



NSW Planning & Environment laws Year in Review – EPLA 2017

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Overview

1. Planning Reform

- EP&A Bill
- Incremental reform
 - Legislation - Staged development, Panels
 - SEPPs and Codes
 - Guidelines

2. Biodiversity reforms

- Urban/rural divide
- Flexibility & Offsetting
- Incentives & deregulation

3. Other reforms, current trends and future prognosis?



Figure 1: Objectives of the updates to planning legislation

Objectives		Initiatives
Community participation	Enhancing community involvement in the key decisions that shape our cities, towns and neighbourhoods	Community participation plans
		Community participation principles
		Statement of reasons for decisions
		Stronger consultation requirements for major projects
		Up to date engagement tools
		Early consultation with neighbours
Strategic planning & better outcomes	Continuing to improve upfront strategic planning to guide growth and development	Local strategic planning statements
		Regular local environment plan (LEP) checks
		Standard development control plan (DCP) format
		Optional model DCP provisions
		A new design object
		Design-led planning strategy
		Enforceable undertakings
		Improved environmental impact assessments
Probity and accountability in decisions	Improving transparency, balance and expertise in decision-making to improve confidence and trust in the planning system	Fair and consistent planning agreements
		Discontinuing Part 3A arrangements
		Directions for local planning panels
		Improved environmental impact assessments
		Ensuring delegation to council staff
		Refreshed thresholds for regional development
		Independent Planning Commission
		Model codes of conduct for planning bodies
		Preventing the misuse of modifications
Simpler, faster planning	Creating a system that is easier to understand, navigate and use, with better information and intuitive online processes	Clearer powers to update conditions on monitoring and environmental audit
		Efficient approvals and advice from NSW agencies
		Standard DCP format
		Optional model DCP provisions
		Improved complying development pathway
		Transferrable conditions
		Fair and consistent planning agreements
		Simplified and consolidated building provisions

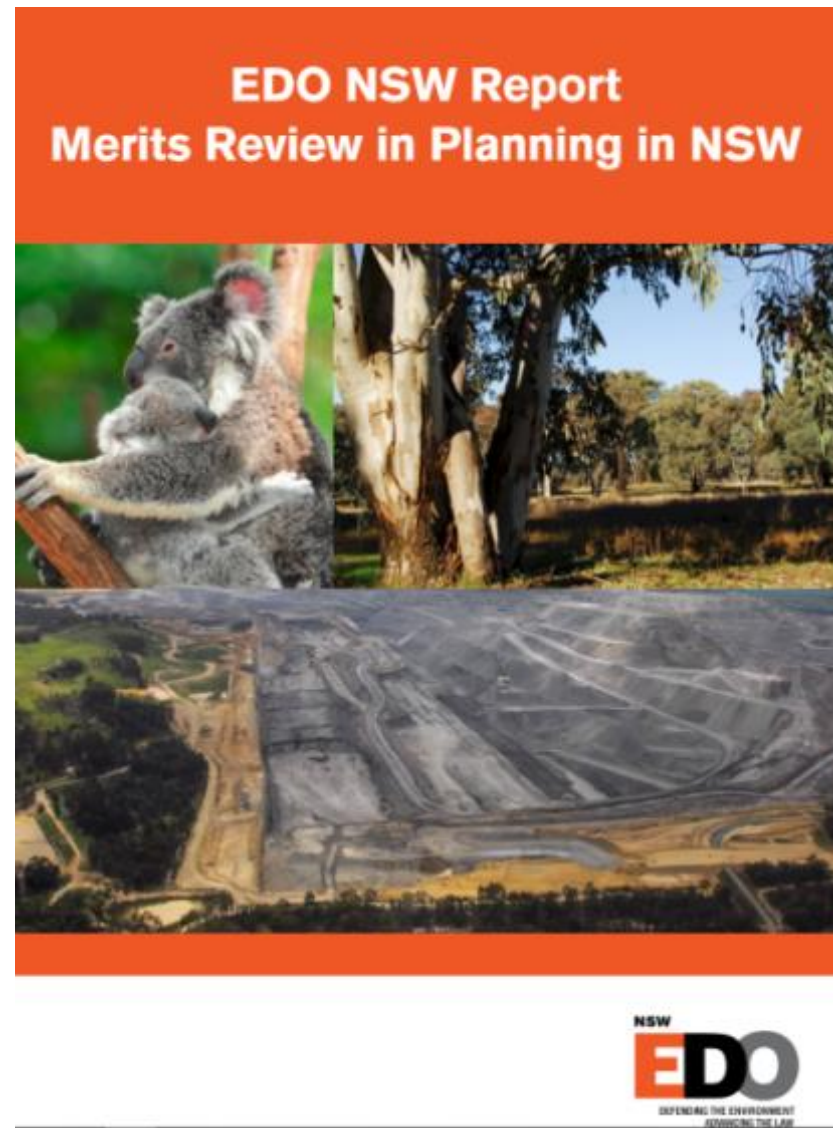
1. Planning reform

EP&A Amendment Bill 2016

- *These updates aim to build greater confidence in the planning system by enhancing community participation, strengthening upfront strategic planning and delivering greater probity and integrity in decision-making. The updates will make the system simpler and faster for all participants and help ensure that growth across NSW is carefully planned into the future.*

Incremental reforms

- **Legislation:** *Environmental Planning & Assessment Amendment (Staged development Applications) Bill 2017; Environmental Planning and Assessment and Electoral Legislation Amendment (Planning Panels and Enforcement) Act 2017*
- **SEPPs and Codes**
 - ‘Housekeeping’
 - Facilitate & streamline development
- **Guidelines**
 - Wind farm assessment
 - Social impact assessment
 - EIA improvement
 - Solar project assessment



Missed opportunities for planning reform?

