THE PADDINGTON SOCIETY • YOUR RESIDENTS' ASSOCIATION

NEWS BULLETIN

PO Box 99 PADDINGTON NSW 2021 Phone 9360 6159 June 2008
http://www.paddingtonsociety.org.au email: heritage@paddingtonsociety.org.au

National Trust Rally - Planning Legislation 'Reform' Bill - Masonic Centre 3.6.'08
Speech by John Mant: Urban Planner and former President of the Paddington Society

The Minister's reforms are infantile. They remind me of the schoolyard loser who sets up an alternative game on the other side of the playground:

"I'm going to make up the rules, I'll choose the teams and I'll be the umpire and, anyway, you can't play, so there."

Surely if there is something wrong you fix it – not walk away and devise a new and additional system. Particularly when that new system offends a number of fundamental public administration and equitable principles. To mention just a few:

- Widened opportunities for conflicts of interest
- The regulated selecting and paying the person who regulates them
- One public body being accountable for the costs and actions of someone beholden to another public body
- The exercise of a judicial function by people who are not provided with the normal judicial protections such as security of tenure and freedom from executive retribution
- Banning representation of people appearing before judicial type bodies, even when facing parties who can directly employ staff who are well qualified and experienced advocates.

By contrast to the Minister, the LGSA has sought to fix what's wrong by making the existing system simpler and more transparent. The Minister has added over 130 new sections and a vast number of regulations to an already over-amended Act and called it a reform.

Look at these two diagrams – the first being illustrating the system following the LGSA's easily done proposals for simplification, the second being our best efforts at mapping the Minister's 'reformed' system. (Only about a week was spent in trying to do this so please do not rely on it as professional advice. Ask your QC for that.)

The Alternative Local Government and Shires Association's (LGSA) Model
Fixing Certification
The LGSA proposes a simple step to solve the fundamentally flawed private certification process. The certifier would provide the certificate to government rather than to the developer who paid for it. Government would then issue the approval, as it should. Unlike the present system, which provides a market advantage to the shonks, this change would reward certifiers with a good reputation.

With the certifier providing a certificate on which government could rely, proper public administration principles would be restored to the regulatory system. Councils would be kept in the loop and be properly able to be responsible for the local environment. The Minister has rejected this proposed proper alignment of responsibilities and instead has increased penalties and imposed all sorts of extra regulation in a futile attempt to cope with the inevitable symptoms of a failed system.

Independent Hearing and Assessment Panel (IHAPs)

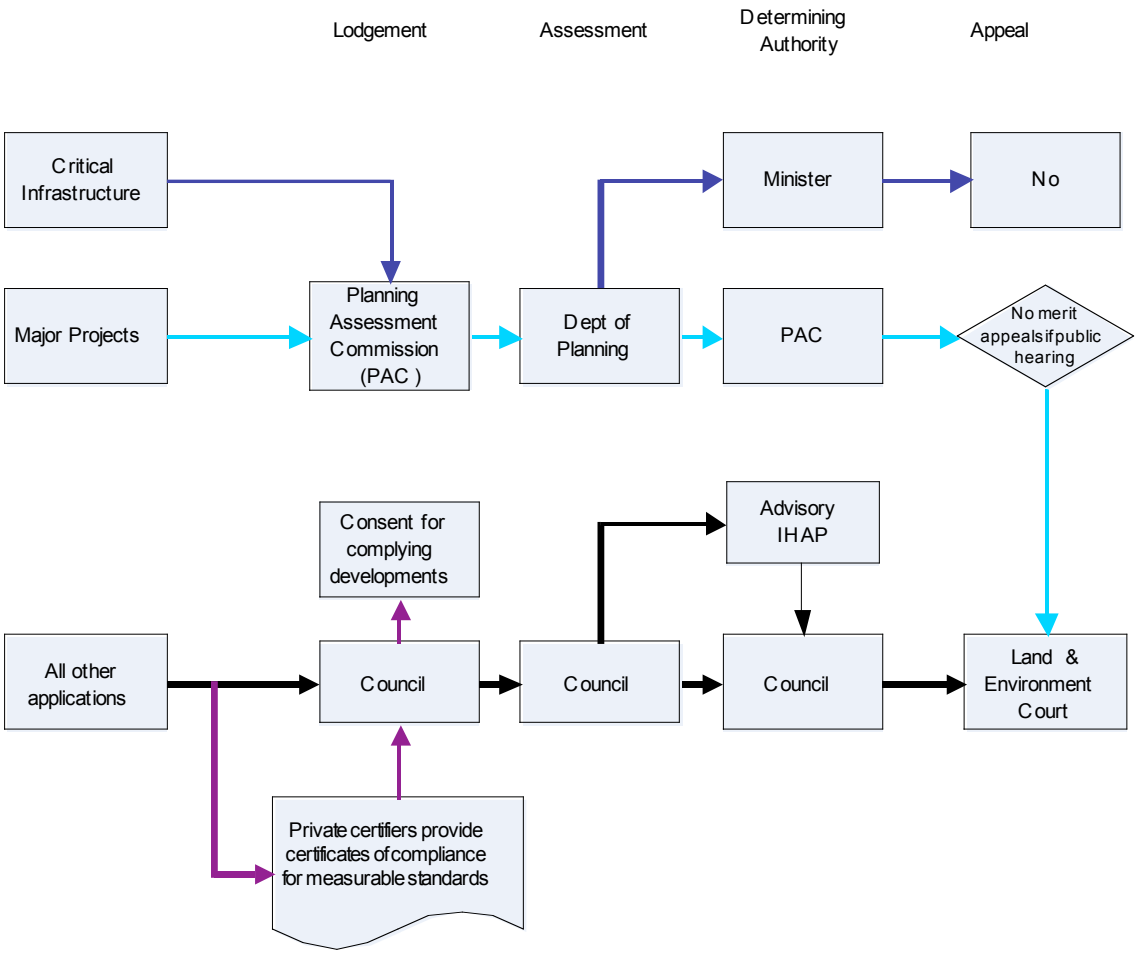
The LGSA has accepted it should encourage the system of IHAPs, which has been working well in several major councils for some years now. (There is no reason why, as proposed in the Bill, the Minister should determine who should serve on the council's panels.) IHAPs provide an answer to those who say that decisions on DAs are too politicised, but without transferring final responsibility and accountability to un-elected Ministerial appointees who have no tenure or accountability.

