

7 July 2010

Ms Gabrielle Kibble AO
Chair
CSPC Review Panel
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email: paula.poon@planning.nsw.gov.au

Dear Ms Kibble

Re: Submission to the Central Sydney Planning Committee independent review

The Urban Taskforce is a non-profit organisation representing Australia's most prominent property developers and equity financiers. We provide a forum for people involved in the development and planning of the urban environment to engage in constructive dialogue with both government and the community.

The Central Sydney Planning Committee/City of Sydney is responsible to the most significant area of urban land in Australia. While it covers just 26 square kilometres the economic activity generated in the City of Sydney is approximately \$80 billion, representing 8 per cent (nearly one-twelfth) of the total national Australian economy, over 30 per cent of the Sydney metropolitan area and almost one-quarter of the GDP of the entire state of NSW.¹

The City of Sydney is the location of almost 40 per cent of the headquarters of the top 500 Australian corporations and almost half of the regional headquarters of multi-national corporations in Australia. Overall the City has a working population which is just over four per cent of the Australian total workforce and includes 20 per cent of the entire Australian finance sector.

According to Department of Planning figures, in 2006, there were just 166,000 residents in the City of Sydney, but 429,000 people worked in the local government area. These job numbers are expected to grow, by 130,600 (30 per cent) over the period to 2036. In fact, the job growth in the City of Sydney alone is projected by the Department of Planning to account for 17 per cent of all of Sydney's employment growth over the 30 years to 2036.

Unsurprisingly, in light of this job growth and the high quality of the City's public transport, the Department of Planning is expecting the City of Sydney to play a major role in providing the extra new homes that Sydney desperately needs. The number of dwellings is predicted to jump by 63,000 (71 per cent) from 88,300 to 151,300. This isn't just some distant goal. This trajectory requires a 31 per cent boost to housing in the City of Sydney by 2016.

Extra housing, of course, means extra residents. While the 30 year projection of the Sydney metropolitan area assumes a 40 per cent increase by 2036, the job-rich and public transport-rich City of Sydney is expected to house 60 per cent more people. That's an extra 99,200 extra people living close to public transport and/or able to work or cycle to work.

These targets are appropriate and fit in well with the State Plan. State Plan Priority E5 states that the government wants to provide "jobs closer to home" and Priority E7 is to "improve the efficiency of the road network". However the current institutional arrangements are not going to allow these goals to be achieved. This submission addresses the flaws in the institutional arrangements and maps out a recommended way forward.

¹ 2007-2008 figures.

1. **The City of Sydney should not be given special treatment under Part 3A**

The *State Environmental Planning Policy (Major Development) 2005* declares any residential, commercial or retail projects with a capital investment of more than \$100 million to be subject to Part 3A of the *Environmental Planning and Assessment Act 1979*.² However, "major development" under the *City of Sydney Act 1988* is exempt from this declaration. This is defined as development to be carried out within, or partly within, the City of Sydney that:

- exceeds \$50 million in cost; or
- is development proposal that would not comply with an environmental planning instrument that applies to the land concerned; or
- development referred by the Minister for Planning.³

The City of Sydney is the only council area where a \$100 million urban development project must be routinely assessed by council staff, rather than being dealt with by the Department of Planning as state or regionally significant development. There is no policy rationale for this exemption.

According to the NSW Government's own explanation when it introduced Part 3A, the provisions:

provide a more appropriate regime for the assessment and approval of major investment in New South Wales. It will provide up-front certainty for complex projects by introducing concept approvals Red tape is cut by replacing single issue assessment processes and approvals with one integrated process delivering better environmental outcomes. Rigour, transparency and independence are strengthened ...⁴

All of these benefits are denied to major projects in the City of Sydney.

The need for these policy considerations is not reduced merely because a development application relates to land in the City of Sydney, as opposed to Woollahra, Marrickville or Leichhardt. No state government should wash its hands of major high density apartment development, new shopping centres or innovative commercial precincts, yet that is exactly what is happening with development exceeding \$100 million in the City of Sydney.

