



Hon Tony Kelly MLC  
Minister for Planning  
Minister for Infrastructure  
Minister for Lands  
Deputy Leader of the Government in the Legislative Council  
Leader of the House in the Legislative Council

## MEDIA RELEASE

24 August, 2010

### INDEPENDENT PLANNING PANEL APPOINTED TO CESSNOCK

An independent expert panel has been appointed to undertake the planning functions of Cessnock City Council.

NSW Minister for Planning, Tony Kelly, said the appointment follows his request in May for the council to show why its planning powers should not be removed due to a history of delays in dealing with rezonings and development applications.

The panel will exercise the following roles of the Council:

- The assessment and determination of development applications with a value of more than \$1 million;
- The assessment and determination of development applications with a value of more than \$100,000 which are still undetermined 90 days after being lodged; and
- The amending of local environmental plans (LEPs) – i.e. assessing and determining rezoning proposals.

The panel **will not**, however, take on the role of preparing Cessnock's new council-wide LEP. This responsibility will remain with the Council, although the Minister has asked the Department of Planning to closely monitor the progress of this important plan.

Mr Kelly said the Department of Planning had given careful consideration to Council's response, but retains serious concerns about its ability to exercise its planning role in a timely and effective manner.

"Based on 2009/10 figures, Cessnock is again looking set to be the slowest of all Lower Hunter councils in processing DAs," the Minister said.

"Cessnock has a very important role to play in the future growth and prosperity of the Lower Hunter and it's essential that its properly planned for and new proposals are dealt with in a timely manner so investment continues to flow into the region.

"Council was asked to show it is on track to deliver the kind of efficient planning Cessnock needs and deserves, and having considered its response the Department remains unconvinced.

"Its concerns were also supported by a large number of complaints about Council's planning performance.

"In reviewing Council's performance in recent years, a constant theme of unexplained delays and unresolved issues became very clear.

"A number of proposals were also progressed despite a serious lack of strategic justification and were clearly inconsistent with the Lower Hunter Regional Strategy," the Minister said.



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“As a result, these issues had to be subsequently resolved causing a series of unnecessary delays.

“Therefore, I have little choice but to appoint a highly experienced and expert panel to exercise Council’s planning functions.”

The three-member panel has been appointed for a period of five years with its operations to be reviewed after two.

The panel members are:

- **Tim Rogers (Chair)** – more than 20 years experience as a senior official within the NSW Government, including executive positions within the Department of Local Government and the Department of Environment, Climate Change and Water;
- **Alison McCabe** – currently a Director of SJB Planning, has 25 years experience in both local and State Government planning roles and is a member of the Southern Joint Regional Planning Panel; and
- **Vince Berkhout** – currently a Director of Cité Urban Strategies, has experience working as a planner in both local and State Government agencies and is a member of the Ku-ring-gai planning panel.

### Examples of unacceptable planning practices within Cessnock City Council

#### DA processing

- Cessnock City Council has had long-standing and systemic problems with the timeliness of its DA processing.
- In 2006/07, Council’s average gross DA processing time was 104 days and despite an improvement to 88 days in 07/08, this figure again blew out to 101 days in 08/09.
- Moreover, a number of initiatives undertaken by Council to improve DA processing were put in place prior to 2008/09, the year in which delays increased again. A subsequent independent review, which was supposed to be completed by mid-August 2010 had, as at the end of July, still not even commenced.
- The figures provided for the first eleven months of 2009/10 are likely to again position Cessnock as the slowest council in the Lower Hunter. This is on the basis Cessnock took an average of 84 days to process DAs during this period, which is slower than any other Lower Hunter council in 2009/10 based on preliminary calculations.
- Despite continued delays in assessing development applications, Council has failed to explain why it took from June 2007 to November 2008 – almost a year and a half – to fill job vacancies in its planning team, including two managerial positions.

#### DA referrals

- Cessnock Council has one of the highest rates of DA referrals to State Government agencies, with 52% of applications requiring referral in 2008/09 (up from 43% in 07/08), compared to an average of 16% for similar councils and a State-wide average of just 11%.
- Moreover, the average referral time for Cessnock Council in 2008/09 was 70 days (up from 55 days in 07/08), compared to 42 days for similar councils and a State-wide average of 54 days.
- Despite referrals having a significant impact on its gross DA processing times, Council’s response did not seek to explain why there are so many referrals or why it takes longer to resolve referrals than the rest of the State.
- Similarly, Council’s response does not provide any information on what, if anything, it is doing about the referral process which is clearly causing such delays in its DA processing.

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## Public interest

- As part of its response, Council was requested to address numerous complaints that had been lodged against it in recent years.
- In almost every instance, Council failed to adequately address the issues raised, or even to address the issues at all.

## Bellbird North LEP

- Council took 15 months to submit the LEP to the Department of Planning for public exhibition.
- Following the need for revisions, Council took a further 12 months to submit the revised LEP.
- Following exhibition, Council took another 11 months to submit the LEP for consideration.
- An additional four months were then taken by Council to finalise the necessary contributions plan.
- These delays led to a total of around three and a half years from the LEP's inception to its submission and remain unexplained by Council in its response.

## Kitchener LEP

- Despite a well-publicised recent legal drafting error in finalising this plan, the fact remains the LEP's preparation spanned another unexplained period of three and a half years.
- Once received Council's submission also provided no explanation as to why it failed to resolve an objection from the Department of Environment and Climate Change regarding environmental offsets.
- This failure required the Department of Planning to intervene and resolve the issue on Council's behalf.

## Anvill Creek LEP

- Council took more than two years from when it notified the Department of its intention to prepare an LEP to make its submission. This delay remains unexplained.
- Council has similarly failed to provide any plausible reason why it took eight months to finalise a voluntary planning agreement for the plan with the proponent.

## **Average DA processing times:**

COUNCIL	2006/07	07/08	08/09	09/10*
<b>Cessnock</b>	<b>104</b>	<b>88</b>	<b>101</b>	<b>84†</b>
Newcastle	79	72	75	73
Lake Macquarie	74	68	64	56
Port Stephens	75	81	72	54
Maitland	56	66	59	45

\* Draft figures, not yet finalised.

† Figure provided by Cessnock Council covering the first 11 months of the financial year.