Planning Institute of Australia (NSW Division)

Submission:
Integrated Planning & Reporting
(Draft) Planning & Reporting Manual Bill 2009
(Draft) Planning & Reporting Guidelines 2009

About PIA
The Planning Institute of Australia (PIA) is the peak body representing professionals involved in planning Australian cities, towns and regions. The Institute has around 4,500 members nationally and around 1,300 members in New South Wales. PIA NSW plays key roles in promoting and supporting the planning profession within NSW and advocating key planning and public policy issues.

This submission has been prepared on behalf of PIA NSW by Members of the Institute.

1. Introduction
This submission by PIA NSW responds to drafts of the Planning and Reporting Manual for Local Government in NSW 2009 and Planning and Reporting Guidelines for Local Government in NSW 2009 accompanying the proposed Local Government Amendment (Planning & Reporting) Bill and Regulation 2009.

PIA NSW’s main concerns with the proposed changes have already been set out in our earlier submission, dated 12 June 2009, regarding the draft Bill and Regulation. PIA NSW recommends the Draft Guidelines and Manual be reviewed in light of those concerns and comments in this submission.

2. Diversity of communities in a local government area
PIA NSW is concerned at the language in these documents which suggests that in a local
government area there is only one community; and at the proposition that the council needs to
achieve “community ownership” of the Community Strategic Plan (which PIA NSW previously
suggested should be called a Council’s “Long-Term Strategic Plan”).

As pointed out in our previous submission, PIA NSW is of the opinion that every council has
numerous “communities” within its boundaries and these have different interests and concerns. In
these circumstances it is not possible to achieve “community ownership”. Also, an emphasis on
the concept of a single community may encourage councils to adopt majority views in formulating
Community Strategic Plans (Long-Term Strategic Plans).

This approach may well conflict with a Council’s other responsibilities, including:

- to act in the public interest (not the majority interest);
- to exercise a duty of care (e.g. towards those not able or willing to participate in
  ‘engagement’);
- to make decisions on a precautionary basis as opposed to short term interests; and
- to ensure that the Community Strategic Plan (Long-Term Strategic Plan) does not overly
  represent majority views that might contravene legislation, such as anti-discrimination
  legislation.

The guidelines and manual should be pointing councils towards:

i Ensuring that they are planning for the long term public interest consistent with their
   legislative responsibilities;

ii Ensuring that members of the public who are stakeholders in the local government area
   have a genuine opportunity to consider what is proposed and to make representations to
   council about those proposals;

iii Ensuring that the proposed Community Strategic Plan (Long-Term Strategic Plan) is clearly
   understood as council’s plan for the execution of its responsibilities.

The current language in the document may encourage councils to resort to generalisations and
broad statements in Community Strategic Plans (Long-Term Strategic Plans) which may affect
the usefulness and credibility of a Plan. The language of “community aspirations” also
encourages this outcome and will undermine the purposes for which the amendments to the
Local Government Act are proposed.
3. **Building the Plan**

PIA NSW is concerned that the Manual moves in one page from “Setting Objectives” (Manual p38) to “Developing Strategies” (Manual p39). In the process described, the Manual appears to ignore the technical processes concerned with measuring the extent and nature of shortfalls or emerging issues within local government areas; as well as a number of other critical issues in strategy formulation, including feasibility, avoidance of unintended consequences, consistency between strategies in the plan and social, economic and financial impacts.

Strategy formulation is difficult. Some of the examples of “strategies” given on page 39 (e.g. *encourage less dependence on cars, minimise the environmental impacts of usage on open or green space, participate in regional waste avoidance*) are generalised, impractical or difficult to achieve. The strategies listed at page 39 of the Manual could be viewed as a loosely connected set of activities rather than a strategic approach to job creation at the local government level. PIA NSW considers that the Manual does not clearly demonstrate the concept of a strategy which may make it difficult for Councils in developing and building Community Strategic Plans (Long-Term Strategic Plans). PIA NSW understands that the point of the Community Strategic Plan (Long Term Strategic Plan) is to have strategies that are based on reliable information and well founded assessment processes and that are realistic, reasonable and strategic.