Role of Part 3A

Part 3A offers a more robust system of approval than the conventional Part 4 of the Act. Part 3A is one of the few parts of the NSW planning system that has been vaguely functional in recent years.

While there have always been special rules in the state's planning laws allowing the state government to deal with 'state significant' projects, Part 3A is not just about "state significant" development.

It is also about "regionally significant" development. The difference is important, because a subregional shopping centre, a 200 home apartment development or a \$70 million greenfield development may not be crucial to the state as a whole, but they will be vital to regions within the state.

For example, the development of a large-scale high density residential community in the City of Sydney reduces the need for people to live in other local government areas. As the City of Sydney is blessed with a relative wealth of high quality transport services (and in fact is the central hub of the City's transport network), increased housing in the City of Sydney, closer to Sydney's major centre of employment, means reduced congestion across the city.

Integrated decision-making

Part 3A is different from the standard approval process under NSW's planning law because it integrates an otherwise fragmented decision-making process. For example, a developer who

² Clause 6; Schedule, item 13.

³ Section 31.

⁴ The Hon. Craig Knowles, Minister for Infrastructure, Planning and Natural Resources, NSW Legislative Assembly Hansard, *Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Bill* (27 May 2005).

wants to build a high density development will often need to first seek a rezoning, which can take years, before separately applying for a development application. A Part 3A application can combine the request for the rezoning and the development approval into a single approval process – dramatically shortening the time, resources and cost in getting approvals. Given that the City of Sydney is NSW's most desirable location for high density development, this integrated decision-making process does need to apply in the City in the same way as it applies in other local government areas.

What's more, Part 3A makes the development application process work better by overriding 12 other acts of parliament. This removes the need to secure separate approvals from agencies such as the Heritage Council and the Department of Environment, Climate Change and Water. Under Part 3A, the Department of Planning acts as unified approval authority. They consult other agencies, but they are responsible for making the decision. Neither the City of Sydney, as local government authority, nor the Central Sydney Planning Committee (which functions as an arm of the City) has the authority to override obstinate state government agencies. Only the Department of Planning, exercising powers under Part 3A, can perform this role.

Expertise

Most councils lack the resources and expertise to assess major development of \$100 million or more properly. This is hardly surprising, given that there are 152 councils and most of them don't have enough critical mass to carry out assessment properly - each council would receive few major project applications.

Of course, the City of Sydney clearly receives a greater number of larger development applications than other councils. For example it received eight development applications with a value exceeding \$50 million in 2008-2009.⁵ Nonetheless, this is a modest figure when compared to the 148 projects the Department of Planning subjected to Part 3A in 2008-2009.⁶ Clearly, the Department of Planning will have a greater depth of expertise to handle large projects given the volume it already manages.

The State Environmental Planning Policy (Major Development) 2005 should be amended so that the existing provision excluding "major development" under the City of Sydney Act 1988 is removed.

2. The City of Sydney should not be exempt from the joint regional planning panels system

The decision, taken in July last year, to exempt the City of Sydney from the most recent round of planning reforms is inexplicable.

Despite going to considerable efforts to develop a new, more efficient corruption resistant system to determine development applications of \$10 million or more, the NSW Department of Planning has exempted the local government area with the largest number of development applications of this kind.

According to the NSW Government's own statements when it introduced the joint regional planning panel system, the panels

are designed to strengthen confidence in decision making and increase accountability.⁷

The panel system

aims to provide greater transparency and objectivity in the determination of developments of regional significance. Regional panels will ensure that projects of regional significance are determined by independent experts, particularly developments where the council has an interest in the proposal. Councils will continue to be responsible for undertaking the assessment of development applications as they currently do, but the panels can provide greater consistency in the determination of these regionally significant developments across the region.⁸

⁵ NSW Department of Planning, *Local Government Performance Report 2008-2009* (2010).

⁶ NSW Department of Planning, *New South Wales Major Development Monitor 2008-2009* (2010).

