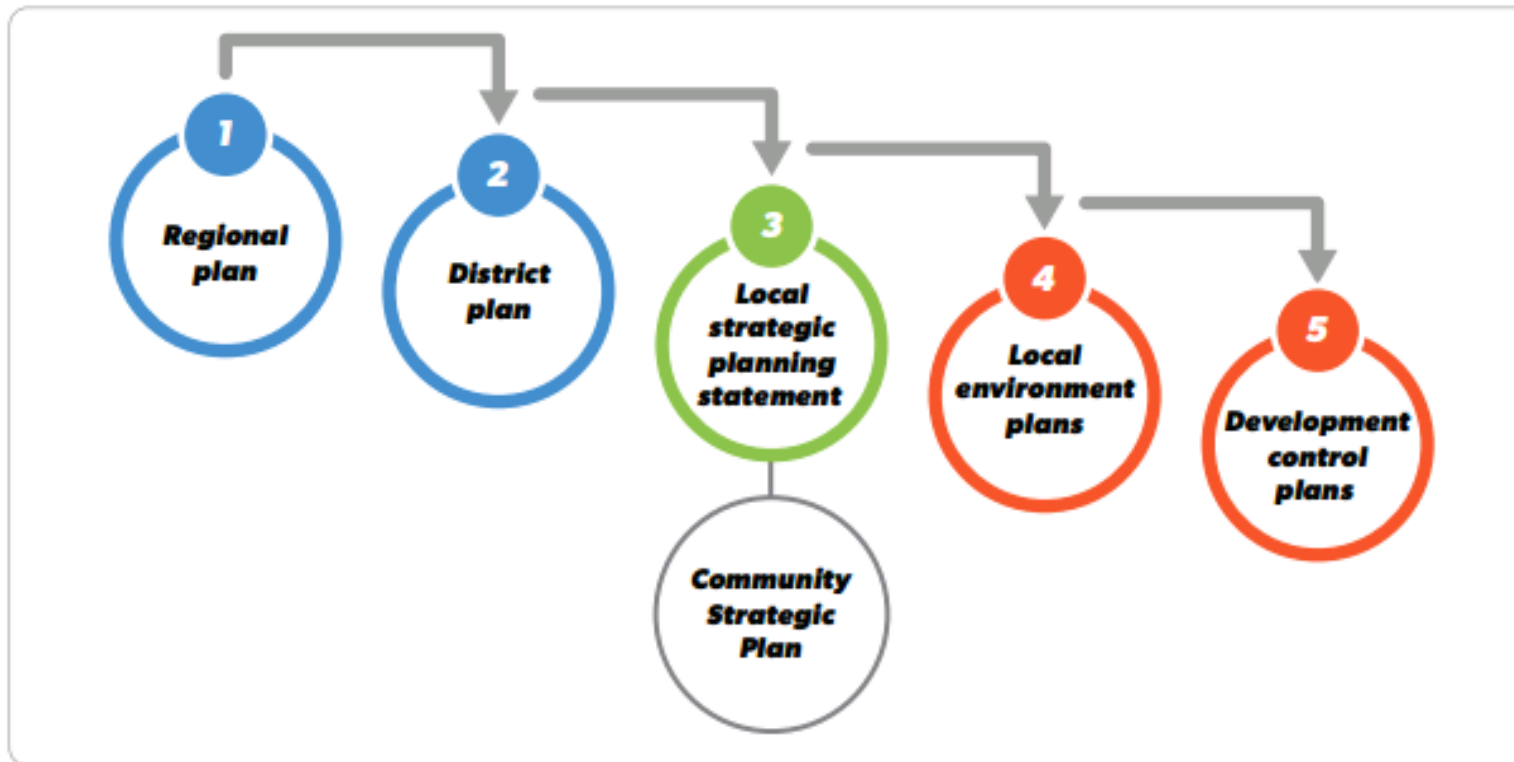
REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

1. The proposed development will provide additional social facilities servicing the needs of the diverse community in the rapidly expanding Sydney Western City District and the Fairfield local government area.
2. The proposed development adequately satisfies the relevant State Environmental Planning Policies including State Environmental Planning Policy No 55 – Remediation of Land and State Environmental Planning Policy (Infrastructure) 2007.
3. The proposal adequately satisfies the applicable provisions and objectives of Fairfield Local Environment Plan 2013 and Fairfield Citywide Development Control Plan 2013.
4. The proposed development, subject to the conditions imposed, will have no unacceptable adverse impacts on the natural or built environments, including the rural character of the locality, the local ecology or riparian systems, the operation of the local road system or the amenity of nearby existing residential premises.
5. In consideration of conclusions 1-4 above it is considered the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

