

A NEW APPROACH TO REZONINGS

Response from:

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Part A: Background

This is not a fair or complete summary of delays and complexities within the current framework: My comments are listed below:

- **Timeframes:** The applicant for a planning proposal seeks to stretch the boundaries or limits of the current LEP to such an extent that it requires Council to devote a great deal of time in examining the proposal, seeking clarification by way of meetings to clarify and explain to what extent the application is at odds with the LEP and other statutory requirements.

The application is always a very complex mix of reports often over 200 pages, prepared by several consultants attempting to address such things as shadow diagrams, impacts on neighbouring properties, Apartment Design Guidelines, heights vs number of stories, FSR*, setbacks and street frontages, traffic and congestion (which always conclude with the predictable statement that this development will have a negligible impact on traffic in adjoining streets or on congestion).

* The LEP mixture of land use, number of stories, FSR leaves wide open the opportunity to use extra height between stories thus leading to the ability once height is agreed to change the mix to add extra floors or apartments at the DA stage or a variation after approval of a DA.

A thorough examination is required of these proposals. That process takes manpower and time. The current time is nearly always inadequate, not because of what councils do but because of what developers try to do. This is the stage at which a report to Council for support or refusal must be thorough to ensure that the community's interest is considered as well as that of the applicant.

The deemed date of refusal of 90 days is tight, particularly if the period spans a long holiday period such as Christmas/ New Year. Council meeting schedules also impact the time in which an application can be considered. Applicants nearly always apply to the regional planning panel for a review immediately after expiry of that date.

This time frame is designed for a robust evaluation, an essential requirement and can't be reduced without giving up on that requirement. In my experience, these planning proposals are mostly done well enough for Council to approve the recommendation which has not yet had the critique of community consultation. If anything, there should be an opportunity for community consultation at this stage particularly if the Gateway Process is eliminated as suggested for some categories.

- **Duplication of Assessment:** Planning Proposals rarely if at all, go twice to our Council because the deemed date of refusal ensures that Council meets the date of the regional

planning panel. Only if the planning panel agrees to refuse the application will the applicant try again with a modified proposal which proves that the review had been robust.

I quote one example where an applicant is currently on a fourth attempt: this being the Fiveways site at Crows Nest, the triangular piece of land that is bound by Pacific Highway, Alexander Street and Falcon Street.

At about the time the draft plan for St Leonards Crows nest Plan was being prepared for community consultation, the applicant lodged a proposal for a tower of approximately 50 storeys. The application was withdrawn on the day that the Council report was to be considered by Council. A second proposal for a tower of 35 stories was lodged prior to finalisation of the 2036 Plan but was also withdrawn to wait for the final plan. Time wasted by Council because of no fault of its own.

The third proposal was for a 16 storeys twin tower apartment complex atop a 3 levels podium that incorporated the government architect's recommendation to the DPIE that an apartment block of 16 stories would be appropriate for the site and those parameters incorporated into the final 2036 Plan. (The government architect plan document was never made available for community consultation yet somehow it was available to the applicant). The NSLPP considered the proposal and decided not to support it. The SNPP subsequently refused it.

The fourth application was lodged on Christmas Eve 2021 for a total of 16 storeys and is currently being reviewed.

None of this because of anything that Council did or failed to do. It is because the applicant paid too much for the property acquired or agreed to acquire and was trying to stretch the LEP limits. I see no reason to change the process to satisfy the greed of this applicant.

- **Gateway Process:** Agree that is both onerous and time consuming and therefore capable of being streamlined to save time and provide certainty. However, I make no other comment about its removal.
- **Finalisation Stage:** I have knowledge of only one finalisation plan (other than the SLCN 2036 Plan) and that is related to a planning proposal for land in Macquarie Park lodged by Meriton where a multi tower complex incorporating two high towers one of which is 60 storeys was the main feature, the other being that the land had only very recently (two years) been rezoned and the LEP amended accordingly to heights well below this proposal. On reading the finalisation document the reasons for the final outcomes were unclear and the time frame particularly long. If this is typical, then room definitely exists for improvement.
- **Inconsistencies:** The solution to this problem is surely to address it by tidying up what appear to be minor issues blown out of proportion by stakeholders, predominantly those who are attempting to achieve a rezoning.

- **Transparency and Trust:** Spot on but there is no solution offered. In fact, the new approach as defined makes it more likely that transparency and community trust will worsen, not improve.
- **Recognition of Proponents:** I can't believe for one moment that this is a burning issue at all. Industry groups (Property Council, The Urban Developer, et al) already have clear acknowledgement of their role and have ready access to state agencies as evidence has shown. Community groups who are not recognised by state agencies have no access at all. The community perception is that these stakeholders have the ear of government and ready access when they need it.
- **State Agency Input:** Early advice to state agencies is surely not a matter that requires the planning process to be radically changed. It simply requires them to be advised. In any event, state agencies such as Education, Transport, Sydney Water and their associated regional agencies and other Utility providers are driven by much earlier planning issues requiring strategic planning. Under-resourcing of state agencies and reluctance to be involved is not going to be fixed by any change in this planning process.

Part B: The new approach. General Comments:

The paper is attempting to show that the department will change its micro-management of the process so that Councils will have more say and ability to make decisions than is currently the case. It is quite different to the almost threatening approach taken by the then minister when announcing to stakeholders at an industry lunch that the department will take a hard line and step in to take over when (stakeholders) draw their attention to delays in processing planning proposals.

The discussion paper says that 'the proposed new approach creates a streamlined and efficient process for LEP amendments that align ... more closely with the development application process.'

An application for a spot rezoning will be like a DA and may be part of a DA. This is remarkable! It is like Queensland, last century.

'Streamlined and efficient' means that -- whatever is in the DA -- simply apply for what you want and in many cases the council can approve it.

The most alarming part of the rezoning process seems to be that the application is advertised for four weeks on receipt. Only after that does the council commence the assessment and processing of the application. Six months after the application is advertised we get to find out if it has been approved.

'Streamlined and efficient' means that the LEP is merely advisory, and transparency ends after the application is submitted and advertised.

The alternative would be to restore some meaning to the LEP -- essentially by making it

more concise, and clearer about what is permitted (in less generic and more site-specific terms) – and never considering a spot rezoning without considering the whole LEP.

And then exhibiting the council's assessment and conclusions before a decision is made.

Conclusion:

The discussion paper states up front in the Introduction that:

On-going reforms to the NSW planning system aim for a plan-led system – an approach that ensures strategic planning is the foundation for all decisions about potential land-use changes.

Further changes have been made in recent time by the introduction, approval and adoption of Local Strategic Plans and Local Housing Plans both of which will inform changes to the LEP.

Surely, this is where the reform starts and finishes. The planning system must respond to the LEP including changes made by strategic planning supported by effective stakeholder and community consultation and thus eliminate the process that you are now trying to fix with band-aids.

The discussion paper includes a Section D: Implementation which indicates that the department intends to press ahead with this reform in 2022.

I sincerely hope that there is a halt to any of the processes before proper consultation from all sectors of the community.

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