



A community group working towards advocating all levels of Government to improve planning outcomes and achieve more environmentally sustainable, ecologically sound and liveable environments for our communities.

28 February 2022

SUBMISSION RE: A new approach to rezonings discussion paper

The Central Coast Community Better Planning Group (**CCCBPG**) makes this submission in response to the exhibited discussion paper “A new approach to rezonings”. The CCCBPG includes representatives from each of the five wards within the Central Coast Local Government Area. Our objective is to support ecologically sustainable development and oppose threats to it. From that perspective we wish to make the following observations.

The discussion paper appears to focus on addressing a perceived need to streamline and speed up the process of rezoning land in NSW. The discussion paper outlines a substantial change to the way in which proponent-initiated changes to Local Environmental Plans are made. The discussion paper indicates the NSW Department of Planning and Environment’s desire to provide greater control of some aspects of land rezoning to landowners and property developers. The Central Coast Community Better Planning Group is opposed to this approach. The EP&A Act already includes provisions and loopholes which can be used to expedite proponent-initiated rezonings.

CCCBPG is opposed to the idea of formally recognising the role of proponents in proponent-initiated rezoning, similar to the role of applicants in the development application process. We do not believe there is any need for the proponent in a rezoning to have the right to: meet with the rezoning authority to discuss a potential rezoning application; submit a rezoning application and have it assessed and determined after public exhibition; appeal, to the Independent Planning Commission or the Land and Environment Court, a decision made about a rezoning application because of a delay or dissatisfaction with a decision.

CCCBPG is concerned that the discussion paper is not framed around the public interest, good governance, or probity, but rather around “speeding up” rezoning. We believe facilitating proponent-initiated rezoning, particularly through removing oversight mechanisms and providing merits appeal rights to proponents, undermines rather than strengthens the stated aim of a “plan led” system, in which “strategic planning is the foundation for all decisions about potential land-use changes”.

We oppose the removal of the gateway determination process without replacement of a robust oversight and scrutiny mechanism, the importance of which was stressed by the ICAC in its March 2021 Report on the *Investigation into the conduct of councillors of the former Canterbury City Council and others* (p 194-195).

In fact, we wish to argue that objectors should be afforded merits review rights in relation to proponent-initiated rezoning. According to the ICAC, the existence of third party merits appeal rights acts to improve decision making and is a key safeguard against biased or corrupt decision-making. The proposal in the discussion paper to extend merits appeal rights to proponents and not afford those rights also to third-parties (ie objectors) is a regressive step.

If a merits appeal process is implemented it should be overseen by the Land and Environment Court not the Independent Planning Commission.

Local Councils, including the Central Coast Council which has struggled financially since its creation in 2016, don't have resourcing and funding for strategic planning, assessment and progressing planning proposals or for taking part in Court proceedings. The proposed reforms do not address the additional resourcing challenges associated with shorter timeframes and the prospect of defending appeal applications bought by well-resourced unsuccessful proponents in the LEC or IPC.

We are happy to support the provision of clearer guidelines around Agency referrals and the level of assessment to be provided, subject to ensuring that appropriate levels of oversight are maintained.

Mandatory assessment timeframes are unlikely to facilitate robust decision making, community participation in the decision-making process, or community confidence in the system, particularly in relation to Category 3 or "Complex" proposals that are inconsistent with a s9.1 direction.

It is noted that the exhibition process will be automated as much as possible. It is imperative that measures are put in place to ensure vulnerable members of the community have the opportunity to engage and comment on rezoning applications. The proponent must provide summaries not only in plain English but also in appropriate community languages and provide opportunities for those without access to technology to make submissions.

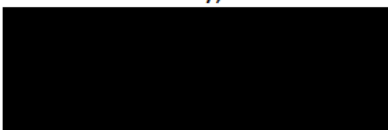
Requests for further information, following receipt of submissions from the public should be allowed to ensure that issues raised by the community can be properly and fully investigated.

The public interest should be the paramount consideration in strategic planning decisions (including decisions on rezoning) and it is imperative that it is listed as an explicit consideration in the assessment of all rezoning applications.

We support the proposal to enable a rezoning authority to refuse to issue a study requirement at the scoping stage if a rezoning application is inconsistent with the strategic plan.

Community engagement is critical to all strategic planning decisions, and we support the proposal to put a rezoning application out for exhibition prior to merits assessment.

Yours sincerely,

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Gary Chestnut
On behalf of the Central Coast Community Better Planning Group