Local Strategic Planning Statements

Figure 2: Completing the line of sight in strategic planning



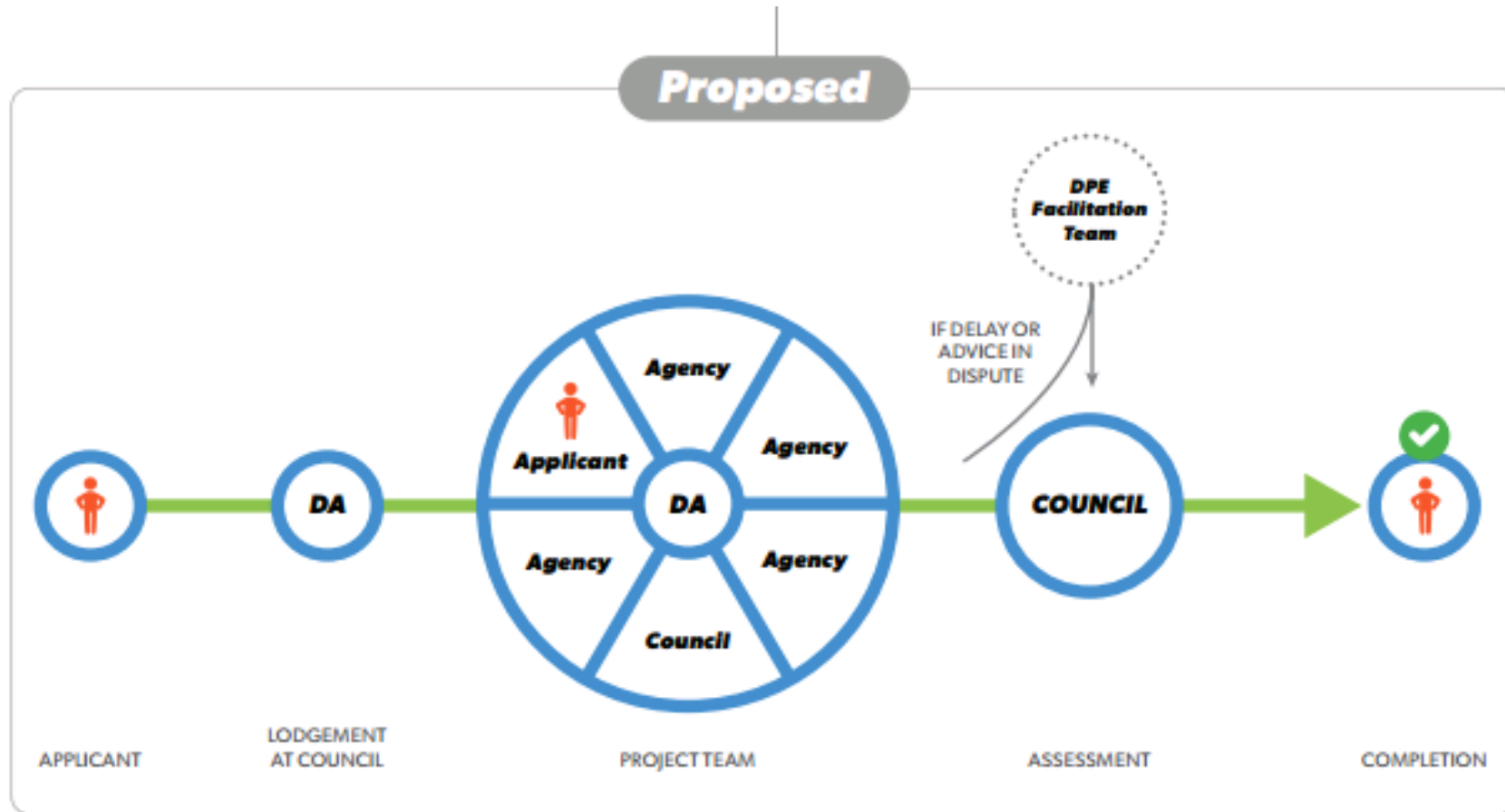
Standard Development Control Plans

- Currently more than 400 DCPs across NSW
- Minister authorised to make regulations requiring the standardisation of DCPs
- Aims to:
 - increase consistency; and
 - make DCPS more user-friendly



Source: <https://www.theleader.com.au/story/5089813/decision-on-north-kogarah-precinct-development-control-plan-deferred/>

Changes to integrated development



Changes to complying development

- Court may declare that a CDC is invalid if the Court determines it was not complying development
 - *Trives v Hornsby Shire Council* [2015] NSWCA 158
- Proceedings to be brought within **3 months**



Source: <http://elementreedrafting.com.au/what-is-a-complying-development-certificate/>

Decision making

| Development | Consent authority |
|--|--|
| SSD | Minister or <i>Independent Planning Commission</i> |
| Regional Development Eg Development with CIV > \$30 m | <i>Sydney/Regional Planning Panel</i> |
| Local development <ul style="list-style-type: none">• >\$5m• Conflict with staff or Councillor• >10 submissions received• Departure from standards• Sensitive development | Council or <i>Local Planning Panel</i> (where one in place) |
| Local development (other) | Council |

Local planning panels

- Compulsory for Wollongong and Greater Sydney Region
- 4 members comprising:
 - approved independent chairperson
 - 2 other approved independent persons with relevant expertise
 - representative of the local community who is not a councillor or mayor
- Subject to any directions of the Minister under section 9.1
 - Eg see <https://www.planning.nsw.gov.au/~media/Files/DPE/Other/local-planning-panels-direction-development-applications-2018-02-23.ashx>

Staged commencement of reforms

| New obligation | Estimated commencement |
|--|---|
| Ending transitional arrangements for Part 3A | 1 March 2018 |
| Local Planning Panels | 1 March 2018 |
| Changes to concurrences and referrals | 1 March 2018 |
| Changes to conditions for major projects | 1 March 2018 |
| Enforceable undertakings | 1 March 2018 |
| LEP checks | 1 March 2018 |
| Standard form development control plans | 1 March 2018 |
| Improvements to complying development | Proceedings commenced after 1 March 2018 |
| Statements of reasons | 1 July 2018 |
| Building and subdivision | 1 September 2018 |
| Local Strategic Planning Statements | 1 July 2019 (GMR) 1 July 2020 (the rest) |
| Community Participation Plans | 1 July 2019 |

Where to from here

- Draft Regulation to be released later in 2018?
 - Issues paper was published by DPE in September 2017
 - Public consultation on the issues paper closed 24 November 2017
 - Feedback and submissions are currently being considered
- Ongoing review of SEPPs

Contacts



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