Reviews

The LGSA also wants to abolish the review procedure that recently has crept into the legislation. The only avenue of appeal should be the Court, which has the great advantage of being able to deal with merits and law in the one hearing. The extra review process is an unnecessary complication and only encourages ambit claims. (The Court should do still more to take the adversarial out of merit appeals.)

Look again at the result of these simple fixes to the existing system. And there are other things that could be done to simplify what exists, if only the Minister was not so intent on inventing and running his own game on the other side of the playground.

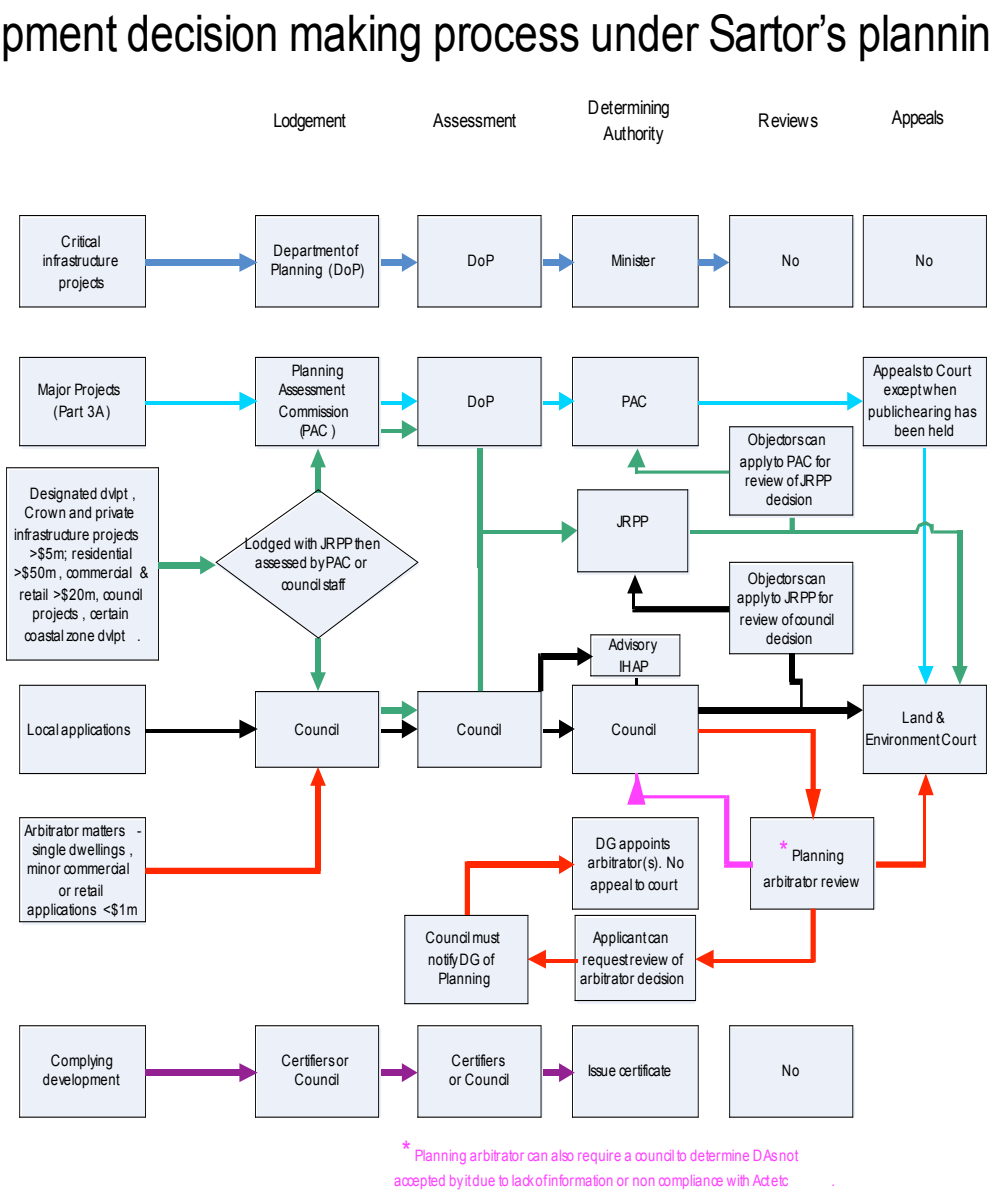
Development decision making process Associations' alternative model



