Lane Cove North Residents' Association

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A New Approach to Re-zonings

The thrust of this paper is to deliver better outcomes for proponents, usually developers, at the expense of local councils and communities. We would like to see a much better balance of rights and responsibilities. Given that LEPs determine the amenity, appearance and liveability of an areas, it is vital that the community has the opportunity to be fully engaged with any process during the creation or amendment of an LEP. That process might take some time, but it is important to reach the best decision, rather than the fastest one, given that some of these large rezoning submissions can change a neighbourhood forever.

Page 20: New Categories and Timeframes

While we support the need for timeframes to ensure that re-zonings are not delayed unreasonably, we do not believe councils should bear the punitive brunt of these timeframes. For instance, if a proponent neglects to supply full information, provides incomplete or inconsistent information, then the council concerned cannot progress the matter until the situation is rectified.

There must be a mechanism that stops the clock, as it were, while a proponent supplies new or updated information. Without this, a proponent can manipulate the system to force an outcome without proper scrutiny.

Page 22: state Agencies

There are already problems for some State agencies having to respond to development applications and processes. This document does not propose measures that will ensure they have sufficient competent staff and other resources to do better. It imposes strict timetables on agencies and then allows decisions to ne made without agency approvals. We support the desire to improve the time taken by agencies, but we object to allowing determinations to be made without assessment from the likes of heritage, water, transport and so on.

Page 28: Scoping

We support the introduction of mandatory scoping. However, it seems quite unreasonable to permit a proponent who has had the benefit of scoping advice and information to proceed with an application that is inconsistent with strategic plans. Such a privilege would undermine the whole planning process and we object to it.

We support comprehensive community consultation at an early stage of re-zoning proposals. Merit assessment is integral at this stage. It seems pointless to introduce measures that neglect merit assessment until the final assessment. We cannot agree that this measure would save time and money. On the contrary, proponents would likely incur more expense if they had to address merit objections only at the assessment stage when any such matters could be investigated earlier.

Page 31: Exhibition

There has always been a significant failure to consult adequately and fairly with communities, especially about major developments. It seems that both the Department and

developers see community involvement as a tedious roadblock to 'progress.' Community members are capable of making clear sighted, constructive and intelligent comment, but are denigrated as NIMBYs or worse if they raise objections. This needs to change. While automating the process has some obvious benefits, it leaves many people behind. Few will monitor websites looking for re-zoning or development applications, many people cannot afford computers or are not technologically literate and others are simply not comfortable operating in that environment. This is especially obvious when it comes to decoding plans, diagrams and the like – impossible on a phone and difficult on a tablet or domestic computer. These need to be available in hard copy at least at council offices.

Page 32: Information requests

The assessment 'clock' should not begin until the authority has all the information to start that process. To do otherwise would allow a proponent to delay information, thus depriving the authority of valuable time to make a thorough and proper assessment. We believe that a determining body should be able to seek additional information at any time and the 'clock' should stop until that information is provided.

Page 33: Assessment and Finalisation

Public interest is a vital and essential component of any re-zoning proposal and should be considered alongside strategic and site-specific merit.

Page 41: Options

Merit appeals are probably as important in some re-zooning matters as they are in DAs. We favour appeals to the Land and Environment Court because it is objective and operates with appropriate legal rigour. While it may not yet have experience with strategic planning matters, this will be gained over time as with any new responsibilities a court takes on.

While we understand that merit appeals to the Court will be costly, we would hope that this may deter frivolous appeals, something that may well bedevil a planning panel.

We are also concerned that this paper proposes to give rights to merit appeal to proponents but not to third parties. Any re-zoning affects the community in which it occurs. The proponent is obviously motivated by the opportunity to profit and this can sometimes come at great expense to a local or wider community. We therefore recommend that third party merit appeals should also be permitted. If these appeals had to be heard by the L and E Court, only serious objectors could participate. It is not reasonable or just to allow one party (proponents) the right to a merit appeal on a decision, but not councils or communities. This is a vital reform if the Government and the Department wants to create a fair and just system that benefits everyone.

Conclusion

These changes have much to recommend them, but there are areas where improvements should be made. We thank you for the opportunity to make this submission and we urge you to consider our objections and proposals.

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