

5.1 DISCUSSION PAPER ON OPPORTUNITIES TO IMPROVE THE PLANNING AND ENVIRONMENT ACT 1987

(TP350:BG:RMK)

Ward : Whole Municipality

Responsible Director: Paul Kearsley

Reason for Council Consideration: Strategic Planning

RECOMMENDATION

That Council makes a submission to the Department of Planning and Community Development (DPCD) regarding the Discussion Paper on Opportunities to improve The Planning And Environment Act 1987 as detailed in Attachment 1 of this report.

BACKGROUND

The Minister for Planning has announced a review of the Planning and Environment Act 1987. The review is seen as an opportunity to modernise the Act and to enhance the operation of Victoria's planning system.

The Government's intentions are to simplify the current laws, eliminate duplication, remove redundant provisions, modernise the language and strengthen certainty and timeliness in the planning process.

In considering changes to the Act, the objectives are:

- ensure that the Act provides a suitable framework to deliver policy outcomes into the future
- enable the planning system to better respond to the challenges of the future
- reduce regulatory burden
- increase efficiency, effectiveness, certainty and transparency
- improve the speed and quality of decision-making
- deliver mechanisms that help to balance policy objectives in decision-making
- facilitate the transition to electronic planning systems.

A discussion paper has been prepared on the basis that the basic objectives, structure and processes of the Act are sound but that a range of processes and other components need modernisation, adjustment or perhaps replacement.

The purpose of the discussion paper is to encourage ideas and submissions from stakeholders about how the Act can be improved. A series of questions have been posed to highlight some of the issues under consideration and to assist in the preparation of a submission.

The closing date for submissions to the Department of Planning and Community Development is Friday 1st May 2009.

PROPOSAL

The Discussion Paper:

- considers the overall scope of the planning system
- considers the role of the Act in the planning system
- considers whether the existing systems and Act structures are appropriate to deal with emerging planning challenges
- explains the purpose and process for the review
- explores the issues with key parts of the Act and possible options for improvement
- provides an historical overview of the Act, examines planning legislation in other Australian States, and looks at national trends in development assessment processes.

A copy of the Discussion Paper has been circulated to Councillors separately.

ANALYSIS

A submission based around the questions posed in the Discussion Paper has been prepared for consideration by Council. The submission takes the form of answers or responses to the questions in the discussion paper.

This detail is attached to this report. [see ATTACHMENT 1]

All submissions received by the Department of Planning and Community Development will be considered in its review of the Act and will be published in full on its website.

SUBMISSION SUMMARY

The initial response is that the Planning and Environment Act 1987 is not fundamentally flawed and it continues to provide a reasonable basis for the management of planning applications and scheme amendments. Therefore the provisions of the Act only require minor modification to meet current requirements.

The procedures identified by the Act allow sufficient flexibility in the process for management of applications so that simple matters can be dealt with expeditiously, complex matters are dealt with effectively, and public participation appropriate to the relevant application can be achieved. Formalisation of modified processes to streamline or fast track applications are not considered warranted because of the potential increase in bureaucracy created and because these objectives are achievable now under the provisions of the current Act.

However the following comments are offered:

- Improvements can be made on lodgement information, increased flexibility on public notification and simplified requirements for conditions associated with contributions or payments.
- The enforcement procedures should be comprehensively reviewed to be simpler and more effective.
- It is considered that further formalisation of the scheme amendment process at the local government level would lead to more costs, increased bureaucracy and would be unlikely to improve timelines. However, there is concern about the authorisation and certification procedures required by the DPCD that add little value, frustrate and delay amendments. Timing delay in approving amendments by the DPCD is extensive and should be minimised by a comprehensive review of the Department's planning scheme amendment administration process.
- The decision to proceed or abandon an amendment to the planning scheme should remain with the local planning authority and not be subject to review at the application stage. A review by a third-party, VCAT, should only occur where an amendment is abandoned following an independent panel report that supports the amendment.
- The DPCD should be required to provide comprehensive advice about an amendment at the preliminary stage, replacing the current authorisation process, so that the local planning authority has that information for consideration as part of its decision-making process.
- There would be benefit in better outlining and formally defining the criteria and considerations required for State Significant Projects and the process involved in determining applications for these projects. This would enhance transparency in the process and provide all interested and affected parties an opportunity to participate.
- Further opportunity for private sector involvement in the planning process is considered to be limited. The private sector is currently involved in giving advice to the development industry and provides consultancy services to local and state government as required. Expansion of this role will raise probity issues and has the potential to diminish the value of local strategy and policy objectives.
- Mandatory registration and qualification for planners should be a matter for the peak industry associations. Imposition of mandatory requirements for local government staff will seriously restrict opportunities for effective staffing and management of Council's planning section.

Comments have also been made in respect of the attachments to the discussion paper in particular Appendix 3 where the paper discusses additional technical issues to be considered and Appendix 4, the Auditor General's recommendations.

CONSULTATION

Information concerning the exhibition by the Minister for Planning of the Discussion Paper on opportunities to improve the Planning and Environment

Act 1987 was made available at the Municipal Offices, Oakleigh Service Centre, Council Libraries. Advice was also sent by Email to:-

- Monash Rate Payers Association
- Wheelers Hill Action Group
- Brandon Park Residents Action Group
- Notting Hill Community Assoc. Inc.
- Friends of Damper Creek Inc.

Interested community groups or individuals may choose to make their own submission to the Department.

CONCLUSION

A submission, as detailed in Attachment 1 of this report, should be made to the Department of Planning and Community Development (DPCD) regarding the Discussion Paper on Opportunities to improve the Planning And Environment Act 1987.