

Director – Legislative Updates
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam,

Re: Environmental Planning and Assessment Regulation 2000 Review

I write in response to the public exhibition of the Environmental Planning and Assessment Regulation 2000 (the Regulation).

Council would like to thank the Department on the opportunity to provide feedback based on the existing Environmental Planning and Assessment Act 1979 and not the amendments to this Act, currently before Parliament. The comprehensive review of the key operational provisions allows councils an opportunity to remove outdated rules that has been long overdue.

While there are a number of comments provided in the attached submission, generally the proposed changes to the Regulation are supported. Liverpool City Council are already leaders in e-technology and supportive of greater community participation with an enhanced digital planning future.

Please find attached our submission, emphasising in more detail, Council's comments and suggested amendments/actions.

Should you wish to discuss this submission further, please contact me on (02) 9821 9396.

Yours sincerely

Tim Moore
Director City Economy & Growth

Reference	Comment	Suggested amendment/action
<p>1. Planning Instruments Part 2 & 3 of the Regulations</p>	<p>The new Act will enable the regulations to standardise DCPs. LGNSW supports the standardization of the form but not the substance of the DCP. Changes are needed to develop a process for the delivery of this goal without jeopardizing council's local planning responsibilities. This is not covered in the Issues Paper and LGNSW will provide a specific response in 2018.</p> <p>SEPPs to be required to be advertised for 28 days as draft SEPPs not as EIEs.</p> <p>Are fees charged to applicants reasonable for planning studies?</p> <p>Should there be more guidance for councils on how to determine fees for planning proposals?</p> <p>Are current requirements on making DCPs adequate?</p> <p>Council may not be supportive of JRPPs to be the relevant planning authority (ie before being referred to Gateway) for consideration of changes to the LEP? Perhaps this should stay as Council.</p>	<p>Fees to be based on a cost recovery basis as they currently do not cover the cost and time taken to assess planning proposal.</p> <p>Creating a guide to assist developers in understanding what the fees are utilised for.</p> <p>Agreed - draft SEPPs should be placed on the NSW Portal for 28 days to align with advertising requirements for other EPIs.</p> <p>Creating more than one type of DCP template ie activity based DCPs and placed based DCPs or allowing a combination of the two.</p>

Reference	Comment	Suggested amendment/action
<p>2. Development Assessment and consent – covers local, regional and SSD</p>	<p>Liverpool City Council are leaders in the use of digital technology to improve the efficiency of the DA and CDA processes.</p> <p>There is a cost burden on councils to implement changes to IT service arising from the reform agenda.</p> <p>Liverpool City Council leads the way in improving the DA assessment process by the use of digital business systems rather than further regulation.</p> <p>Recommending that more emphasis needs to be placed on educating applicants to lodge better applications. Many of the obstacles in the system are because DAs are poorly presented and designed.</p> <p>Does the notification of DAs need to be changed in an IT/social media context?</p> <p>Does the way we manage additional information need to be changed?</p> <p>Are the amendment /rejection/ withdrawal provisions for DAs acceptable?</p> <p>Is the requirement for a gateway certificate or site verification certificate workable?</p> <p>Are the information requirements (Schedule 1) for DAs & CDAs appropriate?</p>	<p>Liverpool City Council is leading the way in online services with our ePlanning Portal.</p> <p>In keeping with the pace in technology, notification processes need to be changed. Reducing the number of notification requirements and a holistic review of timeframes is recommended.</p>

Reference	Comment	Suggested amendment/action
	<p>Is the list of designated development (schedule 3) complete?</p> <p>Are the procedures for complying development in Part 7 need to be reviewed?</p> <p>Can we utilize technology for notification of DA's?</p> <p>Does the time to refer to Local Planning panels need to factored into the 40 day time frame.</p> <p>Are the timeframes unrealistic?</p> <p>Are changes needed to better manage existing use rights?</p> <p>Would it be sensible to support provisions that enable long standing 'existing use' activities to be regularized without requiring a re-zoning process?</p> <p>Is there a need for new guidelines to be prepared for proponents' of SSI instead of relying on the SEARs?</p>	

Reference	Comment	Suggested amendment/action
<p>3. Environmental Assessment under Part 5 applications</p>	<p>As the NSW Government intends to expand the use of Part 5 to more school development these provisions need to be suitable for the assessment of schools.</p> <p>It is also noted that the SEE/EISs for such development need to be in a public space and accessible to councils and communities.</p> <p>Is the definition of ESL in Schedule 3 appropriate?</p> <p>Are the provisions for assessment of EIS adequate?</p> <p>Are the reporting requirements for determining authorities need to be adjusted?</p> <p>Are the requirements or exemptions for owners consent, the notification provisions and timeframes for completion of the Secretary's environmental assessment report reasonable and are they adequate?</p> <p>Are they or should they be publically available?</p> <p>Should public agencies be required to make their environmental assessments publically available?</p> <p>Under Schedule 2 public agencies should be required to make their Environmental Impact Statements public. However the prescriptive requirements for Integrated Development under SEARS does not appear to be meeting community's expectations eg Moorebank Intermodal.</p>	<p>Agreed – all environmental assessments need to be publicly available.</p> <p>The definitions are inconsistent and would recommend the creation of a new set of definitions.</p>