- Climate ready planning laws
- Community participation plans
- Cumulative impacts
- Adaptive management
- Merits review



2. Biodiversity Reforms: Key elements

- Biodiversity Conservation Act & Regulation
- Local Land Services Amendment Act (Pt 5A) & Regulation
- Self assessable land clearing codes
- Biodiversity Assessment Method
- Biodiversity Values Map / Native Veg. Regulatory Map
- Vegetation SEPP
- Priority Investment Strategy and Funding package
- Saving our Species Approach to threatened species
- Risk based licensing for wildlife interactions



The rural/urban divide?

Rural:

- Self assessable codes
- Expanded 'allowable activities'
- Access to offsets, and self-determined 'set aside' areas
- No mandatory assessment of clearing impacts on soil, water or salinity
- No ban on broadscale clearing



Urban:

- Biodiversity Assessment Method
- New SEPP
- Expanded offsets market
- Serious and irreversible impacts
- Biocertification



Flexibility and offsetting in NSW

“The reforms will facilitate ecologically sustainable development”

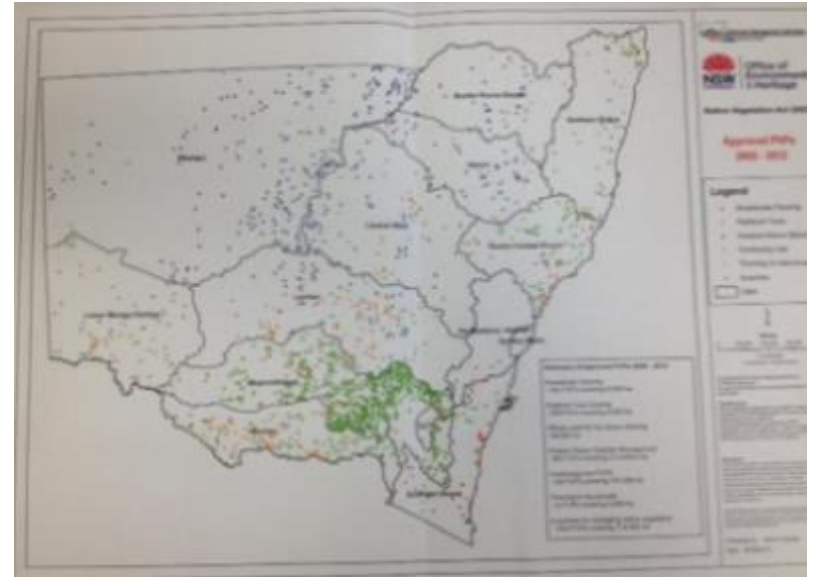
NSW Government



Image: Warkworth Coal Mine by John Krey

Incentives and deregulation

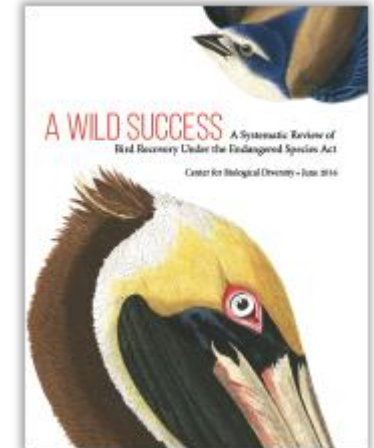
- Three new agreement categories:
 - Biodiversity Stewardship Agreement (offset sites)
 - Biodiversity Conservation Agreement
 - Wildlife Refuge Agreement



Missed opportunities for Biodiversity reform?

10 things that biodiversity law reform should do:

- Be designed to prevent extinction
- Apply a “maintain or improve” standard to *all* development
- Address key threats such as land clearing and climate change
- Establish a NSW Environment Commission
- Mandate the use of leading practice scientific assessment tools
- Invest in long-term private land conservation
- Clearly require comprehensive data, monitoring, reporting on condition and trends (environmental accounts)
- Limit indirect offsetting
- Commit to well-resourced compliance and enforcement
- Properly resource regional NRM bodies to work with landholders, have expertise to do assessments and make NRM plans that relate to clear targets.



3. Other reforms, current trends, prognosis?

- Coastal Management
- Aboriginal cultural heritage
- Water management
- Crown lands
- Climate & energy

- Reform by special legislation?



The Nattai River, in Sydney's water catchment.



Thank you

- EDO cases:
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- EDO law reform:
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