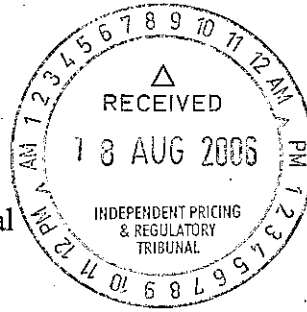


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17 August 2006

Regulation Review  
Independent Pricing and Regulatory Tribunal  
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Dear Mr Chairman,

### Investigation into the burden of regulation in NSW and improving regulatory efficiency Draft Report

The Environmental Defender's Office of NSW (EDO) has serious concerns about the recommendations in the *Draft Report* relating to environmental assessment and planning and development assessment.

These recommendations are based on the false assumption that environmental regulation is simply an unnecessary hindrance to development. As noted in our initial submission, dated 24<sup>th</sup> February 2006, such an assumption overlooks the important public interest role of environmental regulation.

In relation to **environmental assessment** (section 5.9 of the *Draft Report*, Recommendation 21), the EDO strongly opposes the recommendation of signing an assessment bilateral under the *Environmental Protection and Biodiversity Conservation Act 1999*. The recent planning reforms in NSW, for example in relation to major projects, have marginalized community participation and rendered environmental assessment requirement discretionary. The EDO strongly opposes the accreditation of such a scheme. In this context, it is essential that the federal Government retain assessment powers in relation to matters of national environmental significance that are impacted upon by development in NSW. In a similar vein, we strongly oppose the development of approval bilaterals for classes of development, in particular for projects under Part 3A of the *Environmental Planning and Assessment Act 1979*.

In relation to **planning and development assessment** (section 5.20 of the *Draft Report*), the EDO does not support the recommendation to "identify and remove further concurrence and referral requirements that are unnecessary." The recent reforms have already significantly reduced concurrence requirements, and the Inquiry is yet to clearly define what is meant by "unnecessary" (page 177). There is a vast difference between what is considered unnecessary by the development industry, and what is necessary from a public interest perspective. Similarly, we do not support Ministerial intervention in Councils where DA approval rates are slow. The amendments that created this power are so broad that they would allow a Minister to intervene where a Council may have refused development consents on environmental grounds.

It is offensive to suggest that the recent planning reforms have already addressed the concerns of stakeholders (para 5.20.4, pages 175 – 178). The eight planning review taskforces that were convened to develop the reforms (as listed on page 175 of the *Draft Report*) did not contain a single community or environment group representative, and were therefore not in fact "comprehensive reviews." It is no



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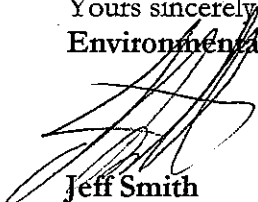
surprise that the resulting reforms address only the concerns of the stakeholders participating in the taskforces, ie, developer and industry representatives.

In this context, the EDO would support a 3 year review on the implementation of the planning reforms (as recommended on page 179), if such a review included qualitative assessment of outcomes. Such a review should have a range of performance indicators evaluated, and not simply be based on a review of time-frames for assessments and approvals. For example, a review should analyse environmental outcomes of the reforms, for example, extent and quality of vegetation approved for clearing under Part 3A projects, and also detailed information about actual community involvement in the assessment and approval processes. In the absence of a qualitative review of environmental outcomes, it is unacceptable to consider accrediting the reforms under bilateral agreements, as noted above.

For further detail please refer to our full submission to the Inquiry which can be found at <http://www.edo.org.au/edonsw/site/policy.php>.

Yours sincerely

**Environmental Defender's Office Ltd**



**Jeff Smith**  
CEO



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