⁷ The Hon. Frank Sartor MP, Minister for Planning, NSW Legislative Assembly Hansard, *Environmental Planning and Assessment Amendment Bill 2008* (12 August 2008).

⁸ Ibid.

Crucially, the panels were established to make the planning system more corruption resistant.

In addition, the establishment of the regional panels with both State members and local nominees will address a key concern expressed by the Independent Commission Against Corruption in relation to corruption risks associated with local council decision making.⁹

Originally, the joint regional planning panels were going to solely deal with commercial or retail development over \$20 million and residential/mixed-use development over \$50 million. However in October 2008 the Independent Commission Against Corruption recommended that the new regional panels be given greater authority to decide development applications, as part of an effort to reduce corruption risks.¹⁰ As a direct response to this recommendation the panels' jurisdiction was broadened to include all private sector urban development projects of \$10 million or more.¹¹

The decision to exempt the City of Sydney from the joint regional planning panels means that the decision-making process for development applications, valued at between \$10 million and \$50 million, lacks the involvement of independent experts as decision-makers. The ICAC itself has observed, in a local government context, that a system which involves independent expert advisors is no substitute for a system that involves independents as decision-makers.¹²

The ICAC's concerns were re-emphasised in April this year when it released a study concluding that

research results indicate that local councils face a wider range of corruption risks than state agencies. ... Local councils also appear less likely to use the management controls that are important to sound corporate governance.¹³

A joint regional panel should be established in relation to the City of Sydney to deal with commercial, residential and retail development applications of more than \$10 million (and other applications as per the generally applicable criteria for the panels).

Our preference would be for the Central Sydney Planning Committee to be replaced by a joint regional planning panel. We appreciate that this may require amendments to the *City of Sydney Act 1988*. In the event that this is not considered practicable, a joint regional planning panel should have responsibility for projects in the \$10 million to \$50 million range.

The NSW Government's Metropolitan Strategy says, the central area of Sydney, together with North Sydney, makes up "Global Sydney". It is supposed to be a focus for world class business, tourism, cultural, health, education and entertainment activities. We have separately criticised North Sydney Council's plans for its central business district. North Sydney has been treating its central business district like an Adelaide suburb - ignoring the area's importance to Sydney's status as a world city.

We recommend that the North Sydney Council area and the City of Sydney Council area be grouped together as Sydney's third joint regional planning panel.

We note that the Lord Mayor, Ms Clove Moore, has said:

Inner city residents are concerned that the recently announced Central Sydney Planning Committee [CSPC] review is not genuine but is part of a plan to abolish the Central Sydney Planning Committee and transfer developments above \$100 million to the Minister for Planning, and impose a Joint Regional Planning Panel [JRPP] for developments between \$10 million and \$100 million.¹⁴

Apparently, any review that recommends the abolition of the Central Sydney Planning Committee, is inherently "not genuine". This notion should be rejected. The abolition (or at least a scaling back of) of the Central Sydney Planning Committee is an appropriate response to the term of reference of the review.

We also note that Ms Moore has said that:

⁹ Ibid.

¹⁰ ICAC, *Report on an investigation into corruption allegations affecting Wollongong City Council Part Three* (2008) 11.

¹¹ Office the Hon. Kristina Keneally MP, Minister for Planning, New Release: "Delegation and Depoliticisation to deliver better planning decisions" (6 November 2008).

¹² ICAC, *Report on an investigation into corruption allegations affecting Wollongong City Council Part Three* (2008) 11.

¹³ ICAC, *Profiling the NSW Public Sector II: Differences between local and state government April 2010* (2010) 5.

¹⁴ Statement by Clover Moore MP, Lord Mayor of Sydney <<http://www.clovermoore.com/main/?id=3559>> at 7 July 2010.

In fact, the city's determination times would be slowed under the \$10 million joint regional planning panel threshold, as up to 25 applications a year determined under staff delegation would be transferred to the joint regional planning panel.¹⁵

Again, Ms Moore misses a key public policy reason for the introduction of the joint regional planning panels – that it was to reduce corruption risks in the planning system.

