



# TOTAL ENVIRONMENT

2006 / ISSUE 1

E D I T O R I A L

## Developer planning laws on the rise

NSW planning and development controls that could protect the environment and listen to the community are on a rapid downward slide to oblivion. In the last 12 months we have seen - environmental protection licensing ripped out from major developments; new legislation making it easier for complaining developers to have council powers removed; and abandonment of major green zones in Sydney's growth areas. The funneling of developer donations to the Government has made many in the community lose faith.

More big decisions are on the way and TEC will be fighting with many community groups to alert the public to this most serious situation.

**REGIONAL COASTAL STRATEGIES** – community groups have participated in good faith, but outcomes are corrupted

The regional strategy process is being corrupted by interference at high levels of government, influenced by the major developers intent on benefiting from the final strategies expected in a few months. For example, it has so-called sustainability criteria, which establish major loopholes and important vegetation is slated for development. A major campaign to save the coast has begun.

**GROWTH CENTRES SEPP** – a vegetation clearing instrument

The vegetation clearing controls are weak and unacceptable and do not protect native vegetation (see article in this issue of Total Environment). TEC is pressing for the draft to be fixed.

**BASIX** – a key test of the government's climate change credentials

Government is worried about the extra building cost that improved greenhouse targets for single and multi-unit dwellings

and alterations and additions will create. They conveniently ignore the large costs from high electricity bills caused by energy hungry buildings over the life of the building and the greenhouse pollution. A decision is expected in June.

**COMMUNITY PARTICIPATION AND STATE DEVELOPMENT** – major problems

The weight of the process still significantly favours the proponent to the disadvantage of the community and the new panels are not improving community consultation. Nor are the bipartisan credentials of their members clear and unambiguous. A major report by the Environmental Defenders Office has found serious flaws. There has also been an associated growth in developer 'community consultation' that is suspect to manipulation.

**A massive loss of community confidence in the planning system is occurring. The Government should be worried with an election less than 12 months away.**

JEFF ANGEL Director

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# WASTE REPORT

## BEVERAGE CONTAINER DEPOSITS – THEIR TIME HAS COME

TEC is urging the NSW Government to place container deposits (CDL) on its active agenda. In the past the Government has adopted a negative attitude but with Western Australia, Northern Territory and Queensland now investigating best practice CDL as a complimentary or replacement instrument to the National Packaging Covenant, it is time for NSW to join up.

The beverage industry has propagated a number of myths that are simply wrong. These are answered below. CDL will tackle the scourge of packaging litter; financially underpin a new generation of recycling infrastructure (at no cost to local or state government) and reverse flagging recycling rates.

### New trends - kerbside recycling and away from home consumption

Kerbside recycling has been a major success with high levels of community engagement and awareness. It costs local government around \$300M p.a. Local government supports the introduction of CDL as enhancing the kerbside system.

However, kerbside collections do not deal with 'away from home' consumption of packaging, which unlike twenty years ago – now accounts for over 50% of packaging waste. CDL offers the essential incentive for the community and business. It will finance the next generation of recycling infrastructure such as 'drive through' recycling centres and reverse vending machines (RVMs).

### Costs of CDL

In the case of kerbside it is local government and rate payers who fund the system, in the case of the container component with CDL, it is brand owners and consumers. A well designed CDL system (as is the case in Canada and the US) operates at a surplus helping subsidise kerbside and market development programs. Issues such as not sorting containers by brand, automated rather than manual collection and return to depot rather than return to retail models all serve to drive these economic efficiencies. Even South Australia's system, which features some design inefficiencies, operates at around \$120 a tonne compared to kerbside which operates at \$300 a tonne.

Opponents suggest CDL's 'expansion has almost halted since the mid 1990s

This is incorrect, as shown by the following:

YEAR	COUNTRY/ STATE
2005	Hawaii, Estonia
2004	Germany
2002	Denmark
2001	Israel
1999	Norway
1997	Newfoundland
1996	Finland, Nova Scotia

### The negative 'impact on kerbside economics'

This myth has been extensively propagated. However, local government supports CDL. CDL systems have been introduced for the main purpose of reducing kerbside costs, and there are many examples of deposit systems working in parallel with kerbside (not least South Australia).

By far the most comprehensive international study and the only study with the joint support of all parties – i.e. beverage and packaging industries plus recycling industry and NGOs – is the so-called "BEAR report" (Beck et al 2002). This US study found deposit systems were both the most effective in reaching high levels of recovery and the most cost-effective on a per unit or per tonne basis.

