

18 LATE ITEMS**18.2 Notice of Motion: Councillor Lawton – Concerns Regarding the NSW Planning System Reforms (Environmental Planning and Assessment Amendment Bill 2025)**

Item 18.2

Clr Melinda Lawton has submitted the following Notice of Motion for Council's consideration:

MOTION

That Council:

1. Notes the concerns raised by the Environmental Defenders Office and other experts regarding the Environmental Planning and Assessment Amendment (Planning System Reforms) Bill 2025;
2. Expresses concern that the proposed reforms risk diminishing environmental protections, transparency, and community participation in planning decisions;
3. Writes to the New South Wales (NSW) Premier, Minister for Planning and Public Spaces, and local Members of Parliament outlining Council's concerns and requesting that:
 1. The Government undertakes genuine public consultation before progressing the Bill;
 2. Environmental protection, community participation, and transparency remain core objectives of the NSW planning system; and
 3. Any new assessment pathways include clear safeguards to prevent corruption and ensure independent oversight;
4. Writes to Local Government NSW (LGNSW) requesting that it advocate on behalf of councils for stronger environmental, governance, and transparency provisions in the NSW planning system reforms,
5. Write to the President and CEO of LGNSW to express our concern that the statement issued by LGNSW on 18 September welcoming these reforms is not consistent with the LGNSW policy platform and was released without consultation with the Board, and
6. Advocates through the Illawarra Shoalhaven Joint Organisation for a coordinated response to these reforms.

Signed Councillor Melinda Lawton

Councillor information provided

What is the purpose of the motion?

Notice of Motion

18.2 Notice of Motion: Councillor Lawton – Concerns Regarding the NSW Planning System Reforms (Environmental Planning and Assessment Amendment Bill 2025) (cont)

This motion seeks to protect transparency, local input, and environmental integrity in NSW's planning system. The State Government has long encouraged councils to prepare Local Housing Strategies so that each community could help determine its own growth and character. However, this Bill contradicts that principle by centralising planning powers and removing local and environmental safeguards. If passed in its current form, it risks undermining community trust, environmental protection, and councils' ability to deliver thoughtful, place-based planning outcomes.

Background to the motion

On 17 September 2025, the NSW Government introduced the Environmental Planning and Assessment Amendment (Planning System Reforms) Bill 2025 to Parliament. The Government's stated purpose is to "deliver more homes through a modern, faster, and fairer planning system." However, the proposed reforms extend well beyond housing and apply to all development types across NSW.

According to the Environmental Defenders Office (EDO), the Bill represents a significant shift in the intent and operation of the State's planning framework, with potential to:

- Reorient the planning system away from community wellbeing and environmental protection toward simply promoting development and productivity;
- Reduce environmental and bushfire risk considerations, and remove the role of key specialist agencies in assessing environmental impacts;
- Create a new "targeted development assessment" pathway that excludes consideration of environmental impacts, site suitability, and the public interest;
- Centralise decision-making within new State-led bodies, diminishing the oversight role of local councils and independent panels; and
- Increase corruption risks through reduced transparency and accountability, contrary to Independent Commission Against Corruption (ICAC) recommendations.

The EDO and other planning experts view the Bill as a retrograde step that undermines environmental safeguards, community participation, and good governance in NSW's planning system.

Source of funding

N/A

Chief Executive Officer response

As outlined above, the NSW Minister for Planning and Public Spaces introduced the Environmental Planning and Assessment Amendment (Planning System Reforms) Bill 2025 to the NSW Legislative Assembly on 17 September 2025. At the time of writing, debate on the matter was adjourned and is included in the Legislative Assembly's Business Paper for Tuesday 14 October 2025 for further debate.

Notice of Motion

18.2 Notice of Motion: Councillor Lawton – Concerns Regarding the NSW Planning System Reforms (Environmental Planning and Assessment Amendment Bill 2025) (cont)

Staff continue to review the Bill as submitted. The initial comments / concerns of staff are outlined below:

Proposed Reform	Comment/Concern
Establishment of the Development Coordination Authority a single front door which will provide advice on development applications and planning proposals on behalf of all NSW Government agencies	From both the Bill and the Minister's First Reading it would appear that it is intended that staff from the relevant referral and concurrence agencies will be transferred to the proposed Development Coordination Authority DCA. The ultimate coordination/operations of the DCA will be the responsibility of the Planning Secretary. The intent of establishing the DCA is to create a single pathway for the advice, referrals, concurrences on DAs and Planning Proposals. Whilst this concept is supported, there are concerns that the specialisation of the staff may be diminished over time and that the necessary environmental etc. safeguards will be diminished.
Enshrining the Housing Delivery Authority in legislation ensuring that the NSW Government has an enduring role in housing delivery across the state	The establishment of the Housing Delivery Authority (HDA) has been a matter of concern for several councils across NSW. The HDA provides advice to the Minister on projects which could be declared as State Significant Development (SSD). SSDs are assessed and determined by the NSW Government rather than councils. The HDA's current published Terms of Reference outline that the membership of the HDA is limited to the Secretary of the Premier's Department, the Secretary of the Department of Planning, Housing and Infrastructure and the Chief Executive Officer of Infrastructure NSW. This is a small cohort of professional staff, all government appointed. Other Councils have raised potential concerns about

Item 18.2

Notice of Motion

- 18.2 Notice of Motion: Councillor Lawton – Concerns Regarding the NSW Planning System Reforms (Environmental Planning and Assessment Amendment Bill 2025) (cont)

Proposed Reform	Comment/Concern
	independence and impartiality of this cohort. The HDA's current Operational Procedures outline that applicants need to submit an Expression of Interest (EOIs) via the Department's website. The current EOI form, the Department's website is a short six (6) page online form that does not require any plans or technical documents to be submitted. Since the commencement of its operation, Council has been advised of the receipt of an EOI and has been asked to provide feedback/comment on a brief description of the proposal. A recent (i.e. 16th September 2025) HDA briefing would indicate that feedback from councils is not taken into consideration by the HDA. This is concerning and does impact on local governments' ability to influence and assess applications which will become part of their local community and which are significant in their impact. Council provided feedback to the HDA in June 2025 of its objection to an EOI for a site in the LGA which sought to increase the permissible height from (6 storeys) to 48m (13 storeys) delivering approximately 165 dwellings on the site. The six (6) storey height limit was established following significant strategic planning work, including comprehensive community consultation and engagement with the NSW Government. On 16th September 2025, the HDA recommended that the Minister declare this EOI as a SSD. The following is a quote of the entire discussion the HDA had in relation to this EOI:

Item 18.2

Notice of Motion

- 18.2 Notice of Motion: Councillor Lawton – Concerns Regarding the NSW Planning System Reforms (Environmental Planning and Assessment Amendment Bill 2025) (cont)

Proposed Reform	Comment/Concern
	<i>"Next one is 269999. This one is recommended. I don't think we have any comments on that one."</i> Staff are aware that the Audit Office of the NSW are currently auditing the effectiveness of the HDA's governance and decision-making processes. Given this audit it yet to be finalised the enshrinement of the HDA's at this time appears to be premature and may be better timed post the audit results so that the structure and governance is more evident to the public.
Expanding Complying Development giving councils 10 days to approve small variations on a complying development application, or have it deemed approved	The Bill seeks to introduce a mechanism to enable variations to complying development standards to occur. Despite the irony of this proposal, very little details is included in the Bill around this proposal. The Bill does outline that an applicant for a Complying Development Certificate (CDC) can request from Council a variation certificate to vary a complying development standard. The Bill seeks to establish the following 'deemed approval' timeframes: • 20 days if council is also assessing the CDC application • 10 days if council is not assessing the CDC application The Bill confirms that a variation certificate can only be issued in relation to a complying development standard specified as a standard that may be varied by an environmental planning instrument (EPI). Currently no EPI, either LEP or SEPP, lists any complying development standard which could be varied. This would indicate that, following the commencement of these reforms, the

Item 18.2

Notice of Motion

- 18.2 Notice of Motion: Councillor Lawton – Concerns Regarding the NSW Planning System Reforms (Environmental Planning and Assessment Amendment Bill 2025) (cont)

Proposed Reform	Comment/Concern
	NSW Government will make changes to the <i>State Environmental Planning Policy (Exempt and Complying Development Codes)</i> to list standards capable of being varied. Given this lack of information staff have no insight into the extend of these reforms or how they will be implemented. The Bill suggests that the amended Regulation may deal with the application of fees for this additional service which councils will need to perform. Unfortunately the amended Regulation included in the Bill does not include any information related to fees for variation certificates.
Introduce a new ‘Targeted Assessment Pathway’ bridging the gap between a full development assessment and Complying Development, for types of development where strategic planning and community consultation has already taken place.	Similar to the above reform, very little information is contained in the Bill relating to this new ‘targeted assessment pathway’. The Bill indicated that the Minister, by way of a SEPP, may declare development of a class of development to be targeted assessment development. The Bill does not seek to make any amendments to any existing SEPPs and as such no details have been provided on the exactly which types of development are likely to be included. Given the commentary included in the various media releases associated with these reforms, it is anticipated and hoped that ‘targeted assessment pathways’ will relate to areas, such as the Western Sydney Aerotropolis or the various Sydney region growth centres, contained in the various Precinct SEPPs. However, given the lack of detail contained in the Bill, there is a possibility that this new pathway could apply to a wider spectrum of developments.