3. Less than 50 development applications a year would be affected by any change in arrangements

In defence of the status quo, the Lord Mayor, Ms Clover Moore says that:

Of the 2,305 applications we assessed, only 2.4 per cent came before council or the City of Sydney Planning Committee, 97 per cent were determined under delegation by our very competent planning staff. Based on process and determination times, the State Government should transfer logically more of the State's major development, including part 3A projects, to the City of Sydney Planning Committee.¹⁶

No-one is suggesting that anything other than a tiny minority of these 2,000 plus development applications should be dealt with by anyone other than the City of Sydney's staff. In 2008-2009:

- there were 33 development applications of \$5 million to \$20 million in value;
- there were four development applications valued from \$20 million and to less than \$30 million;
- there were 10 development applications valued from \$30 million to less than \$50 million; and
- there were eight development applications in excess of \$50 million.

At its highest, based on this data, we're talking about up to 40 development applications being dealt with by a joint regional planning panel each year, and eight or less development applications being dealt with under Part 3A.

The remaining 2,257 development applications would continue to be dealt with by the council.

Of course, whilst the sheer number of these applications affected by the change would be small; they *are* the applications that are of regional/state significance. Therefore should be dealt with in a manner that reflects their importance to both the residents of the City of Sydney and those that live and work in the broader Sydney community.

Just to further highlight how irrelevant the figure, from the 2,300 development application is; it is worth noting that in 2008-09 61 per cent of the City of Sydney's development applications related to commercial/retail development. Commercial office development is not politicised by the council (and not-in-my-backyard activists) to the same degree as residential development. Additionally, the greater bulk of these development applications were relatively straightforward fit outs and the like. Few involved the construction of entirely new commercial buildings.

In fact, in 2008-2009 only one per cent of the City of Sydney's development applications related to multi-unit residential development (just 24 development applications) yet it accounted for 13 per cent of Woollahra's (101 applications), 7 per cent of North Sydney's (36 applications) and 3 per cent of Parramatta's (27 applications).

These development applications are small in the totality of the mix of matters considered by the council, but nonetheless represent important additions to the housing supply in an area rich with high quality public transport services. The regional significance of the City of Sydney's housing supply is apparent when you consider that in 2008-2009, 1,241 new higher density homes were approved in the City of Sydney.¹⁷ This well over the total (1,068) of all apartments approved in Botany, Leichhardt, Marrickville, Randwick, Waverley and Woollahra.

¹⁵ Ibid.

¹⁶ <<http://www.clovermoore.com/main/?id=3559>> at 7 July 2010.

¹⁷ Australian Bureau of Statistics, 8731.0 - Building Approvals, Australia, May 2010.

4. The quality of the City's/CSPC's decisions and processes is worse than that of other councils

According to the Lord Mayor, Ms Clover Moore:

The City has the resources and expertise to continue achieving quality planning outcomes and the Central Sydney Planning Committee has an outstanding reputation for efficient and effective planning and development assessment.¹⁸

This statement is not accurate.

The City's decisions are more likely to be reversed in court than other councils

The City of Sydney deals with more development applications than any other council so, not surprisingly, it has more merit appeals lodged against its decisions in the Land and Environment Court than most councils. However, what is surprising is the fact that in the majority of cases (55 per cent), the council loses; that is, the development applicant's appeal is upheld. Of the 61 councils which faced merit appeals in the Land and Environment Court in 2008-2009 the City of Sydney was ranked in the worst performing half (i.e. it was the 36th).

The City of Sydney/CSPC's decisions are not timely

The City of Sydney, including the Central Sydney Planning Committee, is taking too long to approve large development applications and is therefore driving investment away from the city – and because the city's importance to the state – from NSW altogether. Long processing times for development applications and the uncertainty about the outcomes are now a major reason why developers haven't been investing in sufficient numbers.

