

Our Ref: 103/173/1

Phone Enquiries: Gary Hamer  
[REDACTED]

25 February 2022

Ms Paulina Wythes  
Director, Planning Legislative Reform  
Department of Planning, Industry and Environment  
Locked Bag 5022  
PARRAMATTA NSW 2124

Dear Sir/Madam,

**Re: Planning Reforms Agenda – Maitland City Council Submission on the discussion paper “A new approach to rezoning’s in NSW”.**

Maitland City Council (MCC) provides a pivotal role in the delivery of the supply of residential housing within the Lower Hunter Region and in the state of NSW in general. Council’s Maitland Urban Settlement Strategy Council provides clarity and certainty to the delivery of housing stock and the ability to have an efficient and effective LEP rezoning process in place is crucial to achieving those housing targets.

Maitland City Council welcomes the opportunity to provide constructive feedback in relation to the planning reforms agenda with reference to those matters linked to the proposed rezoning process. In principle, Maitland City Council supports the proposed changes to the LEP Making process and associated new guidelines. Council has undertaken a review of the discussion paper “A new approach to rezoning’s in NSW” and support the following draft changes:

1. Consolidation to one LEP Making Guideline replacing the existing two guidelines (*A guide to preparing planning proposals*) and (*A guide to preparing a local environmental plans*).
2. Mandatory pre-lodgment meeting that enables Council and the relevant statutory authorities to clearly inform proponents of requirements and expectations regarding necessary studies and matters for consideration.
3. Greater emphasis is placed on the “strategic-merit” of proposals and enables for an early ‘no’ to those proposals not consistent with the adopted strategic planning directions set by Council.
4. Creates a more streamlined and efficient process to those proposals that are consistent with the adopted strategic planning directions of Council.
5. Greater clarity on project stages and timeframes for the LEP making process.
6. Earlier community consultation (exhibition period) in the process that will enable Council to better understand community concerns about proposals.

However, the following matters of concern are raised because of the review:

1. The role of proponents in the Plan Making process – *“along with these rights, the private proponent will be responsible for all fees, meeting information requirements, consulting with state agencies and reviewing and responding to any submissions received during consultation.”* This shifts the management of some planning proposals from the consent authority (most instances Council) to the private proponent. It is a significant shift that enables the proponent greater involvement and potential influence thus reducing the role of Council throughout the decision-making process. Furthermore, the proponent will have the right to “appeal a decision made about a rezoning application because of delays or dissatisfaction with a decision”. This has the potential to require additional resourcing for matters that are presented to the appeal system. The role of proponents is ambiguous and requires more clarity.
2. DPIE will no longer assess or determine private proponent rezoning applications. Notice to the Department may be needed if the application is inconsistent with a Section 9.1 Ministerial Direction.
3. Strict timeframes are imposed for government agency response, along with the ability for a rezoning authority to continue to progress and determine an application where an agency has not responded within a timeframe. If an agency objects, a rezoning authority could still approve the rezoning application, but will need to consider the objection when assessing it. This is problematic in that the responsibility and burden is shifted to the consent authority such as Council to progress an application where agency response has not been provided. Those agencies responsible for matters that respond to biophysical hazards and consequences of life and property such as bushfire are considered vital in the ability to determine the viability of any rezoning proposal. This also shifts downward the resolution of matters of consideration to the development application stage.
4. The ability to concurrently lodge a rezoning and a development application before the final determination and plan making process. The assumption is that all the necessary issues have been addressed or under consideration and that this should pave the way for the lodgement of the DA to reduce unnecessary delays. This however will entice more of the development industry to lodge “subdivision plans” earlier in the process and will potentially give unrealistic expectations of the eventual development outcome.
5. Inclusion of a Planning Guarantee scheme that was originally implemented in the UK planning system in 2013. A Planning Guarantee is aligned with the timing of each stage, refunding back to the applicant a percentage of the fees submitted if timeframes are not met. The Planning Guarantee timeframe is linked to the Assessment & Finalisation stage and any request for further information within 25 days. The example used in the discussion paper is 10% refund per week. The introduction of such a scheme is not supported as unrealistic expectations will be placed on Council to meet tight timeframes that don't consider planning proposal complexities. Any refund mechanism would potentially increase disputes and red tape.

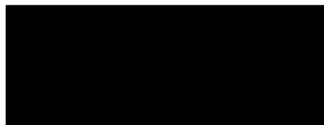
This has a net material financial impact on Council's finances as it would be very challenging to forward plan costs that may be imposed if there are unexpected delays in the assessment process. There is also the administration of refunds in the process.

6. Confusion and inconsistency of information provided for consideration requires correction. Page 12 of the discussion paper under "Introduction" point 6 states "requires LEP amendments to go through a mandatory and upfront pre-lodgement process" whilst information provided by NSW New LEP Making Guideline under Supporting Pre-lodgement states "Not a mandatory process but highly recommended for complex proposal". Council considers that mandatory pre-lodgement meetings be undertaken for both standard as well as complex applications.
7. The proposed planning guarantee timeframes are considered unrealistic for complex proposals. The generic approach does not consider any site-specific matters that by nature require considerable resourcing and time such as background research, reporting on highly contentious matters or involve numerous external stakeholders. The involvement of multiple government agencies, both state and federal governments, political involvement, resolution of past historical matters and significant ecological considerations combined will significantly impact on the progression of the proposal.

Council will continue to work with the Department of Planning, Industry and Environment on providing affordable and sustainable housing not only to our local government area but also the Hunter Region.

Should you have any questions or require any further information, please do not hesitate to contact My Gary Hamer, Senior Strategic Planner on [REDACTED] or via email at [REDACTED].

Yours sincerely



Matthew Prendergast  
Group Manager  
Planning & Environment