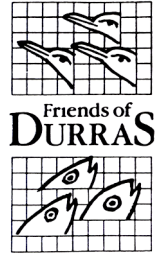


FRIENDS OF DURRAS INC.

P.O. Box 174, Batemans Bay, NSW 2536
www.friendsofdurras.org



28 June 2013

SUBMISSION TO THE WHITE PAPER AND PLANNING REVIEW *of the Government of New South Wales, 2013*

The Friends of Durras is an organisation established in 1985 with the goal of defending and improving the ecological integrity and natural values of Durras Lake, Durras village and adjoining privately-owned land, local beaches and Murramarang National Park.

The majority of the Friends of Durras members are South Durras residents and ratepayers, with a minority comprising individuals and families with longstanding links to South Durras. The village of South Durras is zoned as 'low density residential' (1), possessing characteristics of recognised heritage value (2). It is surrounded by National Park and by land proposed for zoning variously, as requiring environmental management or protection, or as public land assigned for recreational use (3). The wider area of South Durras and the village itself are effectively rural in practice and values, and have been maintained over many decades in an environmentally sensitive manner. The Friends of Durras therefore have a significant stake in policies and strategies to be considered by the Government in its White Paper and Planning Review.

The importance of protecting the natural environment in areas of particular interest to us is widely recognised. This is based on both the intrinsic values of the environment and the fact that the principal attraction of the South Coast is that its environment is, to a significant extent, still pristine. Tourism is minimally worth \$100 million annually to the Eurobodalla Community (4) and this figure does not take into account the significant economic contribution of non-resident ratepayers; both rely on the quality of the natural environment and a reduction in that quality would cause a corresponding decline in income from these sources over time.

Compared with the heavy development of coastal areas further north towards Sydney from the Eurobodalla Shire, and all along the north coast of NSW, the natural environment in Eurobodalla is strikingly well preserved and attractive. As population increases and developers seek new areas in which to work, pressure may well increase on the Government to facilitate developments that would destroy significant parts of the natural environment, in the name of economic returns. The Friends of Durras take the long term view that it would not only be better stewardship of the wonderful natural resources of this part of the State, but also better economic strategy, to ensure very careful scrutiny of development proposals with a view to preserving ecological integrity and associated benefits and enjoyment for future generations.

The Friends of Durras advocates increased research into, and support for, conservation-based rural tourism initiatives aimed at national and international visitors. The base for these must not be compromised by policy that would allow land developments to proceed without strong, evidence-based strategic planning. In the development of policy and strategic planning, and in implementation, there needs to be representation of expertise in areas including ecology, conservation, wildlife biology, environmental management and planning. To the extent that development may be warranted, we support measures to encourage consolidation of urban growth, but preservation of the conservation values of land adjoining rural villages.

Following are some more specific comments:

The broad and unrestrained powers of the Minister and other planning authorities to amend strategic plans (including Local Plans) without community consultation or community access to judicial review rights does not appear to be genuinely democratic.

These powers include the ability of Councils or other planning authorities to approve spot rezonings after Local Plans have been made; the ability of the Director-General of Planning to grant proponents Strategic Compatibility Certificates even if the proposed development is inconsistent with existing local planning controls in Local Environmental Plans; and the wide discretion of the Minister to call in State Significant Development.

The White Paper proposals have a narrow economic focus, but this is not sufficient for a new planning system.

Modern town planning developed out of the Public Health reforms of the mid-nineteenth century that were enacted to ensure that a safe and healthy environment was provided for people in their housing and workplaces. Town planning continued to evolve throughout the 20th century to address a broad range of environmental objectives, from threatened species conservation to urban design.

Environmental protections in existing planning instruments and policies are based on decades of research and experience, and their important protections must not be weakened or lost in the transfer to a new system. Existing statutory protections for Aboriginal heritage, koala habitat, littoral rainforest, coastal wetlands etc., wherever they occur and whether previously identified or not, need to be retained in the new planning system in order to ensure the protection of these unique cultural and natural heritage items.

Flexibility will be needed. As an example, mapping the land required for koala habitat (as in the example on p. 71 of the White Paper) is useful in choosing an appropriate environmental conservation zoning, but it is not practical to suggest that other parcels of land have no function as koala habitat, for example as movement corridors or refuges in the event of extreme weather events such as fire or flood. Mapping of important habitat and corridors is desirable but should not mean that other protections for animals are watered down for land not so identified. Similarly, wetlands and other natural phenomena may change over time and species may relocate. It is not possible to identify definitive boundaries and locations for the future. At best there may be an indication, but it will not be a complete picture.

The challenges of population growth and climate change during the 21st century highlight the need to continue provisions to protect the natural environment and the health and wellbeing of the community. These existing elements of the planning system should be retained for the future of NSW.

The objects of the new planning bill should include the elements in the objects of the present Act, such as environmental protection and conservation of cultural heritage, but with the addition of climate change mitigation and adaptation.

The objects of the new planning system need to identify the broad range of concerns and elements that will address all of the relevant aspects of urban and environmental planning which will be relevant for the future of NSW.

The performance of the planning system needs to be measured by a wide range of parameters not just dwellings and jobs as the White Paper suggests.

Effective measurements need also to include the ‘liveability’ of our communities, urban design and the quality of new built form, levels of affordable housing, public transport usage, ***protection of the environment and heritage, and progress towards ecologically sustainable development.*** There is currently no requirement to consider existing environment and natural resource management policies such as Catchment Action Plans, Regional Conservation Plans, Regional Strategies or the NSW Coastal Policy or existing statutory policies.

