

Our Reference: E05.9582

30 November 2017

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

Dear Sir/Madam

Submission – EP&A Regulation Review Issues Paper

Eurobodalla Shire Council has reviewed the Environmental Planning and Assessment Regulation Review Issues Paper and has the following comments to make:

Planning Instruments

Council has no objection to the two proposed changes to the regulations in relation to planning instruments, being the requirement to notify a proponent of a decision not to support a planning proposal and the requirement to consider re-exhibition of a DCP if it has been substantially amended following community consultation.

Whilst the Act has now been amended to allow for the standardisation of DCP format, and there are no proposed regulation changes on this matter, Eurobodalla Shire Council continues to object to this as it will inhibit innovation and remove the ability of planning authorities to develop new ways of developing and communicating controls. This is especially true, now more than ever, with changes in technology.

Development Assessment and Consent

The NSW Government has set goals of more affordable housing and faster approvals. It is put to the NSW Government that complying development has not achieved the outcomes that were envisaged (or at least the current mechanism) and the review of the Regulations or any other legislative review should develop a faster and more streamlined approval process for single dwelling houses.

The classes of designated development should be reviewed as there are a number of situations where developments trigger the thresholds but are a single issue, i.e. a helipad near a residential area triggers the need for an EIS after 7 flights a week and it will largely be reliant on an assessment of noise but under the current regulations would require a full EIS.

There are also other situations where the Roads and Maritime Services (RMS) have had to lodge concurrent designated development applications and Review of Environmental Factors (REF) due to parts of a project affecting SEPP 14 wetlands. This has happened twice in the last year in the Eurobodalla Shire and given the preparation of a REF, is there really a need to also prepare an EIS let alone trying to communicate this two stage process to the community.

Complying Development

Council notes that there are no changes proposed in relation to Complying Development Certificates. Council's submission to the proposed legislation changes in March 2017 offered our support to a number of proposed improvements to the complying development pathway. It is disappointing that these do not appear to be being progressed.

Certification

Council notes that there are no changes proposed in relation to construction certificates and subdivision certificates. Council's previous submission in March 2017 offered support to some proposed changes and objection to other proposed changes. Clarification is sought as to whether any of the previously proposed changes to certification are being progressed?

Environmental Assessment

The proposed requirement to make publicly available environmental assessments under Part 5 of the Act is considered a positive step and will ensure that the planning system remains robust.

Fees and Charges

It is considered that application fees for different types of development are in need of review and that the cost of preparing an application is significantly higher than the cost of assessing an application.

Given the complexities with certain types of development, it is considered that the majority of fees should be raised but especially those fees with a base fee plus per unit, i.e. subdivisions fees.

The fees could also be adjusted to reflect different types of development where specific fees could be attributed, i.e. residential flat buildings, new commercial and industrial development rather than just based upon cost.

Development Contributions

No specific comment.



Planning Certificates

It is considered that a planning certificate should indicate whether the land is potentially contaminated and that the current provisions are too prescriptive. Furthermore, conveyancers generally only get a 149(2) and therefore if councils have any additional information that could be provided on a 149(5) it is not passed onto the purchaser.

Agree that 149 certificates could be replaced with online system through the planning portal. Royalties to be provided to the councils for their data and certificate to be printed off as a formal record subject to payment.

Miscellaneous operational and administrative provisions

No comment.

Thank you for the opportunity to comment on the Environmental Planning and Assessment Regulation Review Issues Paper.

Should you require any further clarification on the above, please do not hesitate to contact me on 4474 1087.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gary Bruce', with a stylized, cursive script.

Gary Bruce
Divisional Manager Development Services