4. **Connecting with the LEP and other land use planning mechanisms**

The responsibility of a council to amend its LEP consistent with the strategic land use directions of the Community Strategic Plan (Long Term Strategic Plan) needs careful consideration. The example given in the Manual, p42, is a case in point. The starting point is an aim, *‘Preserving our region’s unique rural lifestyle’*. This ‘aspiration’ is presented untested against social, economic and environmental considerations and appears to be being endorsed. It leads down a hierarchy of considerations to zoning decisions and DCPs; that is, the “aspiration” becomes embedded in land use. Whether this aim is in the long term public interest however, is not clear. For example, it may be that this “aspiration” effectively disadvantages some residents of the local government area or a nearby local government area. A gateway test of consistency with the Community Strategic Plan (Long-Term Strategic Plan) will not address this.

An example at page 40 of the Manual from an unnamed council’s strategic plan seems to show the LEP to be driven from below by a series of studies rather than, as intended, from above by the Community Strategic Plan (Long Term Strategic Plan). While the example suggests that the council’s LEP will be continually informed by the results of studies, the reality is much more complex. The studies themselves should be undertaken in the context of existing plans including the Community Strategic Plan (Long-Term Strategic Plan) as well as other studies. This interrelatedness is not reflected in the example given and, the “Strategies” appear to be a list of actions or projects to be completed.
PIA NSW is concerned that more consideration and work needs to be done to ensure that these strategic planning initiatives for local government tie in with other policy changes being pursued by the planning section of the now amalgamated Planning and Local Government Super Agency.

5. Relationships Between Resourcing Strategy and Community Strategic Plan

If a Council’s Community Strategic Plan (Long-Term Strategic Plan) lacks strength and robustness, the real plan will be the Resourcing Strategy. The likelihood that this will be so is conveyed in the sentence:

‘The Long Term Financial Plan will seek to answer the questions:
Can we survive the pressures of the future?
What are the opportunities for future income and economic growth?
Can we afford what the community wants?
How can we go about achieving these outcomes?
The Long Term Financial Plan is a decision-making and problem-solving tool. It is not intended that the LTFP is set in concrete – it is a guide for future action.’ (Manual p54);

and in the requirement for continual review of the Long Term Financial Plan (Manual p59).

As indicated in PIA NSW’s previous submission, there is nothing in the draft Bill or Regulation to require the Resourcing Strategy to be either in the long term public interest or equitably based. Although it might be argued that the principles on which the Long Term Financial Plan is based should be those of the Community Strategic Plan (Long Term Strategic Plan) itself, the Manual allows councils to set these principles locally.

**Equity of Impact**

PIA NSW considers that the definition of social justice principles (Manual p18) is limited as it deals with the fair opportunities and not with equity of impact. Equity of impact is the issue in social justice.

For example, although the Manual states that Councils must ‘consider community members’ future capacity to pay fees and charges and issues that may impact on that capacity.’ (Manual p57) this is not the same as a requirement to ensure that revenue raising activities (rating policy, fees and charges, leasing arrangements, the impact of zoning changes on rate income) are not borne disproportionately by low income households and people experiencing relative disadvantage. Both the Act and the Manual should explicitly state that revenue raising activities and policies should not have a regressive structure.
An explicit statement to this effect is necessary because other sections of the Bill and Manual which encourage participation in the Community Strategic Plan (Long Term Strategic Plan) processes are likely to see more participation from the relatively advantaged groups; and the Plan is therefore most likely to reflect “aspirations” from those groups. Again, this is a reason to require councils to plan for the long term public interest rather than for those “aspirations” they become aware of in consultation and participation processes.

**Financial Implications of Community Strategic Planning**

Long term strategic planning will cost councils money. The legislation proceeds on the basis of “business as usual” for Councils in terms of financial planning and budgeting for the delivery of planned public facilities and infrastructure. It is highly probable that the asset management strategies and resourcing plans required under the new framework will highlight the inability of most Councils to implement their community strategies in a reasonable time frame. The effect of cost shifting from the Federal and State Governments without additional revenue sources means that Councils may not be able to effectively or efficiently deliver the outcomes proposed in their Strategic Planning documents. Options for funding assistance may need to be considered, for example funds collected by the Department of Planning under the “Plan First Levy” could be used to assist Councils in preparing Local Environment Plans.

**PIA NSW Division**

2 July 2009