

Our Reference: DLA:MH:196764
Your Reference: Rezoning Reform
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Wednesday, 23 March 2022

Re: Discussion Paper: A New Approach to Rezoning – Council Submission

Dear Sir/Madam

Thank you for the opportunity to provide feedback in relation to the discussion paper – *A New Approach to Rezoning*. Council provides the following comments to assist in the Department's decision-making processes.

Please be advised that this submission is further to the 'Officer level' submission forwarded to the Department. It represents Council-endorsed correspondence, as an approved late submission, following Council's Ordinary Council Meeting held on 22 March 2022.

1. Introduction of the Pre-Lodgement Scoping Stage

Provision for pre-lodgement requirements is considered essential as part of any scoping phase.

2. Removal of the gateway determination stage

The current gateway process has proved generally effective to mitigate undesirable planning proposals being pursued. Its original intent to provide greater certainty as a 'checkpoint' to prevent significant investment in proposals that had limited strategic merit would be circumvented by the reforms, once again, potentially creating project risk and uncertainty.

Transitional arrangements from the current gateway processes to the new framework will require careful consideration and management.

3. Public exhibition of the rezoning application to occur shortly after lodgement

The requirement for a one (1) week turnaround for lodgement, as detailed on page 13 of the Discussion Paper, is considered unrealistic and inappropriate.



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4. Categorisation of proposals and related timeframes

Clear guidelines on categorisation of Rezoning Applications would need to be provided by the Department to provide appropriate clarity and manage community and developer expectations. The proposed category of de-listing of heritage items as basic or otherwise, is currently considered unclear.

5. Introduction of a merit appeal right for proponents

The proposed appeal processes are not supported. It is considered that such amendments would create an increased financial and resourcing burden for councils and lead to community and proponent uncertainty, in addition to poorer local planning outcomes.

Access to the Parliamentary Counsel's Office (PC) can be challenging, particularly given current backlogs. It is apparent that additional resourcing is required to assist PC in this regard. Planning Teams have historically faced some 'roadblocks' with respect of conveying legislative intent to PC from rezonings or LEP amendments which can contribute to uncertainty. Should the appeals processes be introduced, this is likely to be become even more complex.

6. Introduction of a "planning guarantee" for application fees

It is not considered appropriate to incorporate fee refund arrangements as part of a regulatory reform program. This particular element is strongly opposed and will create considerable uncertainty for Councils, particularly in respect to financial management processes. Additionally, many delays are not a result of Council inaction, rather, are resultant from process or procedural-allied impediments at the proponents-end, or with respect to lagging Agency response times. It is not considered appropriate for Councils to be borne with such a liability and prospective penalty for matters outside of their sphere of influence and/or control.

General

The following additional trends and commentary is provided for the Department's consideration in the context of the draft Plan:

- a) The proposed amendments will potentially compromise the objectives and overall intent of the impending Design and Place State Environmental Planning Policy (SEPP).
- b) Fees should not be mandated and should remain at the discretion of each Council. Whilst the financial support detailed on page 19 of the Discussion Paper would be welcomed, a similar 'promise' was made with respect to ongoing access to Planning Reform Funding (PRF). Such funding has now been unavailable to local government for many years. The longevity of such funding arrangements is therefore considered highly questionable.
- c) It is considered that changes and exhibition during the local government caretaker period and Christmas are largely disingenuous and not consistent with

the Minister's planning principles. The system appears to be actively moving away from genuine consultation.

- d) The movement of merit assessments to the end of the process will create greater uncertainty for the proponent, Council and the community. This approach is considered inappropriate and will create pressure on Council's Planning Team to approve undesirable proposals. The approach is also likely to occasion associated probity and corruption risks that do not presently largely exist within the current framework. It is considered that the reforms will encourage speculative applications, which is contrary to the overall intent of the strategic planning framework.
- e) Council is unopposed to benchmarking, as this will guide decision-making processes and resourcing. This should, however, only be for guidance purposes and should not be legislated due to the complex nature of such planning matters and ongoing challenges for regional/rural Councils to attract suitably skilled and qualified planning practitioners.

Council trusts that the above advice provides the necessary clarification. Should you require any additional information or assistance in this regard you are invited to contact Council's Manager of Strategic Planning at [REDACTED] or by telephoning [REDACTED].

Yours faithfully,

[REDACTED]

Donna Ausling
A/Director Planning & Strategy