



HOBSONS BAY CITY COUNCIL SUBMISSION TO THE PLANNING AND ENVIRONMENT REGULATIONS REVIEW

Hobsons Bay City Council welcomes the opportunity to provide input into the review of the Planning and Environment Regulations 2005 (the regulations). Council's comments are confined to the questions requested by the Department of Transport, Planning and Local Infrastructure and are outlined as such below.

Council looks forward to providing further input once the regulations are redrafted and further consultation occurs.

1. What works well?

Generally the regulations provide the procedural and administrative matters associated with the various planning processes outlined in the *Planning and Environment Act 1987* (the Act). The timelines, notice and information requirements and various forms provided by the regulations help remove ambiguity from planning processes. This ensures that planning authorities, responsible authorities, referral authorities and applicants are aware of their obligations in the planning process which in turn ensures a clearer and more efficient planning process for all those involved.

2. What improvements can be made?

The following improvements may help improve the regulations:

- The information required when exhibiting a planning scheme amendment under Section 19 and Section 96C of the Act requires greater consistency. Currently, the notice required by Section 19 is essentially the gazettal notice or notice of a planning scheme amendment. Section 96C(2) requires copies of the application and explanatory report to the amendment to accompany the notice of a planning scheme amendment. These requirements should be consistent.
- The various timelines associated with planning processes should all be located in the regulations. Currently, timeline provisions are in the Act, the regulations and Ministerial Direction 15.

3. Is anything important missing

Aspects that are missing in the regulations include in the areas of objections and submissions, timelines specified by Ministerial Direction 15 and amendment application information requirements. These are explained further below:

Objections and submissions

The notification process associated with planning permits will benefit from including details of what constitutes a valid objection. Similarly, the exhibition process associated with planning scheme amendments will benefit from including details of what constitutes a valid submission.

Matters that can be considered when determining what is a valid objection or submission can include details of the objector (name and address) and whether the objection or submission raises any planning concerns. This will provide for a more streamlined process, remove ambiguity and allow a more thorough assessment of objections and submissions.

Ministerial Direction 15

The timelines specified by Ministerial Direction 15 should be incorporated into the regulations to give them greater weight and ensure greater compliance for all the interested parties.

Planning Scheme Amendment Requirements

Section 15 of the regulations outlines what is required to be accompanied with an application for planning permit. This has been adopted into standard planning permit applications forms generated for each Council. However, there is no regulation identifying what information is required to be submitted as part of a planning scheme amendment. The planning scheme amendment process would benefit from a standard application form to create more consistency regarding what the request consists of and providing detail of all relevant parties.

4. Are any regulations redundant or unnecessary?

Council does not consider there to be any redundant or unnecessary regulations.

5. Do you think these regulations are required? Why?

The regulations are required to help guide and set parameters around the various procedures set out under the Act. They help remove ambiguity, ensure a consistent approach to how various planning processes are administered by all those involved. Essentially, the regulations help ensure that time is not spent unnecessarily attempting to set processes, timelines or standard forms whether between an applicant and a responsible authority. Similarly, the Victorian Civil and Administrative Tribunal (VCAT) is not asked to determine what due process is or if it is being followed, freeing VCAT to address more substantive matters.

6. What would be the advantages and disadvantages of having no regulations or a different type of regulation?

The advantages of having regulations include the following:

- A consistent approach to the administrative and procedural matters associated with the various planning processes set out under the Act
- Removal of any uncertainty and ambiguity associated with not having matters such as timelines, notice information and forms set out and provided for by regulations
- Freeing the time of the responsible planning authorities and referral authorities involved in planning processes to consider and address more substantive matters such as the details of planning proposal
- Freeing VCAT to consider substantive matters associated with planning applications
- Giving clear parameters to potential objectors regarding appeal rights such as required timelines

A disadvantage of having regulations include not enabling a site or project specific approach as matters such as timelines are already pre set. It is a one size fits all approach.

The advantages of having the regulations outweigh the disadvantages.

7. What current regulations do you think work well? Why?

Generally, the regulations, in their entirety, work well. The forms are important to provide a consistent approach for all responsible authorities when providing decisions and responses.

8. Do you think other matters should be included in the regulations? Why?

Refer to item 3 "*Is anything important missing?*"

9. Do you think the regulations can be improved? How?

Refer to item 2 "*What improvements can be made?*"

10. Is the matter within the Act's regulation making powers?

With reference to improvement highlighted in items 2 and 3, the following applies:

- Ensuring consistency in the notice requirements under Section 19 and Section 96C of the Act can fall under Section 202(1)(a) or Section 202(2)(g). Such a change is therefore within the regulation making power of the Act
- Prescribing what constitutes a valid objection or submission can fall under Section 202(1)(f) and/ or Section 202(1)(j) of the Act and therefore within the Act's regulation making powers
- Setting out timelines so that they are in the regulations and not spread over various legislative documents can fall under Section 202(1)(c), Section 202(1)(d) or Section 202(1)(j). It is maintained that this is within the regulation making power of the Act
- Introducing the timelines outlined in Ministerial Direction 15 into the Act has the potential to fall under Section 202(1)(d) of the Act and therefore within the Act's regulation making powers
- Setting out the required information to be submitted as part of a planning scheme amendment request can fall under Section 202(1)(g) of the Act and therefore within the Act's regulation making powers

11. Are any regulations redundant, out of date or unnecessary? Why?

There are no redundant or unnecessary regulations.

12. Do the timelines in the Act impact on the timelines prescribed in the regulations? Is so, how?

- The timelines in the Act and the regulations are applied when necessary and are not viewed as co-dependent
- However, as indicated above it is beneficial for the regulations to include the timelines associated with various planning processes such as those already outlined by the Act and Ministerial Direction 15