We note that the City of Sydney claims it has been handling development applications in a timely way:

In the last financial year, the CSPC considered more than a quarter of the whole State's development over \$50 million. The City also did this effectively and efficiently, taking an average of 100 days less than other comparable development assessment.¹⁹

An Urban Taskforce analysis of the NSW Government's *Local Development Performance Monitoring Report 2008-2009* has ranked NSW councils based on the time it takes them to deal with major projects.

Of the 19 NSW councils that processed development applications of value \$50 million or more Sydney City Council ranks ninth. It's processing time of 273 days well behind those of Hurstville (104 days), Ryde (160 days) or Canada Bay (203 days).

Out of the 38 councils that processed development applications greater than \$20 million in value in 2008-2009 the City of Sydney ranks towards the bottom (24th) with an average processing time of 310 days. This compares with councils such as Hurstville (109 days), Ryde (160 days), Ku-ring-gai (175 days), Newcastle (180 days); and Parramatta (195 days).

Of the 84 councils who processed development applications in the \$5 million to \$20 million in range, the City of Sydney also ranks poorly (42nd) with an average processing time of 205 days. This compares with Ryde (59 days); Burwood (63 days) and Leichhardt (94 days).

Out of the 107 councils that processed multi-unit residential development applications the City of Sydney is ranked in the bottom half (57th) with an average processing time of 107 days. Let's contrast the performance of the City of Sydney with that of Woollahra which was 75 days or North Sydney, which was 81 days. Commercial/retail development decisions are decided, on average, in 55 days.

These are the average processing times only - many projects take much longer to be dealt with. They also not record delays and processing requests for rezoning. The City of Sydney is clearly ignoring the current legal benchmark – which is between 40 and 60 days to decide development applications.²⁰

¹⁸ Statement by Clover Moore MP, Lord Mayor of Sydney <<http://www.clovermoore.com/main/?id=3559>> at 7 July 2010.

¹⁹ "Red Alert" undated flyer circulated by the City of Sydney, bearing the signature of the Lord Mayor Clover Moore, July 2010.

²⁰ *Environmental Planning and Assessment Regulation 2000*, cl 113.

These delays can substantially increase the cost of building new homes and business premises. For those that still choose to invest, they must pass on to home buyers and tenants the cost of extra interest payments on debt and through the money tied up in unproductive capital. Of course, many choose not to invest in the face of excessive delays. This lost investment fosters the shortfall in the supply of housing and well-located workplaces.

The figures understate the problem because of the City's uniquely complex process

The *Sydney Local Environmental Plan 2005* is unique in that it mandates a multi-stage development process for large sites and development proposals. For example, a site exceeding 1,500 metres square or a proposal for a building exceeding 55 metres in height requires the preparation of a development plan, which must be approved by the CSPC.²¹ The development plan establishes a building envelope and is akin to a site specific development control plan or master plan. An applicant can apply for a stage 1 development application in lieu of development plan, but both have the same effect, and neither represents a final development approval that can be acted upon.²²

If the applicant lodges a development plan the time taken to assess the development plan application is not included in the Department of Planning's performance monitoring statistics. If the applicant lodges a stage 1 development application instead, the delays in dealing with the application are included in the official statistics. Either way the two applications must be lodged for each major development. So (assuming the applicant elected to apply for a stage 1 development consent in lieu of a development plan) **two consents are required, each potentially taking (for \$50 million plus development) an average of 273 days.** When this is considered, the City of Sydney would unquestionably be the worst performing council in Sydney.

Furthermore, this does not factor in the additional time required to run the mandatory design competition (where five architects must be engaged and the consent authority assumes the power to jointly choose the design of the building with the owner of the site).²³

The City of Sydney's performance is getting worse

The time taken by the City's of Sydney to process development applications is deteriorating, not improving. While the City's mean gross processing time for development applications of value \$5 million to \$20 million was 205 days (approx 7 months) in 2008-2009, in the previous year it was 186 days.

For projects of more than \$20 million was 310 days (approx 10 months) in 2008-2009, but in the previous year it was 224 days. In the \$50 million plus range, the average processing time was 273 days in 2008-2009, compared to 213 days in 2007-2008.

