



address 200 Miller Street North Sydney NSW 2060

all correspondence General Manager North Sydney Council
PO Box 12 North Sydney NSW 2059
DX10587

telephone (02) 9936 8100

facsimile (02) 9936 8177

email council@northsydney.nsw.gov.au

internet www.northsydney.nsw.gov.au

ABN 32 353 260 317

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

NM (CIS)

30 November 2017

Dear Sir/Madam,

**RE: REVIEW OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT
REGULATION 2000**

North Sydney Council (Council) would like to thank the Department of Planning & Environment (DPE) for the opportunity to provide comments in response to the release of the Review of the Environmental Planning and Assessment Regulation 2000 - Issues Paper.

Whilst Council is generally supportive of the initiative to prepare the Issues Paper and the suite of suggested potential measures, a greater degree of clarity is sought during the next phase of preparation of draft amendments. The objectives of the review, being to modernise and update outdated provisions, simplify and consolidate existing provisions and employ digital solutions are laudable, however, further detail is required to ensure these are met.

This submission has not been formally presented to Council for endorsement, however, represents the collective views of Council's Strategic Planning, Development Assessment and Regulatory Teams. For ease of reference comments are grouped under headings.

Standardisation of Development Control Plans (DCP's)

The initiative to potentially require DCP's to follow a standard format is, in principle, agreed to. Concern is raised however, if, through the desire to embed DCP controls in the NSW Planning Portal, an overly standardised approach is adopted. Council insists on the retention of the ability to create and maintain DCP planning controls that appropriately respond to the unique aspects of the North Sydney LGA and that align with community expectations.

Rejection of Applications

The proposal to allow a Council to reject a modification application is supported. Consideration should also be given to the addition of provisions to allow the rejection of a Planning Proposal where it is either not supported by adequate documentation or appropriate Council endorsed strategic studies. This would reduce the number of ad-hoc applications which are ambit claims for development uplift with no sound strategic basis.

Requirements for notices of determination

The proposed initiative to modify the regulation to potentially allow for the provision of notices of determination to submitters electronically is strongly supported.

Reference is made in the issues paper to previously mooted ‘updates’ to the EP&A Act and the potential requirement that would require all decision makers to publish reasons for their decisions. The notion of providing greater transparency around planning decisions is agreed with, however the detailed assessment reports that are prepared by professional planning staff ultimately provide this reasoning. It is recommended therefore that reasons only need be provided where the decision makers determination is contrary to or different to the technical assessment report. If a requirement is implemented requiring reasons to be provided in all cases, there is concern that this could create an additional burden on the processing of applications or alternately that if overly generalised, would serve little real meaning and lack site specificity and relevance.

Part 5 –Environmental assessment

North Sydney Council recognises the need for the provision of essential services and activities to be undertaken by public authorities and acknowledges the ability to undertake these works without requiring development consent. It has been observed that there is a marked degree of variation in the quality and nature of Reviews of Environmental Factors (REF’s) prepared in support of these works by different agencies. This has led to works being undertaken without proper sedimentation controls being in place, unsafe pedestrian environments being created for significant lengths of time, extended out of hours works and the like. It is recommended that this section of the regulations provide a level of standardisation and minimum content requirements for inclusion within an REF and that these assessments, once issued, to be made publicly available via an appropriate platform hosted by the relevant agency.

Planning portal/electronic lodgement

In March 2017, North Sydney Council considered a report on several proposed amendments that form part of a wider program of initiatives currently being implemented by the State Government to progressively improve the NSW planning system. As part of this, there has been a strong promotion of a shift to accommodate the planning system in an online digital format.

The DPE first commenced this action in 2011, when it established the Electronic Housing Code, with the view to providing applicants with an easy way to determine what development assessment stream they could pursue to undertake different types of developments in an online environment. This system is now proposed to be integrated into the *NSW Planning Portal* (Portal), which the DPE established in 2015. The overall intent is that the Portal is to comprise a centralised repository of planning information, where anyone can obtain all relevant planning information relating to a parcel of land, from applicable planning policies (e.g. relevant SEPPs, LEPs and DCPs) to development approvals.

In a similar vein, the current issues paper in several sections references the desire for this to continue further in the area of development application lodgement. As outlined in Council’s submission of 21 March 2017, unless there is satisfactory resolution of all the issues identified in Council’s submission as well as accompanying support given for system integration and information technology training and support, strong concern is maintained by Council.

Fees and Charges

Council welcomes a review of the existing fee regime on the basis that opportunity is made to comment on any revised fee regime before coming into effect. It is drawn to the DPE’s attention that some of the current fees (e.g. cl 260 Fee for building certificate) do not cover Council’s administration and staffing costs. The basis of any review should be to ensure that services are not provided at an effectively subsidised rate resulting in considerable expense to Council and the community. Further, any rationalisation of the amounts or categories of penalty notice offences (Under Schedule 5) needs to ensure that all relevant categories of offence and references to Sections of the Act are not inadvertently omitted.

Development contributions

Council currently has plans and policies on the management of Section 94 contributions and the delivery of public benefits through the use of voluntary planning agreements (VPA's) for strategically identified infrastructure. The issues paper identifies the need for further policy development with respect to VPA's to increase accountability and transparency around public benefits that are funded through VPA's. There is an absence of detail, however, as to how this might be achieved and what a potential 'regulatory provision' may mean in practical terms. It is therefore difficult to comment further on this initiative.

Planning certificates

Council is supportive of a measure to standardise the format and language in which information should appear on a planning certificate. Council staff also think the current dual certificate arrangement, being certificates issued under Section 149 (2) and Section 149 (5) is confusing and problematic. For example, information that can currently only be provided on a Section 149 (5) should be able to be provided in a Section 149 (2) such as draft flood studies, remedial action plan status and encroachments on Council lands. If unaware, these conditions may have serious implications on potential purchasers and should be more readily available on a planning certificate. It is recommended that only one form of certificate be able to be issued for a property with standardised format and language and a section under which additional information can be provided if relevant. The potential issuing of certificates through the NSW Planning portal is not supported for the reasons outlined previously in Council's submission of 21 March 2017.

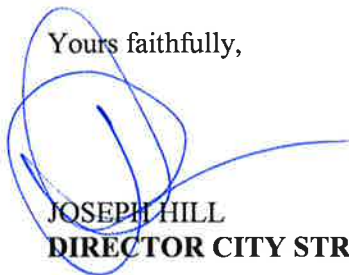
Conclusion

Council staff have considered the implications of the different issues and suggested initiatives as part of the review of the Environmental Planning and Assessment Act Regulation 2000. Council is generally open to many of the suggested directions, however, requests further detail and engagement be provided as the review progresses. Adequate time is also sought to prepare Council's systems prior to any amendments coming into effect.

Council would again like to thank the DPE for the opportunity to provide input and welcomes the opportunity for continued involvement in any reform.

If you have any further queries, please contact Neal McCarry of Council's Strategic Planning Department on 9936 8100.

Yours faithfully,



JOSEPH HILL
DIRECTOR CITY STRATEGY

c.c. regulation.review@planning.nsw.gov.au