

23 November 2017

Director, Legislative Updates
Department of Planning and Environment

Submission via NSW DPE online submission portal

Dear Sir/Madam,

Re: 2017 Review of the Environmental Planning and Assessment Regulation 2000

Council refers to current exhibition by the NSW Department of Planning & Environment of the Review of the Environmental Planning and Assessment Regulation 2000. Council would like to make the following comments for consideration;

1. Box 6

Council supports clarification to ensure the submission is considered. Consideration should also be given regarding the requirements in division 7 of the regulation, in particular the requirement for notice in the local newspaper. Society has changed with technology, most councils have active social media pages and employee social media specialists, which could be utilised to engage with a wider audience, with minimal cost to Council rather than the requirement to place the notice in the local paper.

2. Box 7

Council supports the proposals put forward.
There should be no requirements to maintain specific copies of any documentation. Wording should simply be along the lines that documentation should be readily available or accessible.
The requirements of part 16 are simply; outdated, onerous and ridiculous. It achieves absolutely nothing except creating unnecessary administration burden on councils.

3. Box 8

Whilst Council is encouraged by the NSW Planning Portal, Council is yet to see and substantial benefit.

It is hoped the NSW planning portal will have a NSW Government agency component that will provide the ability for the applicant and/or

council to nominate via “tick box” which agencies are required for concurrence and/or integrated approvals. Those agencies could be automatically notified electronically of an application. This would remove the need for Council to notify these agencies and significantly streamline a outdated and inefficient process which is frustrating for all stakeholders involved.

Serious consideration should be given to the NSW Government hosting and controlling all LEP associated mapping in NSW. This would provide significant benefits including; reduction of duplication within NSW (Councils have mapping, NSW DPE now has its own mapping on the NSW planning portal, SafeWork has mapped Naturally Occurring Asbestos, DPE are about to map strategic agricultural lands, OEH are about to undertake mapping regarding significant vegetation, RFS bushfire mapping etc).

There are too many agencies and organisations undertaking their own mapping, duplicating resources and increasing the risk of discrepancies between the data sets. If the NSW Government took control it could also ensure one source of truth with control.

It would also negate the need for pdf mapping in the standard instrument (I believe Central Coast Council is running a pilot on removal of their pdf maps and only having electronic maps).

If confidence was established in the quality of mapping data the NSW Government could transition from paper based s149 certificates into instantly generated s149 certificates based on mapping data, potentially even linked to the NSW planning portal. DPE or NSW Spatial Services could have oversight of system, which could include collection and retainment of all s149 fees to fund design and upkeep of mapping data.

Council would be happy not to have to issue s149 certificates. A NSW wide s149 online generated process would be significantly beneficial and efficient. It would provide greater consistency to; real estate agents, conveyancers and particularly the public.

Clarification is required if the NSW planning portal will be able to accept lodgement of combined Development Applications and Construction Certificates lodged concurrently (also see point 11 on page 4).

4. Box 10

Until further detail is outlined on the proposed format of DCPs, Council cannot support or comment on the proposal to standardise DCPs. Previous standardisations by NSW DPE including the Standard Instrument LEP, and the Codes SEPP in particular have been too Sydney centric and in some instances not provided the best outcome for regional NSW.

5. Box 11

Council in principle supports the mandatory community participation requirements, however please see comments regarding box 6 and social media.

It also should be considered that Councils are having increasingly trouble with Australia Post's ability to deliver mail. Councils are now having to send all correspondence by priority post (at greater cost) to ensure any correspondence (in particular notifications) will reach the intended recipient within 2 days.

6. Box 12

Council supports the proposal to contact submission makers by email advising they can view the file rather than sending copious documents to them.

Further information is required regarding the statement *"the proposed updates to the EP&A Act would require all decision makers to publish reasons for their decisions"*. This should only be considered where a submission has been received, otherwise you are creating additional work on 90% of the applications where no submission is received.

