



Malvern East Group

MEG Supports *PLANNING BACKLASH*

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Review of Planning & Environment Act Feb.2010

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Preliminary Comments

MEG is concerned that this Draft incorporates changes which are designed to exclude the community and Council from involvement in the planning process. The changes which give the Minister extraordinary powers are of major concern. For a Government which espouses democracy to suggest such autocracy is deplorable. Government must allow public scrutiny of its agenda.

Objectives of Planning

The inclusion of 'cultural' as one of the specific factors that contributes to heritage significance is contrary to the use of the term in the "Burra Charter" and should not be included.

Other than that comment, we will certainly encourage our members to use the wording in this section at VCAT hearings.

Planning Scheme Amendment Process

MEG submits the strongest objection to what is proposed. Essentially the proposal privatises the amendment process. The Draft proposes taking the power of initiating amendments to the Planning Scheme from Council (the Responsible Authority) and giving it to private persons with the Minister's approval. The result of this is that Councils and residents lose the right of input as well as control over changes to our Planning Scheme. No public scrutiny is proposed.

Indeed it goes further than that. For example, it gives proponents the right to propose an amendment to the Minister to add a residential area to an Activity Centre or to delete an overlay entirely.

We query the term 'authorised person.' What qualifications does one require to become an 'authorised person?' This needs clarification.

Certainly this will 'fast track' amendments. No longer will amendments formulated by Council in consultation with the community sit on desks at DPCD for up to 3 years...and more! We note that the greatest hindrance to the adoption or abandonment of amendments has been, and still is, DPCD itself. With the most

recent proposal changes will be made at the whim of developers with the Minister automatically giving the tick of approval.

The proposal to remove the Responsible Authority's ability to approve or abandon an amendment must be omitted.

There should be the possibility of Council applying for authorisation and certification simultaneously to speed up the process and avoid the need for two notifications ...e.g. in the case of a simultaneous request for heritage protection and authorisation to prepare a permanent amendment.

Submissions of support for an amendment should not go to Panel if opposing submissions are not received and further to this the R.A. must have the power to reject irrelevant submissions.

Planning Permit Process

Code Assess Track

Assessing an application against ResCode requires subjective judgment because ResCode is a discretionary document. We know from experience that 'near enough is good enough' when applicants, planners and VCAT make decisions regarding planning applications. For example, we are aware of a number of 3 storey developments in the Malvern East area which exceed the height limit of 9m (in one case by 2.2m) and the discretion implicit in Rescode allows this. Complete compliance to Rescode standards is not required for a Permit to be issued.

Therefore, the types of applications which could qualify for a code assess must be named and considered by Council and the community and a prescriptive code produced prior to this proposal proceeding. If permits are to be fast-tracked in this manner information requirements must be clarified and tightened.

Further to this we consider that 14 days is insufficient time and suggest that when the list of application types is produced with the prescriptive code the period be extended to 28 days.

When (if) such a procedure is followed the notion of VCAT becoming a body which reviews process is feasible.

We note that the change which allows applications to be put on hold by Council has been deleted. This must be re-instated and also the applicant must be permitted to have an application put 'on hold'.

The proposal to have the CEO the highest authority within the Responsible Authority with regard to planning applications is unnecessary and inefficient.

State Significant Developments

In the interests of democracy (which State Government says it supports) it is obvious that the declaration of State Significant Sites can no longer be the sole province of the Minister and be decided upon at his whim. The role of Local Government re such sites must be clearly defined and the community must be consulted.

There is a quaint statement (201QT) re what the Minister must consider when deciding on a 'state significant site.' He must consider what effect a development on such a site might have the environment and also what effect the Minister considers "the environment might have on the development." **What does that mean?** If the environment adversely affects the development does he propose to demolish the environment?

In order to ensure that the whole process with regard to State Significant Sites is free from party-political influence, a technical committee with community & Council representatives could be used to assess such projects. This would result in a more professional and objective assessment than one made by any political party.

173 Agreements

These must only be amended or removed by agreement of both or all parties to the agreement and must automatically be registered on title.

Matters to be Considered by the Responsible Authorities

Section 60(1) currently provides that significant environmental effects must be considered and that social and economic effects may be considered by the Responsible Authority. The change here is that the decision-maker is required to consider these effects. (**May** is changed to **must**.) The implications of this change is that the Responsible Authority will have to provide expert evidence of their considerations concerning land use and development. If the Government wants this change then it **must** provide appropriate funding for Councils.

Other Technical Matters

We do not support giving the Minister the same power as that of a Responsible Authority with regard to purchasing land. This appears to give the Minister the power to compulsorily acquire land in Activity Centres. There is no corresponding reduction in his call-in powers to provide some balance.