Specifically the multi-stakeholder BEAR report reached the following conclusions:

- deposit systems have the highest recovery rates
- traditional deposit systems are cost-effective and cost-effectiveness can be increased by the use of RVMs and a single coordinator to eliminate brand sorting
- kerbside programs alone have limited possibilities for reaching high recovery rates and new systems are required that target recovery from the range of locations where beverages are consumed
- financial incentives are needed to establish the long term sustainability of high recovery rates and strong markets

### CDL's time has come!

**STOP PRESS!** Environment Minister, Bob Debus has agreed CDL will be examined if the National Packaging Covenant fails at its 2008 review. (SH 22/3/06)



# Air quality and public transport

LEIGH MARTIN Urban Campaigner

## BAGGING A NO-BRAINER – PLASTIC BAGS

**The problem of plastic bags is a no-brainer. Australians use 4.4 billion every year of which around 50 million end up as litter, harming the natural environment. In a recent national survey, 81% of Australians agree that the bags should be banned and there is a simple solution to the problem – reusable bags. Federal and state Environment Ministers will be deciding the fate of plastic bags mid-year and TEC is joining with other environment groups to campaign for a ban.**

In 2003, environment ministers agreed to allow industry to reduce plastic bag use on a voluntary basis towards a phase-out in 2008. This was dependent on industry meeting future targets. TEC believes that the 2005 targets to reduce plastic bag use by 50%, increase in-store recycling to 15% and reduce bag litter by 75% will not be met. Most retailers continue to dole out the plastic bags.

With its anticipated failure in mind, it is likely that industry will again argue for a soft approach. Meanwhile millions more bags will pollute the environment as we approach 2008. To prevent the unnecessary consumption of an extra 11 billion lightweight bags, and to ensure that a phase-out is achieved, we are advocating for a ban on lightweight, single use plastic bags before 2008. If applied from mid-2006, it would avoid over 100 million bags being littered over the next 30 months.

For greater efficacy, the ban should be coupled with a significant levy on all replacement bags. This would ensure that retailers do not simply replace single-use lightweight bags with another free alternative, such as paper or heavy-duty plastic, which would merely shift the problem (and litter) to another material. The result would be a quick conversion by the vast majority of the community to long life replacement bags, which are already available and well known. Fast food outlets, that are restricted to one-way bags due to unavoidable contamination could either charge cost price for approved bio-degradable bags or charge an environmental levy.

Precedents for a ban on the lightweight bags exist in South Africa, Bangladesh, Pakistan, Eritrea, Papua New Guinea, four Indian States, the cities of Mumbai, Delhi and Hong Kong, and four Australian towns. Plastic bags are not a complex environmental problem to solve. Environment ministers just have to stand up to industry.

**Data recently published by the National Environment Protection Council on air quality in Australian cities has revealed that Sydney suffers from the worst air quality in the country. Standards for ozone (the major indicator of photochemical smog) and fine particle pollution are regularly exceeded, with ozone a particular problem on hot summer days. These findings are no surprise and confirm long term trends in the Sydney airshed.**

The NSW Government's (laughable) response to these findings has been to blame climate and geography. It has been argued that warm summer temperatures favour the atmospheric production of ozone from precursor compounds such as oxides of nitrogen (NOX) and volatile organic compounds (VOCs) and that the presence of the Blue Mountains traps pollutants in the Sydney basin. While these points may be true the fact remains that air pollution would not be a problem unless emissions of harmful chemicals were occurring in the first place.

Illness and early deaths caused by air pollution cost Sydney as much as \$8.4 billion a year, says a recent study commissioned by the NSW Dept of Environment and Conservation. The health costs are at least \$1 billion a year, with the mid-point being \$4.7 billion. Costs taken into account include premature deaths, and chronic and acute illnesses. The midpoint figure equates to \$893 a year on a per capita basis, or 1.9% of gross state product. The cost estimates "are generally conservative", according to the authors.

Transport policies should be devised in the knowledge of the city's physical context. With motor vehicle emissions the major and growing source of fine particles and ozone, Sydney's air quality problems can be attributed to poor public transport and rising car dependency. It is impossible to switch off the sun or move the Blue Mountains so the Government's approach to air quality management must focus on reducing emissions at the source.

This will require a major investment in public transport infrastructure and service improvements. Sydney's public transport is simply incapable of meeting current demand for services. Improvements are required to existing services and new services must be delivered to north-western and south-western Sydney and to new urban release areas.

So far the Government has announced the Rail Clearways project to remove bottlenecks in the current CityRail network by 2010 and the construction of major new rail links to south-western Sydney by 2012, north western Sydney by 2017 and a new Harbour crossing and CBD rail link by 2017. These commitments are welcome and will represent a major improvement to public transport capacity in Sydney. The failure to properly implement previous transport commitments in the Government's Action for Air program such as the Parramatta to Chatswood rail link, however, points to the need for vigilance in ensuring these most recent commitments are honoured. Much more is also needed in existing built-up suburbs, including light rail extensions.