That being said, a simple statement on the notice of determination that the section 79C (which specifically requires submissions to be considered) can be viewed at Council or on the NSW planning portal would achieve the same outcome.

7. Box 15

Council supports a review of all fees and charges.

Consideration should be given to allow the ability to index fees on an annual basis (I am not sure when they were last increased).

The resourcing implications to processing a development application is significant and continues to increase, in particular attracting and retaining quality staff (particularly in regional NSW).

If fees could be increased annually (say in accordance with CPI or determined by IPART), please ensure Councils have the ability to be advised prior to 1 May each year (Councils normally put the next year's Operational Plan incorporating fees and charges on exhibition in May each year).

Consideration should be given to create and provide incentives for applicants to lodge applications through the NSW planning portal (when this function becomes active). This is considered paramount to drive behavioural change and achieve the intent of the portal.

There should be no discount provided for review of determination under s82A, the workload is the same as the initial assessment.

It is hoped the NSW planning portal will provide the ability for applicants to directly pay NSW Government agencies, or the portal will distribute the money to those agencies rather than Council having to handle these monies.

Councils are currently seeing no beneficial outcomes to monies being raised through the planfirst levy.

8. Box 16

It is noted ICAC has also undertaken significant works regarding VPAs.

9. Box 18

The comments stated in box 8 are reiterated for consideration;

“Serious consideration should be given to the NSW Government hosting and controlling all LEP associated mapping in NSW. This would provide significant benefits including; reduction of duplication within NSW (Councils have mapping, NSW DPE now has its own mapping on the NSW planning portal, DPE are about to map strategic agricultural lands, OEH are about to undertake mapping regarding significant vegetation, RFS bushfire mapping etc).

There are too many agencies and organisations undertaking their own mapping, duplicating resources and increasing the risk of discrepancies between the data sets. If the NSW Government took control it could also ensure one source of truth with control.

It would also negate the need for pdf mapping in the standard instrument (I believe Central Coast Council is running a pilot on removal of their pdf maps and only having electronic maps).

If confidence was established in the quality of mapping data the NSW Government could transition from paper based s149 certificates into instantly generated s149 certificates based on mapping data, potentially even linked to the NSW planning portal. DPE or NSW Spatial Services could have oversight of system, which could include collection and retainment of all s149 fees to fund design and upkeep of mapping data.

Council would be happy not to have to issue s149 certificates. A NSW wide s149 online generated process would be significantly beneficial and efficient. It would provide greater consistency to; real estate agents, conveyancers and particularly the public.”.

If the NSW Government does not see benefit in taking control of s149 certificates, DPE should consider issuing a template format for certificates to create consistency throughout the state. This would benefit

all stakeholders including; Councils, developers, certifiers, real estate agents, conveyancers and particularly the public.

Other

10. Clause 154C BASIX completion receipt is unnecessary and an onerous administrative requirement.

11. Whilst in a previous role at Oberon Council, the Building Professionals Board undertook a random audit of the certification unit of the Council.

The audit report concluded and outlined that under section 81A of the EPAA 1979 a Council (consent authority and the principle certifying authority) cannot accept lodgement of a combined Development Application (DA) and Construction Certificate (CC).

The ability to lodge combined DACC applications is significantly beneficial to applicants, in particular “mum and dad developers” who are seeking to undertake basic developments in particular dwellings, additions and garages etc. It allows a streamlined singular development process which prevents duplication of processes and frustration to applicants.

It is noted most councils allow lodgement of combined applications to be processed concurrently. We seek DPE to clarify the matter and consider amending the EPAA 1979 to allow combined DACCs to be lodged concurrently. The NSW planning portal’s ability to accept combined applications should also be considered.

Should you require further information regarding this matter please me on (02) 6368 2104.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Mark Dicker', with a stylized, flowing script.

Mark Dicker

Director Planning & Environmental Services