Item 18.2

Notice of Motion

- 18.2 Notice of Motion: Councillor Lawton – Concerns Regarding the NSW Planning System Reforms (Environmental Planning and Assessment Amendment Bill 2025) (cont)

Proposed Reform	Comment/Concern
	The Bill does outline that when assessing developments under the 'Targeted Assessment Pathway' the consent authority does not need to give consideration to the likely impacts of the development (either environmental, social or economic), the suitability of the site or the public interest. This is not best practice town planning as planning is always a blend of proposals and their impacts, and achieving a balance in mitigating any negative effects. Generally, the concept of streamlined assessment processes for development where strategic planning and community consultation has already taken place is supported. However this Bill, by enshrining the HDA and other reforms, undermines the importance of good strategic planning. The Bill is therefore at odds with itself.
Improve the standards and requirements on Development Applications (DA) to make sure planning assessments are proportionate to the scale and complexity of development	The Bill contains several amendments to section 4.15 of the Act, which outline how DAs are assessed. Much of these amendments are purely grammatical and will make very little change to the assessment processes. The exception to this is the introduction of a new subclause which outlines that if an EPI or regulation contains a 'non-discretionary development standard' which is less onerous than a corresponding standard in another EPI or DCP then the consent authority must disregard the more onerous standard. Currently, the Kiama LEP outlines that the minimum lot size for a dual occupancy in Kiama is 600sqm. However, the SEPP (Housing) 2021 includes a 450sqm minimum lot non-discretionary development standard for dual occupancies across the State.

Item 18.2

Notice of Motion

- 18.2 Notice of Motion: Councillor Lawton – Concerns Regarding the NSW Planning System Reforms (Environmental Planning and Assessment Amendment Bill 2025) (cont)

Proposed Reform	Comment/Concern
	Under the proposed reforms, the provision of the LEP would need to be disregarded as they are more onerous than the SEPP. This further erodes a local council's ability to strategic plan for its varying local neighbourhoods and forces a 'one-size' fits all approach on all NSW councils. Best practice strategic planning should be done at a broad level, not by singular lots and comparative conditions. There is a concern that will lead to an adhoc and mismatched approached to planning / development outcomes.
Standardise conditions to provide more certainty and speed up construction once approvals are granted.	The standarisation of conditions is not new. The theory of standardization is helpful for expediency of assesments. The NSW Government has already, via a Planning Circular, issued mandatory standard conditions for Class 1 and 10 buildings, agritourism, mixed use, change of use, food and drink premises and demolition and biodiversity credits. Contrary to the intent to speed up the assessment, it is apparent that the reforms seek to mandate that for certain types of development the consent authority must provided applicants with at least seven (7) days to review proposed conditions of consent and then consider any written requests from the applicants prior to determining the DA. This will in reality, slow down the assessment process. The Bill outlines that the regulations will specify the types of development this requirement applies to. The amended Regulation contained in the Bill does not specify any types of development. Again the lack of specificity is of concern.

Item 18.2

Notice of Motion

- 18.2 Notice of Motion: Councillor Lawton – Concerns Regarding the NSW Planning System Reforms (Environmental Planning and Assessment Amendment Bill 2025) (cont)

Proposed Reform	Comment/Concern
	Currently, Planning Circular PS 25-001 advises that it is best practice for councils to provide draft conditions to applicants where the DA will result in 30 or more dwellings.
Amend the objects of the EP&A Act to include housing delivery, climate resilience and proportionality in planning decisions for the first time	It is true that these matters are included as objects of the update Act. However, a noticeable removal from the Act's objects is the need to facilitate ecologically sustainable development by integrating economic, environmental and social consideration into decision-making. Best practice town planning takes all aspects of development into account.
Create a consistent approach to community consultations across the state by establishing a single, state-wide Community Participation Plan for NSW	Currently, the Act requires all planning authorities to prepare, exhibit and adopt a Community Participation Plan (CPP) which outlines how it will engage with the community on planning matters. Schedule 1 of the Act currently lists the minimum requirements for inclusion in all CPPs. Council prepared and adopted its CPP in 2019. The Bill outlines that the Planning Secretary is to prepare a single CPP which applies unilaterally to all planning authorities across the State. No amendments are currently proposed to the requirement for the Secretary to place this State-wide CPP on public exhibition for a minimum of 28 days. The Bill does not include any further details concerns the final version of this CPP. This proposal significantly reduces individual council's ability to have meaningfully engagement with their communities on planning matters as consultation standards will be dictated to councils from the NSW Government.