While the above figures relate to the performance of the Council in general, examination of reports to the CSPC paint an even more alarming picture of excessive development application processing times. The mean gross age of applications to be considered by the CSPC has been trending upward since the beginning of 2008. In August 2009, mean gross age of applications to be considered by the CSPC exceeded 350 days.²⁴

Despite the rhetoric about getting the planning system working again, the situation has deteriorated for those wanting to invest large sums in NSW.

5. The City of Sydney has conceded there is a problem, but is resisting solutions

In the City of Sydney's *Sustainable Sydney 2030: The Vision* – a document that has been praised by the Urban Taskforce, the City says this of the current state of the City's housing supply:

²¹ *Sydney Local Environmental Plan 2005*, cl 23 and cl 25 .

²² *Sydney Local Environmental Plan 2005*, cl 23(5)(a).

²³ *Sydney Local Environmental Plan 2005*, cl 26; *Central Sydney Development Control Plan 1996* Part 12.

²⁴ Report to the Central Sydney Planning Committee 11 March 2010. Item 5

<http://www.cityofsydney.nsw.gov.au/Council/documents/meetings/2010/CSPC/110310/100311_CSPC_ITEM05.pdf> at 23 June 2010.

Housing supply is not keeping pace with demand. ... Development controls and approval processes can constrain efficient supply side responses.²⁵

The Council's vision document requires that by 2030

Future land supply for residential development is *maximised*, consistent with provision for employment uses and environmental and other objectives. Strong housing growth occurs in areas serviced by infrastructure (emphasis added).²⁶

Yet, as part of a campaign launched by the Lord Mayor, Ms Clover Moore, against the prospect of improved planning arrangements, the City says:

The Government's record on planning in our villages has already resulted in inappropriately dense development and increased traffic impacts on our congested City streets.²⁷

Frankly, we cannot reconcile these two statements. The Council accepts that housing supply is running short of the community's needs, but the chair of the CSPC (Ms Moore) says the development that is taking place in the City at the moment is already "inappropriately dense". Clearly, the CSPC chair does not accept the need for higher density urban development within the City of Sydney. In that context, it will be difficult to understand how either:

- the City will contribute to reducing the housing undersupply; or
- how the State Plan objectives to get more people living close to work and public transport will be achieved in relation to our most important centre of employment and transport hub.

Ms Moore says that:

The CSPC is also vital in ensuring that key strategic planning sites such as Harold Park are not overdeveloped at the expense of community amenity simply because property owners want to maximise their profits.²⁸

Ms Moore apparently is not aware that the *Environmental Planning and Assessment Act 1979* does not allow a site to be "overdeveloped" merely to assist property owners maximise profits whoever the decision-maker is. The objective of the planning system is to align development outcomes with the public interest. At times, people will disagree about the appropriate level of development of a site, but under the planning laws, as they stand, the profits that a private property owner may or may not make is not a relevant consideration.²⁹ Any decision-maker who issues an approval on such a basis would be subject to legal challenge in the Land and Environment Court.

6. Local residents should have a say, but so should local workers and every other Sydneysider who cares about the city

Development approval can be described as a "closed system" decision-making process.³⁰ Such a system is characterised by a defined set of stakeholders that can directly influence the outcome of a decision.³¹ Development systems become closed primarily through two factors – the basic preferences of local voting population, who tend to be averse to change, and the planning laws, which tend to magnify the preference of those resident voters.³² Incumbent business operators, who play an important role for local government at election time, have strong vested interest in mobilising campaigns against new developments that may place them under competitive pressure.

²⁵ City of Sydney, *Sustainable Sydney 2030: The Vision* (2008).

²⁶ Ibid.

²⁷ "Red Alert" undated flyer circulated by the City of Sydney, bearing the signature of the Lord Mayor Clover Moore, July 2010.

²⁸ Ibid.