Local plans need to guarantee the long-term protection of areas currently zoned E1, E2, E3 and E4. The replacement of E3 and E4 zones with Rural and Residential zones is strongly opposed.

Zones E1, E2, E3 and E4 under the standard LEP instrument should be retained in the present proposals. These zones provide fundamental protection for our natural areas in NSW and the conservation and management of environmental values.

Friends of Durras strongly urge the reinstatement of the zoning category E3, ‘Environmental Management’, or adoption of an equivalent zoning designation offering the same (or greater) levels of protection to land which is ecologically important and potentially vulnerable.

Land proposed to be zoned E3 was deferred by Eurobodalla Shire Council at the time of signing off the 2012 LEP, in response to pressure from a very small lobby group. Zoning this land Rural would be a backward step. The E3 zoning was designed for application (a) to land which has ecological, scientific, aesthetic or cultural qualities, but does not meet the standards required for the higher levels of protection offered by E1 and E2 zoning, or (b) to land constrained by geochemical or other hazards.

The protection offered by E3 zoning has the potential to greatly benefit the wider community economically as well as environmentally. In addition to the environmental and ecological benefits resulting from E3 management requirements, E3 zoning provides a mechanism to assist in:

- maintaining the ecological integrity of high conservation-value E1 and E2 lands (e.g. National Parks and nature reserves). When E3 zoning is applied to land adjoining E1 and E2 zones, it provides an additional defence for these assets;
- enabling, supporting and enhancing rural tourism initiatives. Even where E3 land does not constitute a ‘tourist attraction’ in its own right, it may assist other tourism initiatives by contributing to a generally sympathetic ‘natural’ ecological culture and aesthetic;
- regulating water catchment areas (a) to achieve and/or maintain water purity and supply and (b) to protect wetlands ecology;
- preventing and, optimally, reversing the impacts of land erosion and other forms of land degradation (e.g. exposure of acid sulphate soils, watercourse contamination, endangerment of vulnerable native flora and fauna) through minimising human impact. It is well-established that excessive land clearing and over-use have already affected large tracts of land in Eurobodalla, and;
- managing potential environmental hazards to human safety through regulation of exposure to risk (e.g. bush fire).

All the above concerns were identified as important or critical in the Rural Lands Issues Paper prepared by Eurobodalla Shire Council¹, and it is reiterated that initiatives to achieve goals in these areas would be facilitated and/or supported by E3 or equivalent zoning.

All planning needs to be evidence based.

The White Paper promotes evidence based strategic planning, but there are no legislative requirements in the Planning Bill for the establishment of a robust and reliable evidence base that will underpin strategic planning. Scientific, factual and current data are required in order to develop effective long term strategic plans for areas of high natural and cultural conservation value, prime agricultural land, water resources, threatened species and endangered ecological communities. Knowledge of the existing state of the environment and an assessment of the impacts of planned future growth and development are pre-requisites to planning and policy preparation across NSW.

In a unique, natural environment such as Durras and the surrounding areas, there is a critical need for the development of an information base to integrate data regarding all aspects of the environment. While some of the potential information is readily available to State and Local government, there is a need for this to be expanded to allow for new data on a broad range of environmental and social characteristics to be prepared, maintained, and made publicly available. Information on threatened species, including shorebirds, gliders, koalas, etc. will be critical to inform planning decisions in the future regarding future urban development.

Local plans need to protect all existing heritage-listed items (both State and local) and all heritage conservation areas currently identified in Local Environmental Plans.

Strategic planning needs also to be comprehensively undertaken to identify currently unlisted heritage and establish new heritage conservation areas in the future. As it stands, the Planning Bill contains no recognition of the importance of Heritage Conservation Areas and no indication that Heritage Conservation Areas or items of local heritage significance will be afforded any protection.

The proposal that 80% of all development in NSW will be complying or code assessment development with limited environmental assessment and no community consultation is of serious concern.

Complying and code assessment should only be available for those developments that are genuinely low impact. This is not the case in the Eurobodalla Shire, where there are significant local characteristics, including sensitive natural and cultural values that should be protected for the wellbeing of the community and the environment.

The White Paper proposal for an Enterprise Zone carries very serious risks.

This new kind of zone, proposed to apply to a site or an entire local government area, with few if any controls over development, carries very serious risks. There is evidence from trials of the concept in other countries that it has been deemed unsatisfactory; it is unable to provide certainty for property owners and investors regarding future permissible development, in addition to the risks of allowing environmental damage without proper scrutiny. It would be much better not to adopt it in the NSW planning system.

¹ Eurobodalla Rural Lands Issues Paper 2013; see, for example, pages 9, 11, 17, 18, 22 and 23.

CONCLUSION

The social, economic and environmental values in and around the village of Durras require effective protection via the NSW planning system. The Friends of Durras seek assurances that the existing protections will not be lost or seriously weakened by the replacement of the existing planning system with a new planning system. To this end it is requested that the E3 zone be retained as the most appropriate zoning for the land in the Durras area deferred from draft LEP 2012.

The Friends of Durras stress the importance of maintaining careful scrutiny of developments proposed in NSW via the planning system. For the comparatively pristine natural environment of the south coast of NSW, especially, there is a need to avoid development that diminishes its attractiveness for the benefit of current and future generations. Urban development should not be permitted on an ad-hoc basis but instead be encouraged to consolidate within existing urban areas and subject to statutory provisions to manage and mitigate potential impacts. Ensuring effective community and expert consultation will continue to be essential.

Yours sincerely,

Dr Beth Heyde
Co-Secretary, Friends of Durras
27 June 2013