Item 18.2

Notice of Motion

- 18.2 Notice of Motion: Councillor Lawton – Concerns Regarding the NSW Planning System Reforms (Environmental Planning and Assessment Amendment Bill 2025) (cont)

Proposed Reform	Comment/Concern
	This is not considered best practice town planning, which tends to protect and enhance the local character and unique environments of individual LGA's.
Remove the regionally significant development pathway and regional planning panels that have created unnecessary duplication and delays in planning decisions	The Bill seeks to systematically remove the regionally significant development pathway and regional planning panels. Following the adoption of the amended Act the Sydney District Panel will cease to operate. The Kiama LGA will continue to be served by the Southern Regional Planning Panel upon the repeal of Division 2.4 of the Act (no timeframes included in the Bill). Division 24 of the Act, primarily, outlines that Sydney District and Regional Planning Panels are the consent authority for regionally significant development Whilst the Bill includes the repeal of Regional Planning Panels it does not include any amendments to the SEPP (Planning Systems) 2021. This SEPP declares what constitutes regionally significant development. The Bill does not outline who, either councils or the NSW Government, are to be the consent authority for regionally significant development following the commencement of the amended Act. It is envisioned that amendments to the SEPP will also need to occur.
Update appeal options and review processes to encourage disputes to be resolved outside of the Land and Environment Court.	Currently, the Act outlines that a determination of an 8.2 Review of Determination cannot be made after the six (6) month appeal period has lapsed if no appeal was made. In some instances that has led to applicants submitting an appeal to the Land and Environment Court, whilst an 8.2 application is being assessed, purely

Item 18.2

Notice of Motion

- 18.2 Notice of Motion: Councillor Lawton – Concerns Regarding the NSW Planning System Reforms (Environmental Planning and Assessment Amendment Bill 2025) (cont)

Proposed Reform	Comment/Concern
	to enable the determination of an 8.2 application. The Bill proposes that an appeal cannot be made while an 8.2 application is being assessed. This will mean that applicants will need to submit 8.2 applications as quickly as possible following the determination of the original application.
Fix longstanding miscellaneous issues.	The Bill also includes amendments to the types of modification applications. Currently there are, generally speaking, three (3) types of modifications: 1. Modifications involving minor error, misdescription or miscalculation, 2. Modifications involving no or minimal environmental impacts 3. Other modifications The Bill proposes: 1. Modifications involving minor error, misdescription or miscalculation, or of no minimal environmental impacts 2. Modifications involving minimal environmental impacts 3. Other modifications The Bill also includes provisions that outlines that councils cannot refuse Type 1 modifications if more than 14 days have elapsed since lodgement. Currently, Part 5 of the Act includes provisions for infrastructure and environmental impact assessment. Section 5.5 of the Act outlines that a determining authority (either the Minister of a public authority) is to examine and take into account to the <u>fullest extent possible all</u> matters affecting or likely to affect the environment by reason of that

Item 18.2

Notice of Motion

- 18.2 Notice of Motion: Councillor Lawton – Concerns Regarding the NSW Planning System Reforms (Environmental Planning and Assessment Amendment Bill 2025) (cont)

Proposed Reform	Comment/Concern
	activity. The Bill seeks to remove the underlined words from Section 5.5.

Item 18.2

While reforms into the NSW Planning System are encouraged and necessary, this Bill reforms very little of the existing practice for the State. Further amendments to SEPPs and CPP will provide greater clarity into the extent and impact of the reforms but councils and community will likely have very little input into these processes as they will not be undertaken by local councils.

As outlined above, councils are encouraged and directed by the NSW Government to undertake the necessary strategic planning (i.e. Local Strategic Planning Statements, Local Housing Strategies etc.) to ensure appropriate housing developments occur. At the same time, this Bill seeks to remove councils' ability to prepare planning controls and development standards that respond to local topography, character, heritage and community feedback and assess applications against those controls and standards.

Staff need more time to adequately consider the full ramifications of the Bill and as noted above more details and specificity are needed on several matters. Staff will keep working through the reform Bill and remain committed to working constructively with the State Government and the Department of Planning. KMC staff are committed and passionate about the role that good town planning can play in our community in protecting and enhancing what is unique and special about our LGA.

The role of Local government in planning and assessing developments for our residents remains essential to our Council. Whilst we welcome reforms and changes, the role of local government and local communities in planning outcomes is to be always protected.