

Northern Beaches Council Submission

Review of the Environmental Planning and Assessment Regulation 2000 – Issues Paper

Introduction

Northern Beaches Council appreciates the opportunity to make this submission on the NSW Government's Review of the Environmental Planning and Assessment Regulation 2000 (the Review). The exhibited Issues Paper provides a useful first stage in the Review process.

Council supports opportunities under the Review to remove any unnecessary complexities or outdated rules which make the system hard to use and to modernise the Regulation and make the planning system easier to navigate for all.

The stated objectives of the Review are also supported and Council expresses its interest in participating with the Department of Planning and Environment to undertake a comprehensive review of the Regulation in order to:

- Reduce administrative burden and increase procedural efficiency;
- Reduce complexity; and
- Establish a simpler, more modern and transparent planning system.

Council's submission at this initial stage in the Review raises various known issues or inefficiencies that should be addressed. It is understood that further opportunities for submissions will be provided to Council in 2018 to review proposed detailed changes to the Regulations.

The following comments are made with regards to the key operational provisions of the current Regulation.

1. Planning instruments

Council suggests that opportunities exist to more comprehensively integrate provisions for all notification processes under the Environmental Planning and Assessment Act (the Act). The Department's suggestion to prescribe a time period for giving notice under clause 10A of the Regulation (Notification when council does not support request to prepare planning proposal) is not supported, as a proper review needs to be undertaken and each planning proposal varies in its complexity. Provisions for the review of determinations of planning proposals appear to already provide the necessary level of certainty to the applicant / proponent.

Council suggests that certain guidelines that are critical to the preparation of planning instruments be referenced in the Act or Regulations, including 'A Guide to Preparing Planning Proposals' and 'A Guide to Preparing Local Environmental Plans'.

2 Development assessment and consent

Council considers that proposals to prescribe re-notification requirements for the exhibition of DCPs are unnecessary as Clause 21(1)(b) already provides for Council to make 'such alterations as the council thinks fit' (after considering any submissions about a draft DCP).

It is understood that re-exhibition would likely be required by Council where amendments substantially alter the form or objectives of the draft DCP. According to clause 21 of the Regulation any such alterations are to be made as the council thinks fit, incorporating its consideration of a re-notification without the need for more regulation.

In relation to suggestions in the Issues Paper regarding the notification of review decisions (p.18), Council advises that under its adopted DCP policy, any person who lodges a submission is notified of Council's determination of the application – including persons who made a submission in relation to an internal review under section 82A of the Act. In this regard no objection is raised to an amendment to include such a requirement for further consideration in the Review.

3 Environmental assessment

Provisions relating to environmental assessment under Part 5 of the Act will particularly benefit from review incorporating structural changes to simplify, consolidate and/or integrate provisions. It is understood that the Department is currently reviewing a number of related initiatives including the Environmental Impact Assessment Improvement Project, to which Council has previously contributed. Given the importance of these key operational provisions, Council staff across a range of Business Units have expressed great interest in further review in relation to their respective areas of responsibility at a later stage in the review process.

4. Fees and charges

No comment at this time.

5. Development contributions

Concern is raised regarding the ad-hoc manner in the review of the development contributions system generally. In the past year, changes were introduced regarding Voluntary Planning Agreements and the application of Local Infrastructure Growth Scheme (LIGS), now limited to specific precincts without benefit of a comprehensive review of the development contributions system.

The anomalies identified with the Department's Essential Works List and pre-requisite assessment by IPART if the contribution rate is above the 'cap' has implications for local communities. For example, it is considered unreasonable that the land upon which a community facility building is erected can be levied however the construction of the facility building itself cannot be levied as it is not in the Essential Works List. Similarly, where an IPART review of the Plan is required, Council cannot technically apply the contributions plan it may have adopted without the prior review of the plan by IPART. Additionally, the Department's 2005 Practice Notes for Development Contributions (July 2005) are outdated and in need of immediate review if for no other reason than to contemporise recent legislative reforms.

Council supports the accountability and transparency of the development contributions system including the Voluntary Planning Agreement pathway. Council should be responsible for the Registers and access to signed Voluntary Planning Agreements at its main office rather than on the Planning Portal. The accounting for the Special Contributions Areas Infrastructure Fund should also be transparent and readily accessible.

6. Planning Certificates

Council agrees with the views expressed in the Issues Paper that there are a number of issues with planning certificates, ranging from the type of information that is included on certificates to how that information is expressed. The language or format in which information appears on planning certificates across the state appears to vary considerably, notwithstanding that the information provided under section 149(2) is prescribed in the Regulation. The provision of a guideline document to accompany the prescribed matters would assist councils dealing with the language and format of the certificates. However, any changes to planning certificates systems must recognise and allow for the complexities and resources required to implement any operational reforms.

7. Miscellaneous operational and administrative provisions

It is anticipated that further consideration of these provisions will be provided at later stages of the Review.

Other Issues with draft Related Initiatives

It is understood that updates to the Act have been proposed to require DCPs to follow a standard format. This will improve consistency across local councils and improve user navigation of the planning system and its controls. It will also provide for a level of spatial representation of certain matters contained within DCPs. In this regard the Department is encouraged to work with councils to develop an approach to implement standard format DCPs whilst ensuring DCPs are not only consistent but also continue to capture local contexts.

Council generally supports a move towards the provision of information digitally e.g. the NSW Planning Portal. It is understood the NSW planning database has been established as an electronic repository of planning information, and the NSW Planning Portal is designed to be a single point of contact for advice, guidance, tools and services to help the community navigate and engage with the planning system. The significant burden on consent authorities to print and post a large number of documents to each submitter may be improved with opportunities to review detailed documents online via the Planning Portal.

Conclusion

The need to comprehensively review the Regulation is evident to simplify, consolidate, or otherwise reform legislation that came into effect in 2001. Council's submission concludes that opportunities exist to reduce regulatory and administrative burden and supports the view that digital solutions could be used to make these requirements easier to meet.

Council welcomes further opportunities to participate in the Review process, including consultation in the drafting of future changes to the Regulation and related initiatives.