

Our ref: R09/0015 Out-26020
Further contact: Jenny Dennis

15 March 2017

Ms Carolyn McNally
Secretary
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms McNally

Draft Environmental Planning and Assessment Amendment (ePlanning) Regulations 2017

Local Government NSW (LGNSW) has been a strong supporter of the Department of Planning and Environment's (DP&E) ePlanning program since it commenced. As such, LGNSW welcomes the further expansion of ePlanning functionality to include online lodgement of development applications (eLodgement). It represents a major milestone in the anticipated progression of ePlanning in NSW and will improve certainty, consistency and efficiency for all parties.

LGNSW acknowledges and appreciates that DP&E has undertaken extensive consultation with local government and other stakeholders in developing the eLodgement service. The consultation has enabled councils to understand the eLodgement process and more broadly, the current purposes and potential functions of the NSW Planning Portal. Most importantly, it has given councils the opportunity to provide timely feedback. LGNSW appreciates that DP&E's process involved:

- an extensive road show by DP&E staff across NSW to discuss ideas with a broad number of councils, as well as
- piloting some of the key changes with a specially chosen group of councils.

LGNSW supports the key regulatory changes involved in enabling eLodgement services, including:

- requiring Development Applications (DAs) and Complying Development Applications (CDAs) to be uploaded to the NSW Portal
- standardisation of application forms and accompanying information for applications, and
- requiring Development Control Plans (DCPs) and Contribution Plans (CPs) to be uploaded to the NSW Portal in compliance with agreed processes.

However, there are a four issues on which LGNSW has further comment.

1. Time frames for commencement of the new processes

LGNSW acknowledges that DP&E has revised the original goal of requiring all councils to be able to upload CDAs by February 2017 and DAs by mid-2017 and welcomes the decision to stage a progressive roll out instead.

LGNSW strongly recommends that the new commencement dates be negotiated with councils individually within a realistic timeframe. This will build confidence in the new system and enable councils to convert to the new system at the most practical time, having regard to their capacity and externalities, such as amalgamations.

2. Removal of owner's consent

The proposed changes will remove the existing requirement for a land owner's signature or signatures on a DA form and replace current practice with a declaration by the applicant that he or she is the land owner or, where the application is made by someone other than the land owner, a declaration to the effect that they have the land owner's permission. LGNSW understands that the purpose of this change is to avoid requiring the applicant to have to upload an owner's consent form.

A number of councils have raised concerns about potential risks arising from removing the requirement to have the signature or signatures on the DA. The small inconvenience of uploading a consent form does not seem to be justified in this case.

While the proposed requirement for the consent authority to notify land owners of applications made by other parties will mitigate much of the perceived risk, LGNSW recommends that owner's consent be retained in the process.

3. Common forms and accompanying information

The proposed changes will result in greater standardisation of application forms and submission requirements (called the Secretary's Requirements) for DAs and CDAs. The requirements introduce 16 types of development for DAs covering a wide range of residential, commercial and industrial activities. They also specify associated requirements based on the scale, potential impact and location of the DA. One purpose of these requirements is to clarify the level of information required for DAs of various types, and to avoid councils from requiring additional information after the DA has been lodged.

LGNSW supports this approach and is pleased that the right of consent authorities to request additional information during the assessment process is retained under the currently proposed amendments. However, LGNSW remains concerned that the intention may be to phase this option out in the long run.

Councils and referral agencies are currently allowed to request additional information for DAs in addition to what is required at lodgement. This is done where information is lacking on specific issues of concern that may result in the rejection of the application. Councils and other consent authorities can be criticised for applying this discretion as it extends the assessment time of the DA. However, it is far preferable to the refusal of the application, where the matter is not able to be resolved.

LGNSW is of the view that the right to call for further information during the assessment process must be maintained.

4. Development Control Plans and Contribution Plans

LGNSW supports the proposed requirement for draft DCPs and CPs to be exhibited on the NSW Portal for a minimum advertising period of 28 days. This will improve the transparency of the plan making process and improve the opportunity for community feedback.

The proposed regulations will also introduce common fees for the preparation of a DCP. LGNSW requests further detail on the fee structure.

In conclusion, LGNSW supports the proposed changes on the following basis:

- the program is progressively rolled out in consultation with the sector and only introduced when councils are ready to apply the new system, subject to realistic timetable
- owner's consent for DAs is retained
- councils have the right to require additional information, above that required under the Secretary's Requirements, during the assessment process
- local government be consulted about the level of fees stipulated for the preparation of a DCPs before the regulations are made.

If you have any questions can you contact our Senior Policy Officer Planning, Jennifer Dennis on Jennifer.dennis@lgnsw.org.au or on 9242 4111.

Yours sincerely



per Donna Rygate
Chief Executive