



HOBSONS BAY CITY COUNCIL SUBMISSION TO THE PLANNING AND ENVIRONMENT REGULATIONS REVIEW (MARCH 2015)

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 generally confined to the questions asked in the Department of Environment, Land, Water and Planning (DELWP) discussion paper titled, *'Proposed Planning and Environment Regulations 2015 Discussion Paper'* as outlined below.

MAKING A PERMIT APPLICATION

How many or what proportion of applications are not accompanied by things listed in section 47 when the application is submitted?

What information is routinely needed to assess an application that does not currently have to be submitted under section 47? Does this occur more frequently for particular types of applications, for example, applications for buildings and works, or applications to which clause 55 applies?

The existing requirements at regulation 15 and section 47 are adequate, however would benefit from the inclusion of requiring:

- a title no less than three months old
- a completed application form

REQUIRING THE APPLICANT TO PROVIDE MORE INFORMATION

Council is not supportive of amending the timelines as proposed in the current review. In many cases, particularly when there is an influx of planning applications, it can take a significant period of time for an application to go through the process of being lodged, allocated and assigned to a planner. Any reduction in the statutory time limit to request further information would place further strain on Council resources.

Clearer identification and regulation on requiring applicants to provide all the required information up front (including that which was mentioned in the previous response) in a high quality form should be the focus of the regulations rather than changing the request for further information requirements.

REFERRAL PROCESS

Do you agree with either of the options outlined for discouraging late comments by a referral authority?

Do you support enabling a responsible authority to extend the referral period?

Are there particular kinds of applications that generate similar or standard conditions from the referral authority that could form the basis of a standard agreement with the responsible authority?

The options for dealing with a referral authority that fails to comment within the prescribed time are:

- it could lose the opportunity to comment altogether; or
- the effect of a 'late' response on the outcome of an application is changed – e.g. a responsible authority would not be obligated to refuse an application if a determining referral authority makes a 'late' objection

While for the sake of efficiency it is tempting to amend the *Planning and Environment Act 1987* (the Act) to allow either or one of the above options, it is maintained that they undermine the role and purpose of requiring a determining authority to comment.

There will be complex applications or unforeseen circumstances where the referral authority may not meet the timelines. It is not in the interest of good or proper planning for a referral authority to lose their opportunity to comment by virtue of timeline restrictions. It is also not in the interest of good or proper planning for their comments to be given less weight than they would originally if provided within the statutory timeframe (i.e, considered as a recommending authority rather than a determining authority). This would result in many appeals or declarations to determine what weight to give to referral comments, resulting in time wasting and confusion. These options undermine the role of referral authorities and are therefore not supported.

The ability for Responsible Authorities to extend timelines for a referral authority is supported provided there is some mechanism or measure (aside from the options outlined above) used to ensure that requests do not abuse the process and are only made in exceptional circumstances. In addition, where a request has been approved by the Responsible Authority, additional time should be allocated to the application in excess of the statutory 60 day timeframe.

Setting standard conditions (on a municipal/ area wide level) for applications in land within a Special Building Overlay and a Land Subject to Inundation Overlay is supported.

APPLICATION FOR REVIEW

What do you think are the main reasons that responsible authorities are unable to decide some applications within 60 days?

What proportion of applications do applicants ask to be put on hold? What proportion of those requests result in a request to amend the application under section 50 or 50A?

Do you think that fixing a closing date for lodging applications for review in notices issued by responsible authorities is a good idea?

As indicated by the DELWP discussion paper, planning permit applications that are more complex (e.g. estimated cost increases, statutory steps increase, more objectors and decisions under delegation) take more time to address. Other factors that influence the amount of time taken to assess applications include:

- lack of resources and fluctuating workload
- poor quality permit applications
- time taken for referral authorities to respond

Details of what proportion of application are put on hold or result in section 50 or 50A amendments are not available. However, anecdotal information suggests there are quite a few applications that are amended in this way.

The regulations would benefit from a formal opportunity for the applicant to place an application on hold, stopping the statutory clock to allow the application to be reviewed. It is usually not until after the notification and referral process that Council has a clear understanding of all the issues associated with an application. Allowing applicants and Council to negotiate outcomes without the pressure of statutory timeframes would result in improvements to the quality of land use planning. The current regulations seem to focus on the speed and efficiency of the process, rather than providing quality, sound planning outcomes.

There is support for providing a fixing date or closing date for lodging application for review in notices, Hobsons Bay City Council currently includes the fixing date on the covering letter of Notice of Decisions to objectors. This provides parties a clear date and negates any confusion associated with calendar versus business days.

PLANNING SCHEME AMENDMENTS

Consistency between section 19 and section 96A notices in the form proposed is supported. As are the two new clauses at section 20A amendments and the removal of the requirement to outline planning panel dates at section 19.

PLANNING DOCUMENTATION

Generally, the following forms are acceptable:

- giving notice of a proposal to amend or end a section 173 agreement under section 178C (proposed Form 18)
- giving notice of a decision to amend or end a section 173 agreement under section 178F(1) (proposed Form 19)
- giving notice of a decision to refuse to amend or end a section 173 agreement under section 178F(2) (proposed Form 20)

OTHER MATTERS PREVIOUSLY RAISED

A review of planning fees has long been called by councils. The *Planning and Environment (Fees) Regulations* were set in 2000 and were scheduled for review in 2010. Councils invested a significant amount of resources and goodwill to inform the development of a draft regulatory impact statement in 2008, well ahead of 2010 expiry but the review failed to progress. Interim regulations have been made annually since 2010. Since 2000 there has been 8 years in which fees have not been indexed.

There is also a number of matters previously raised by Council in the 2014 review of the regulations that still warrant further consideration. These are:

- details of what is considered a valid objection and submission
- the timelines associated with Ministerial Direction 15 should be incorporated into the regulations to give them greater weight and encourage compliance
- information to be submitted with a planning scheme amendment should be outlined.