²⁹ *Patra Holdings Pty Ltd v Minister for Land and Water Conservation* (2001) 119 LGERA 231, 237; *Bryant v Beaudesert Shire Council* (1978) 37 LGRA 339, 341; *South Parkfield Pty Ltd v Western Australian Planning Commission* (1997) 18 SR (WA) 314, commented upon by Barker J in *Ingram v Western Australian Planning Commission* [2003] WASCA 77.

³⁰ S Staley, "Markets, smart growth and the limits to policy", *Smarter Growth* (2001) 201-217.

³¹ Ibid.

³² S Staley and EW Claeys, "Is the future of development regulation based in the past? Toward a market-oriented, innovation friendly framework", *Journal of Urban Planning and Development* (December 2005), 202-213, 203.

This closed system approach tends to exclude consideration of the interests of future residents, neighbouring local government areas and non-resident third parties.³³ This approach becomes particularly problematic when communities are faced with accommodating innovative development proposals.³⁴

By their nature, innovative proposals break from traditional existing patterns of development.³⁵ Yet, planning procedures give the most weight to participants with an inherent interest in preserving existing development patterns, and the least to the future residents or the beneficiaries of community changes.³⁶ Growth management and consistency requirements create a presumption against change.³⁷

Planning authorities will reduce their own legal risks if they continue to enforce the status-quo, but increase considerable litigation and judicial review if they pursue policies that favour spontaneous or unanticipated changes.³⁸

Research has established that implementation of regional land use policies, such as increasing land use mix and residential density along a transport corridor is near impossible unless there is a significant shift in land use planning authority from local government to a higher level organisation.³⁹

Local politicians have greater influence over the CSPC than they do over the newer joint regional planning panels established in all other local government areas. For example, the Lord Mayor chairs the CSPC and controls the agenda, while joint regional planning panels are independently chaired. Sydney is Australia's only global city – commercial, retail and residential development in the City of Sydney is absolutely crucial to the whole metropolitan area. The City of Sydney is situated at the hub of the public transport and road network.

For every two residents of the City of Sydney, five people work in the City. That's 429,000 workers compared to 166,000 residents. On top of this many thousands more visit the City every day and feel a deep and passionate commitment to it. In short, more than any other local government area, the public realm of the City of Sydney belongs to many more people than just its existing residents. Yet the Lord Mayor, Ms Clover Moore, has made her priorities as chair of the CSPC clear:

I speak up for residents. I prepare submissions and advocate for residents affected by developments and construction. My Independent Team of Councillors at the City determines development and shares my commitment.⁴⁰

The chair of every joint regional planning panel is an independent person, with a responsibility to deal with the regionally significant development (\$10 million plus) for the whole community, not just local residents. Yet in the City of Sydney the CSPC chair defines her role as being solely about the interest of existing residents and defines that role in terms of the impact of developments and construction (rather than, say, affordable rents, housing choice, effective utilisation of the state's sunk investment in public transport, reducing congestion across the Sydney metropolitan area, etc).

Ms Moore says that:

If The Premier gives developers their wish and removes the CSPC, residents will no longer have a say in large development, which could significantly impact on our CBD and surrounding villages.⁴¹

This is incorrect. Neither Part 3A, nor a joint regional planning panel, will deprive residents of their say. They will be free to participate in the decision-making process. It is not necessary for

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

³⁸ S Staley and L Gilroy, "Smart Growth and housing affordability: Lessons from statewide planning laws", *Policy Study No 287*, Reason Foundation, Los Angeles.

³⁹ Downs, A. 2005, Smart Growth: Why we discuss it more than we do it. *Journal of the American Planning Association*. Vol. 71, No. 4, pp. 367-378.

⁴⁰ <<http://www.clovermoore.com/main/?id=9>> at 7 July 2010.

⁴¹ "Red Alert" undated flyer circulated by the City of Sydney, bearing the signature of the Lord Mayor Clover Moore, July 2010.

residents to control a process in order to "have a say". Having a say means that the decision-makers listen to you and take your concerns into account; it should not be equated to a veto.