TEC will be campaigning for improved public transport over the next 12 months. It is clear that transport will be a major issue in the March 2007 State Election. We will be closely monitoring and reporting on the implementation of commitments already made and seeking further improvements in services and infrastructure.

## GAS BUS WIN!

**The NSW Government has reversed its decision to cease purchase of cleaner CNG buses by placing an order for 255. TEC had previously criticised the decision to favour diesel.**

# Bigger Sydney and No Bush?

**The Growth Centres State Environmental Planning Policy (SEPP), just released by the NSW Government is a crucial and necessary component for planning and development for Sydney's new land release areas over the next 25-30 years. It provides a framework for powers and processes to implement a range of economic activity, employment, social service and environmental objectives. It is essential that the new growth areas do not repeat the mistakes of the past with suburbs stranded from key public transport and community services set amidst a depauperate environment.**

However, the draft SEPP is extremely weak on protection of the natural environment and lacks clear direction for the achievement of urban environmental sustainability. Much of the growth areas debate has been about maximizing land releases (to reduce house/land prices), with little regard to affordability after purchase, for example, energy and transport costs, which over 10 or 20 years can become a great burden on families. Also a push for more low density will increase the extent of vegetation clearing.

The SEPP creates three new zones – environment conservation, regional public recreation and local public recreation – but it allows development for public utility installation, 'without consent'; and a range of recreation facilities, 'with consent' including restaurants, which appear to envisage intensive built forms that can be contrary to environment protection.

A further grave problem occurs with clause 13 which allows any other development to be carried out in the zones, if described in a Schedule 2. This nullifies the entire exercise of having the zones. The Schedule process is also likely to have minimal or no public consultation and will entrench a practice of overnight changes in response to vested interests.

Parts 5 & 6 – development controls – are potentially the most destructive of the natural environment. They apply not only to environment protection, recreation, flood prone and major creeks but also 'transition' lands which are intended for nature conservation. The Parts list a number of 'matters for consideration' which supposedly target retention of water flows and vegetation values. The use of the term 'consideration' is weak and impotent and amounts to a grab bag of evasions including such ludicrous matters as reinstatement and net loss. It is notable that the vegetation clearing rules that apply to farmers under the Native Vegetation Act 2003 are ditched for urban development.

Of the existing native vegetation in the growth centres, it appears that only about 20% will lie in any form of conservation, while up to 40% lies in areas where there are weak vegetation controls and development is permitted. The North West Growth Centre contains important vegetation communities that are already heavily cleared and habitat for a number of threatened species. Some 4,380 ha of the Growth Centre (37% of the area) contains native vegetation, comprising 15 different vegetation communities. Nine of these vegetation communities are listed under the NSW Threatened Species Conservation Act, four of which are also listed on the Commonwealth Environmental Protection and Biodiversity Conservation Act (EPBC). The South West Growth Centre is in the same predicament. Some 2,950 ha of the Growth Centre (22% of the area) contains native vegetation, comprising 7 different vegetation communities. All of these vegetation communities are listed under the NSW Threatened Species Conservation Act, two of which are also listed on the EPBC Act.

The NSW Government has to fix this problem fast, otherwise much of future Sydney will become the grave for our endangered biodiversity.

## Climate Easy Options Running Out

Late in 2005 the city of Montreal hosted the historic first meeting of the Kyoto Protocol countries. Nearly 10,000 participants discussed, among other things, how to reduce emissions beyond 2012. Four weeks later Australia's 'coal pact' was held in Sydney, the Asia Pacific Partnership on Clean Development and Climate (or 'AP6'). With NGOs locked out, the meeting produced a 'do the right thing' assurance from industry with no targets, no timetables and no mechanisms for reducing greenhouse pollution. This approach typifies the Federal Government's bankrupt approach to dangerous climate change. It has been left up to the Australian states to address the biggest threat now facing the world.

In NSW Bob Carr, however, made a good start with the establishment of the Greenhouse Gas Abatement Scheme and the BASIX regulations that will soon require a 40% reduction in emissions from new residential buildings. Last year, the \$200 million/5 year Energy Savings Fund was established to invigorate the energy savings sector, and legislation to end broad-scale landclearing was finally passed. Now, NSW is leading the establishment of a state-based, national emissions trading scheme which, if designed properly, would put a much needed price on greenhouse pollution and reduce the perverse environmental subsidy enjoyed by fossil fuels. Several states have now accepted that we will need a 60% cut in emissions by 2050.