The Minister's Model

What an extraordinary mess. Time does not allow me to go through what is proposed, although I would like to, given that much of it is a misapplication of processes and organisational designs which I have put in place elsewhere. It amazes me how anyone could say that a 'reform of red tape' is the creation of three additional new decision-making and appeal bodies with complex paths between them.

And the pathetic attempt by the Minister to ban lawyers from playing his game. The arbitrators and panels will be forced to comply with the principles of due process and properly interpret complex planning controls. What will happen is a plethora of legal challenges as they stuff up. And why is the Minister creating a new appeal system when, in the end, an arbitrator's hearing will be just like the Court's merit appeal, except that the arbitrator will not have the Court's assumed lack of conflict of interest, freedom from executive influence and ability to make findings of law.



The Standard Zones and Standard Codes

The appeal and decision-making shambles is, of course, quite separate from the deemed to comply design codes which are to be brought in, yet the Minister and his backers seem to lump them all together with talk of less red tape for mum's and dad's applications.

The design codes do not raise major public administration issues although they do raise serious social capital issues. And they certainly raise important issues about the design of our cities and suburbs in an increasingly unsustainable future. Urged on by the development and housing industries, governments seem to be determined to ensure that, except for those few places able to get one of the increasingly scarce Heritage or conservation listings where contextual design is required, every part of every Australian city will be the same as every other part.

Land uses will be rigidly separated, creating a maximum demand for travel, and design will be formulaic and not contextual. Welcome to Perth, one of the world's most boring cities and the Australian city with the highest car ownership and lowest percentage of people using public transport to get to work. And a NSW statutory planner's ideal. *John Mant*

White City Development Application (DA)

Upwards of 60 people attended the public meeting on the proposed White City Development at the Paddington Bowling Club on Wednesday 4 June, chaired by Susan Lenehan. George Fotis and Patrick Robinson from Woollahra Council presented the DA and John Richardson on behalf of the Society, with montages designed by John Haycraft, gave a detailed visual presentation drawing attention to the existing building lines and the confines of the site specific White City Development Control Plan (WCDCP). The application does not include the Maccabi site.

The montages clearly show the site coverage, heights and bulk of the proposed buildings and give an interpretation of the amount by which the buildings appear to exceed the allowable or indicated building footprint and desired height controls under the WCDCP. Clearly, the proposal does not comply in many respects. Concerns raised were size/scale/footprint, traffic and parking, height and general amenity due to intensification of/and type of use. The Paddington Society's presentation and submission are on the Society's website: www.paddingtonsociety.org.au

In reply to a question on ministerial intervention, John Richardson replied that Part 3A of the Environment Planning and Assessment Act relates to state significance, community significance. If the Minister decides that the proposal is a matter of significance, he could 'call it in' for determination. The proposal is permissible under the zoning. Issues relate to how the proposal is responding to building mass and disposition, which is controlled by the White City DCP.

Events to come – information also available on our website: www.paddingtonsociety.org.au

June Sunday 29 ***Know your Own Coffee Shop Series*** **- Mystery coffee shop walk - 10.00am**
Meet Rear of Juniper Hall (Underwood St Entrance); Family friendly – strollers to sticks; Coffee, Tea or Juice with Banana bread or slice.
$8 single, $15 double and $18 Parents and children; Local walk taking in the transition of residential, commercial and culture re-use of place;
Weather check: 0409 361 378 *(if you cannot make it for the walk ring at 10.30 for where to meet for coffee).*

July Thursday 3 ***Movies at the Chauvel*** **– Australian film screening -** ***Alvin Purple*** **- 6.30pm**
Q&A with Graeme Blundell and Catharine Lumby after the screening.
Adults $15.50, Concession $12.50 Pensioner/Senior $9.00

July Sunday 20 **Secondhand Sunday WMC Zone 2**
August Wed. 20 **Annual Dinner at Victoria Barracks** - bookings essestial
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