A joint regional planning panel includes two council nominees in any event, so Ms Moore would be able to continue to represent residents on this body, if she so desired. Additionally, there are opportunities for residents and others to make submissions, in a transparent way, whenever key decisions are made either by a panel or under Part 3A. Ms Moore also says that:

Government preoccupation with development has left many residents vulnerable, our unique heritage under threat, and our environment unprotected.⁴²

There is no better place for higher density urban development than the City of Sydney, yet projects can face great difficulties when the CSPC is pressured by resident groups. An inflexible and overly politicised decision-making process, for state and regionally significant projects, leaves all of Sydney worse off.

7. The presence of the CBD is no justification for the exclusion of Part 3A and JRPPs

The Lord Mayor, Ms Clover Moore, says the review

It cannot be assumed that the CSPC model would readily transfer to other regions in the form of Joint Regional Planning Panels (JRPP). The City of Sydney central business district is unique, hundreds of thousands of people visit the area everyday and major development projects are a regular occurrence.

We agree that the Sydney central business district is unique and that hundreds of thousands of people who do not get to vote in the City of Sydney elections have a direct interest in what happens in the City. However, this is an argument for stronger involvement of independent expertise and state government appointees in the decision-making process, rather than less.

The CSPC has not coped well with the expansion of the City's boundaries in 2003 and 2004. Since the CSPC started dealing with development applications in the more suburban areas of the expanded City of Sydney, it has been heavily pressured by not-in-my-backyard resident activists. As we have previously discussed, the community as whole has as strong interest in the future of the City of Sydney, and the state government, as an obligation to ensure the interests of future residents, workers and those dependant on a less congested planning system are addressed in the planning process.

8. The existing requirement for collaboration between the City and the State in the development of planning proposals should be retained

The current provisions of the *City of Sydney Act 1988* prevent the City of Sydney from preparing or submitting a "planning proposal" (i.e. a rezoning proposal) without the approval of the CSPC.⁴³ In certain circumstances the CSPC has the power to direct the City Council to prepare/submit a planning proposal.⁴⁴

This role has no direct parallel outside of the City of Sydney, and arises from the need for the state government and the City of Sydney to closely collaborate, at a very early stage in the plan-making process, due to the overall significance of the City to NSW. This role should not be lost, and accordingly, should be dealt with in one of three ways:

- if the CSPC is to continue – retained by the CSPC; or
- if there is to be a JRPP – vested in the JRPP.

It is also worth noting that the existing CSPC role has been undermined in recent times. The City of Sydney has attempted to define strategic planning directions in non-statutory documents, such as *Sustainable Sydney 2030*. Such documents are outside of the purview of the CSPC, but council officers might feel obliged to wholly or partly rely on such documents when forming recommendations on individual planning proposals or development applications. **This issue can**

⁴² <<http://www.clovermoore.com/main/?id=9>> at 7 July 2010.

⁴³ Section 39(1).

⁴⁴ Section 39(2).

be dealt with by requiring the CSPC (or JRPP) approval before any non-statutory document, prepared by council can be considered in development assessment/rezoning.

9. There should be no reduction of the role of specialist development authorities or place managers

The Lord Mayor, Ms Clover Moore, says the review

should aim to consolidate and coordinate inner city planning and development by transferring assessments from the multiple planning bodies including the Redfern-Waterloo Authority, Sydney Harbour Foreshore Authority, Barangaroo Delivery Authority, Housing NSW, ... to the city and the City of Sydney Planning Committee.⁴⁵

We do not support this recommendation. Each of these authorities has an important and distinct role to play.

These comments are offered to encourage constructive dialogue between Government and the development industry and we ask that you accept these comments as our contribution to the review of the Central Sydney Planning Committee.

Yours sincerely

Urban Taskforce Australia



Aaron Gadiel
Chief Executive Officer

⁴⁵ Statement by Clover Moore MP, Lord Mayor of Sydney <<http://www.clovermoore.com/main/?id=3559>> at 7 July 2010.