Now come the hard options. There has been a lot of 'low-hanging fruit' available due to the extent of land clearing (a one-off gain if ended) and amount of energy wastage by industry and other consumers. In question is whether the current NSW Government has the political will to continue greening our energy system and implement the urgently needed changes. In 2005, the failure of the fossil fuel industry to convince the Government

# Change

JANE CASTLE

Resource Conservation Campaigner

that the state needed more coal-fired power was a good sign. It has also been reported that NSW refused to indemnify the coal industry (which has been seeking more investment for coal fired power stations), for greenhouse abatement laws.

Energy waste could be cost-effectively reduced by up to 70% while creating jobs and reducing energy bills. But without more aggressive action, wasteful consumption encouraged by energy suppliers, that have vested interests in selling more power, will continue to grow at around 2% per year. While the Energy Savings Fund is a good start, there is much more to be done. Waiting to be tackled are efficiency regulations for existing residential buildings and new commercial buildings, demand management by the networks (the 'poles and wires' of supply), incentives to shift households from electric to solar hot water heaters and an extension of the Energy Savings Fund.

But the biggest challenge facing NSW is renewable energy. NSW lags well behind the other states on wind, solar and bio-energy, with less than one percent of NSW's energy coming from new renewable sources and no renewable energy target. NSW must commit to 15% renewable energy by 2012 and 25% by 2020 and implement the programs to achieve those targets. Without support, the four new wind energy projects proudly announced by the NSW Government recently may not get built.

The dangerous red-herrings in the debate are so-called 'clean coal' technologies such as the unproven and expensive plan to bury emissions underground, and the hazardous and expensive nuclear option. These only serve to distract from the real solutions that are technologically and commercially viable, and within reach. Less visibly, the push to massively expand the output of coal mines in NSW underlies any hype around marginal programs to cut our own greenhouse pollution. Digging up and exporting millions of tonnes of coal may bring short term profits, but it will merely push our liability for climate change off-shore.



## GREEN CAPITAL

ADVANCING CORPORATE SUSTAINABILITY

AN INITIATIVE OF TOTAL ENVIRONMENT CENTRE

### Sustainable supply chains

**Because current market and company purchasing settings do not recognise externalities such as environmental damage from products (their lifecycle of production, use and end-of-life), the potential for massive social and green gains are locked out. One key that can allow us to tap into these gains are green purchasing practices. If enough adopt these practices, especially business as opposed to individual consumers, then the entire marketplace can change. Competition for green products is introduced and larger sales create economies of scale.**

This requires intervention by those who have buying power, a deliberate decision to become an agent for change – a recognition of responsibility. Why would a business do this? One reason is that its board and staff want to be more socially responsible. Another stems from the business case of protecting one's reputation – an environmentally bad product line can when publicly exposed do immeasurable damage. Another is that it will save money, for example help avoid likely or new regulations or the pay-back of a resource saving item is a good investment. The up-front capital cost may have looked unattractive under conventional accounting analysis but a longer view (often only a few years) reveals better results.

Governments can do it to show leadership and give a jump start to a fledging industry, but business has to come in too. While government is a big consumer, often the market will only accept the green products as mainstream if the private sector jumps aboard. Large companies can also skill up suppliers, which sometimes as SMEs may not have sufficient resources to meet the grade for new environmental standards. There is also a role for large investors to demand changed purchasing practices as a condition of investment.

While responsibility along the supply chain is shared, it should be the responsibility of the biggest player to be the catalyst, rather than excuse inaction because of the anonymous workings of the market.

You can't exhort ordinary people to buy green and allow business consumers to lie back and not contribute. Individual values need to be translated into business values; for too long the intervention of the marketplace and short term preoccupations on maximum profit, have perverted these values. Business is made up of people and you shouldn't leave your values outside on the street, when the lift door closes.

Two large debates were held in Sydney (April 4<sup>th</sup>) and Melbourne (April 10<sup>th</sup>) to ask business what they can do to improve the sustainability of products they buy and sell. In the language of business, this has become known as 'sustainable supply chain management'. The debate follows a TEC policy workshop that delivered a series of recommendations for making green procurement easier.

### Short-termism a 'stop sign' for sustainability

**At the Green Capital debate on 'Sustainable Finance' last year, one of the few things business and community groups agreed on was that the short-term focus of business and government was a major barrier to progress on sustainability. For environmental problems to be solved, decision makers need to have a time horizon of decades. The reality is that the timeframes for business and government are usually much shorter, sometimes as little as a few months. Even the Business Council of Australia considers the issue significant enough to warrant an investigation.**

Green Capital has secured funding to carry out research that will identify the specific causes and organisational practices of short-termism; and solutions that can be implemented by businesses and government. This research will be coupled with debates in Sydney and Melbourne in late June. These two activities are the first steps towards addressing a massive, systemic barrier to environmental sustainability.