Reference	Comment	Suggested amendment/action
<p>4. Fees & Charges</p>	<p>The review of fees and charges for development associated activities is long overdue. Only minor changes have been made since the inception of the regulations in 2000.</p> <p>Charges need to be substantially increased given that the benefits arising from the development of land has sharply increased over the last 17 years.</p> <p>The new fees structures need to be based on cost recovery system.</p> <p>While some costs are scaled against the cost of development this does not reflect other factors that may better consider the scale, controversy and degree of assessment required during the assessment process.</p> <p>The fees for DAs do not take into account whether the DA is referred to a Local Planning Panel (formally IHAP). An administrative fee needs to be added to cover this cost.</p> <p>Do you think councils should be able to apply an hourly rate on owners in relation to the 'investigation 'of alleged illegal work?</p>	<p>Raise prescribed fees to cover the cost of assessment by Council. A holistic fee structure should be undertaken and increases to cover assessment, notification and advertising, and cost recovery based on the time taken to assess ie referrals.</p> <p>IHAP & JRPP cost recovery fees be introduced for Councils.</p> <p>Application fees for Section 149 Planning Certificates should be increased based on legal liability.</p>

Reference	Comment	Suggested amendment/action
	<p>Is the existing fee regime for DA appropriate?</p> <p>Should they by CPI'd?</p> <p>Does the prescribed fee need to be raised? Should councils be able to charge an expedited fee? Do the fees cover the work we do? (provide evidence if possible)</p> <p>Is the fee reasonable?</p> <p>Are the fees for planning proposals appropriate? Is there a fee to reassess?</p> <p>How should this levy be applied and on what types of applications?</p> <p>What does the levy go on?</p>	

Reference	Comment	Suggested amendment/action
	<p>Almost every metropolitan council has invested in expensive IT systems to manage:</p> <ul style="list-style-type: none"> - data collection and retrieval, - the fast delivery of planning certificates; and - increasingly sophisticated on- line DA tracking systems - that are financially costly to set up and require on-going resources to update and administer. <p>Communities expect councils to have access to the latest technological programs to deliver ePlanning outcomes, irrespective as to whether these IT services deliver a more cost effective service. This means that councils are increasingly required to deliver a better service to customers, irrespective of the cost implications</p>	

Reference	Comment	Suggested amendment/action
<p>5. Development contributions/VPA</p>	<p>The regulations prescribe the process and methodology of preparing and adopting s94 plans rather than prescribing the amount. This is supported as it provides more flexibility to the system.</p> <p>Liverpool City Council supports s94 plans and VPAs being placed on exhibition and on a public register.</p> <p>Does the indexation of monetary s94 contributions need to be reviewed?</p> <p>Does the content and basis of a Section 94 plan need to be reviewed?</p> <p>Is the % of cost of work an appropriate means of determining the s 94A levy?</p> <p>Does that levy need to be raised and do we use it?</p> <p>Do the current provisions for the substance and preparation of a VPA need to be reviewed?</p> <p>Should councils policies on VPAs be required to be advertised and placed on the website or NSW Portal or both?</p>	<p>Holistic review of the indexation of Section 94 monetary contributions.</p> <p>Create a 'Practice Note' prescribing the process and methodology of preparing and adopting s94 plans rather than having them contained within the Regulations.</p>

Reference	Comment	Suggested amendment/action
	<p>Should there be a 'Practice Note' instead for ease of amending?</p> <p>Are changes needed?</p> <p>Are any changes to SICs needed? Are they working?</p> <p>The regulation be amended to allow councils the opportunity to make minor amendments to VPAs (in a practical sense) if agreed by all parties rather than having to publicly advertise. Major amendments would still need public advertising.</p>	

Reference	Comment	Suggested amendment/action
6. Planning Certificates	<p>Does the information required on a planning certificate need to be revised?</p> <p>Should the register of Site compatibility certificates for affordable housing be removed?</p> <p>Should s 149 (2) and (5) be amalgamated?</p> <p>Does the purpose of a zoning certificate need to be reviewed?</p> <p>Should it provide advice on the land rather than the development potential of the land?</p> <p>Should the format and language of a zoning certificate be prescribed?</p> <p>Should certificates be only delivered online?</p> <p>Does the conveyance act need to be updated?</p>	