



ABN 25 125 245 361
PO Box 1925, Coffs Harbour NSW 2450
E-mail: geoff.smyth@bigpond.com

Mobile: 0418 398 492

TOWN PLANNING & DEVELOPMENT ADVICE

24 July 2017

Submission to Proposed amendment to *Environmental Planning and Assessment Act 1979* (the Act) Staged Development Applications Bill 2017

The following submission is in **support** of the proposed amendment referred above, however, S83B(5) needs to be strengthened to achieve NSW Planning & Environment's stated objective.

SUBMISSION

1. The proposed changes to the legislation are intended to 'ensure clarity and prevent delays in the assessment and delivery of development applications.
2. The proposed legislation reads:

S83B(5):

The consent authority when considering under section 79C the likely impact of the development the subject of a concept development application need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.

3. The intention of S83B(5) is to protect the proponent from the cost of undertaking extensive planning work where there is no certainty that an approval will be granted. That is recognised by the courts in numerous cases, however, as stated in the Media Release (NSW P&E, 30 June 2017), the Court of Appeal ruled that construction-related impacts need to be considered in the assessment of a staged application.
4. Whilst the draft bill purports to remove the requirement for detailed assessment at the Concept development application stage, S83B(5) does not clearly state this intention.

5. It is recommended that S83B(5) of the draft bill be strengthened by adding the following two subsections:

(i) A proponent for a Concept development application is not required to provide to the relevant consent authority the level of assessment required to satisfy a detailed (subsequent) Stage of a Concept development application; and

(ii) A proponent for a Concept development application need only identify the issues that require detailed environmental assessment at subsequent stages of the development application.

Words to this effect would assist in achieving the NSW Department of Planning and Environment's stated policy.

The effect of inconsistencies in the way in which S83B and S83C have been applied in the recent past was highlighted during the assessment and subsequent refusal of a Staged Development Application lodged with Kempsey Shire Council and determined by the Northern Region JRPP for a residential subdivision at South West Rocks.

This matter was a prime example of how the current legislation has failed to ensure clarity and prevent delays in the assessment and delivery of land for housing in regional NSW.

Thank you for your consideration of the above points.

Yours faithfully

GEOFF SMYTH & ASSOCIATES

A handwritten signature in black ink, appearing to read 'GEOFF SMYTH', with a stylized flourish at the end.

GEOFF SMYTH