**For more information about Supply Chain and Short-termism, see our new website: [www.greencapital.org.au](http://www.greencapital.org.au)**

# Development Approval and Corruption \*

**The Independent Commission Against Corruption has recognised there are corruption risks in the local government development approval processes and called for public submissions on the how to alleviate the problems. TEC has made a number of suggestions including - development of strong, unambiguous and detailed planning instruments that follow ESD principles (ie put protection of environment, social amenity and sustainability at the forefront, not the demands of landowners and developers); the need for developers, staff and councillors to comply with those planning instrument standards, and dealing with the huge and growing problem of developer donations at local and state level.**

## **The different roles of councillors**

There is no problem with councillors being involved in preparing planning instruments. The problems tend to lie in the standard of those instruments and whether staff and councillors follow the standards set in the instruments when considering development applications. It should be compulsory for a Local Environment Study (LES) to be completed by the local council (not by developers) and for any LEP to be informed by the LES. LEPs should be in place for at least 10 years with a review backed by an LES every five years to consider areas where change may be required. No "spot-rezonings" to allow increased development as proposed by landowners or developers should be considered during that time. When development applications are lodged, they should be rejected if they do not comply with the standards set.

While it is highly inappropriate for a councillor to lobby on behalf of a resident landowner/developer to speed up their personal development or rezoning application, it is entirely appropriate for a councillor to represent constituents/residents in many other matters. These include issues such as making a request for information on a particular matter on behalf of a resident or group of residents, or putting forward to council issues of concern to the wider community. A councillor should act as a kind of conduit between council and residents in general. The problem is where councillors represent only the development constituency, be that single landowners or bigger developers. Firm statutory rules clearly stating what is appropriate and inappropriate representation should be introduced.

## **Councillors and non-pecuniary conflicts of interest**

Councillors should declare any relationship or involvement or interest, financial or otherwise, in a particular development matter or with a development proponent. They should not be allowed to vote on the matter in hand if there is a conflict of interest. This shouldn't even be an issue that requires debate - it's a moral and ethical issue and resolving it with clear rules set in legislation is one means to avoid corruption of the system and the loss of public confidence in local (and state) government.

Enhanced appeal rights for third parties

Third party merit appeal rights to the Land and Environment Court should be extended to include major and controversial development as well as designated development.

## **Council officers and regulatory capture and pressure by senior planning staff**

The problems of "capture" of council officers by developers tend to occur where senior planning staff and directors have been in a council for many years and have formed strong relationships with

developers. In turn their influence can impact on planning staff in their departments who are encouraged to assess an application in favour of an applicant.

The most basic solution would be for DAs to comply with high standard LEPs and other planning instruments in the first place. A random audit system would certainly help, as would good community consultation and peer review. There should also be protection for planning staff from the influence of senior managers and directors that have been "captured" by developers. Senior staff should be sacked if they try to inappropriately influence a DA assessment outcome either directly or via pressure on other staff.

## **Political donations**

Donations to candidates, councillors and MPs at all levels is a major and growing problem. It undermines confidence in those who are meant to represent the wider community and makes it increasingly hard to gain outcomes that are not swayed towards the donors.

At the local government level in NSW increasing levels of donations from the development industry have enabled expenditure on election campaigning beyond the capacity of most to afford. The result is that councils are becoming increasingly stacked with candidates representing the interests of developers over and above the wider community and environment.

Examples from the last election campaign for local government in NSW include \$300,000 donated to a developer block of candidates in Tweed (into which there was an inquiry) and \$90,000 to a developer block led by the mayor in Shoalhaven.

Expenditure at local government elections should be limited to a minimal amount such as \$2000 per candidate. There is no need for the level of advertising and expenditure that occurs and there are many ways that expenditure can be minimised while still enabling candidates to inform the community of their platforms.

No councillor should be able to vote on a matter connected to a developer if they have received funding or payment/support of any kind from them. The original source of all donations should be fully disclosed before an election takes place so people know who they are voting for. Donations that are given during a governing term should be declared immediately rather than at the end of each financial year. Donations to any 'trust funds' set up to benefit any candidate, councillor or political party should be declared.

\* based on a submission prepared by  
FRAN KELLY TEC's Natural Areas Campaigner

# HELP THE ENVIRONMENT TODAY FOR OUR FUTURE

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