

Planning legislation updates 2017
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Via email: legislativeupdates@planning.nsw.gov.au

31 March 2017

Dear Sir/ Madam,

Re: Draft Updates to the Environmental Planning and Assessment Act

The Green Building Council of Australia (GBCA) commends the NSW Government on its commitment to ensuring the planning system is straightforward and delivers high-quality decisions and outcomes, through the Draft Updates to the Environmental Planning and Assessment Act (Draft Updates to the EP&A Act),

The GBCA, established in 2002, is an industry association committed to developing buildings, cities and communities that are productive, liveable, healthy, resilient and sustainable:

- **We rate** the sustainability of buildings and communities through Australia's only national, voluntary, holistic rating system – Green Star.
- **We educate** industry and government practitioners and decision-makers and promote green building programs, technologies, design practices and operations.
- **We advocate** for the sustainable transformation of the built environment.

The GBCA represents over 675 members from across industry and including 44 local governments, 26 state government departments and land organisations, and 18 universities. With a collective turnover of more than \$40 billion and employing more than 50,000 staff, our industry membership reflects the diversity of Australian business with over 500 small-to-medium enterprises through to 75 companies each with annual turnover of more than \$100 million. Industry members include major developers, professional services firms, banks, superannuation funds, product manufacturers, retailers and suppliers.

The GBCA appreciates the opportunity to provide comment as part of the public consultation on the Draft Updates to the EP&A Act. Comments from the GBCA are outlined below.

1. *The GBCA broadly supports the move to modernise the language of the legislation and encourages the Government to review and better prioritise objectives to better deliver sustainability through the objects of the EP&A Act.*

The GBCA commends NSW Government for working to modernise the language of the legislation. It is crucial that the planning system is not only transparent but also accessible to the community. Nevertheless, the proposed changes to the objects of the EP&A Act must be clearly understood to ensure no unintended consequences. It is important that ecologically sustainable development remains a central objective of the legislation, and any implications resulting from the change of wording from 'encourage' to 'facilitate' should be fully explained to ensure this objective is strengthened. Similarly the NSW Government should ensure that the provision and maintenance of affordable housing, as a key priority for the Government, remains a key objective of the Act. Maintaining 'affordable housing' as a separate objective would better indicate its weight, as an issue to be considered in the strategic planning and development assessment process.

2. The GBCA welcomes the introduction of promoting good design in the built environment, as a new object of the Act. We encourage the NSW Government to review the wording so that it emphasises the importance of having measurable outcomes.

The GBCA welcomes the move to place good design as a central objective of the legislation as design-led planning is integral to delivering optimum, sustainable outcomes for healthier, more productivity and resilient communities. The GBCA encourages the Government to review the wording so that it reads, “to promote good design and measurable outcomes in the built environment”.

It is often observed that what gets measured gets done. To that end the ability to measure the success of design-outcomes is in itself a critical characteristic of good design, and should be reflected in the Act to ensure outcomes are met for communities. We acknowledge that the Department of Planning and Environment has identified the problem that comes with codifying a definition of good design. An explicit reference to ‘measurable outcomes’ would provide the flexibility needed to avoid strict definitions of good design, while ensuring that delivered outcomes are measured and communicated to the community, and ultimately achieved. We have provided this advice to the Office of the Government Architect regarding the Draft Architecture and Design Policy “Better Placed”. This is important as it is intended to provide policy guidance on good design, in accordance with this legislation. Independent third party verification of design outcomes, like that provided through Green Star and other rating tools, provide a proven pathway for measuring and delivering sustainable outcomes.

Measuring outcomes through Green Star

Launched in 2003, Green Star was developed by the Australian industry for the Australian industry. The Green Star rating system is designed to take a holistic approach within each class and building sector, addressing nine categories in total; Management, Indoor Environment Quality (IEQ), Energy, Water, Materials, Land Use and Ecology, Emissions, Transport and Innovation. A commitment to Green Star-certification demonstrates an assurance to creating healthier, more productive, sustainable and resilient places for people that are also future-proofed and cost less to operate. As a consequence, more than 1,400 projects around the country have achieved certification. Projects can be awarded a 4 Star rating (‘Best Practice’), a 5 Star rating (‘Australian Excellence’) or a 6 Star rating (‘World Leadership’).

Distinguishable from the suite of Green Star rating tools, the Green Star– Communities rating tool, was established in 2012 as the only holistic, voluntary rating tool for communities of its kind in Australia, Notably, government land organisations nationwide including UrbanGrowth NSW, sponsored its development. The rating tool provides a comprehensive framework against which to measure the outcomes delivered to local communities. Developed in consultation with industry and all levels of government, the Green Star – Communities rating tool is based on five best practice principles which are to:

- Enhance liveability
- Create opportunities for economic prosperity
- Foster environmental responsibility
- Embrace design excellence
- Demonstrate visionary leadership and strong governance

Measurement of outcomes against these principles reflects good design, and delivers assurance for governments, project proponents and communities.

<http://new.gbca.org.au/green-star/>

3. The GBCA broadly supports the objective to provide increased opportunity for community participation in environmental planning and assessment. Furthermore, the local strategic planning statements will play an important role in ensuring that state, regional, district and local plans are integrated and provide consistent planning direction.

The GBCA commends the Government for prioritising community participation within planning practice. Undoubtedly, increasing the opportunity for community participation will be vital to increasing public confidence within the planning system. The GBCA encourages Government to ensure that the community participation yield meaningful participation and that there are mechanisms to measure, evaluate and report on this.

We encourages the Government to promote tools that can facilitate meaningful community participation, for which Green Star provides a good example. Green Star can contribute to community participation plans because it presents an effective mechanism to incentivise the use of innovative engagement strategies by local councils and other consent authorities. Notably, the Green Star– Communities rating tool contains an ‘Engagement’ credit. The credit has been developed in line with the International Association for Public Participation Australasia (IAP2)’s goal to facilitate the involvement of the public in decisions that impact their lives. This will be particularly useful in the early stages of development assessment process, where Green Star– Communities provides a framework to facilitate effective community engagement at the project-level.

Furthermore, we support the requirement for local strategic planning statements to help provide consistency within strategic planning at the state, regional, district and local level and reduce fragmentation. We encourage the Government to ensure that sustainability objectives and considerations are appropriately prioritised within these statements.

4. As the NSW Government works to create a standard format for Development Control Plans (DCPs), it is important for any template-based approach to provide flexibility for councils to lead and innovate as they address local issues.

The GBCA acknowledges that a standard template for DCPs would help to make it easier for stakeholders to better navigate content across councils. However, it is important that a degree of flexibility is guaranteed to encourage councils to demonstrate leadership through their DCPs, to drive continuous improvement across councils, and to mitigate against the adoption of a lowest common denominator approach. For the GBCA, we encourage our local government members to address sustainability issues within their DCPs. In fact, DCPs have provided a vehicle through which councils have been able to facilitate innovative solutions, better value for money, and greater efficiencies in the delivery of outcomes for their communities. For example, the GBCA would recommend that each DCP have a section on ‘General Building Design and Sustainability’, which would provide an avenue to discuss good design and explore tools such as Green Star that can assist councils in delivering the objectives of the Act.

The GBCA commends NSW Government on the Draft Updates to the EP&A Act, which will drive improvements in the planning system so that it is more accessible and delivers better outcomes in the long-term. If you require further information, please do not hesitate to contact me by phone on (02) 8239 6200, or via email at jonathan.cartledge@gbca.org.au for further information.

Yours sincerely



Jonathan Cartledge
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