

Our Ref:CC190071

23 February 2022

Ms Paulina Wythes
Director, Planning Legislative Reform
Department of Planning, Industry and Environment
planninglegislativereform@planning.nsw.gov.au

Dear Paulina,

A New Approach to Rezoning's Discussion Paper

On behalf of ALDI Stores, this letter provides feedback on the New Approach to Rezoning's Discussion Paper currently on public exhibition until 28 February 2022.

Overview

There are two fundamental aspects of the New Approach to Rezoning's that ALDI would like to be addressed:

1. Can there be a focus on the actual time from start to finish to achieve rezoning, not just assessment time frames?
The Discussion Paper focuses on reducing assessment timeframes but has no regard for the time required to complete studies. Whilst we commend any attempt to improve assessment timeframes, further consideration on how the entire process can be shortened would be beneficial (including the considerable time required to complete technical studies).
2. A level of certainty is required to provide proponents with the confidence to invest time and money in the rezoning process. The removal of the Gateway process and the review mechanism by Regional Planning Panels in turn removes checks and balances from the system, and requires significant upfront investment with no certainty that the rezoning will be supported.

Further comments are provided below for your consideration.

Scoping Study

We support the proposed replacement of the Gateway process with a scoping study.

However, we do have a number of concerns / suggestions for your consideration:

1. The scoping review should include a combination of Council, DPIE and relevant State Agency representatives to ensure the scoping study review is based on consideration of strategic merit

- and is not influenced by local politics.
2. All relevant State Agencies should be consulted during the scoping review and their requirements must be included in the Submission Requirements issued to the proponent.
 3. A mechanism should be put in place to ensure that State agencies (TfNSW, RFS etc) will respond in a timely manner at the scoping stage.
 4. The Submission Requirements should be based on a pre-determined framework of studies and not include unnecessary studies that will slow down the rezoning process and cause additional expense.
 5. The Submission Requirements should include an in-principle indication of whether the rezoning is, or isn't, likely to be supported. This is important as proponents will not want to undertake expensive and time consuming technical studies if the Council is unlikely to support the rezoning.

Removal of the DPIE from the Rezoning Process

Currently there are two initial steps in the rezoning process involving local Council and DPIE input before proponents are required to prepare detailed technical studies.

The first step involves obtaining Councils in-principle support for a rezoning. The second step involves obtaining Gateway Approval from DPIE.

This existing process provides a level of certainty for the proponent on whether the rezoning application has merit and whether investment in further technical studies is worthwhile.

Under the proposed system DPIE will be removed entirely from the process.

As outlined above, we support the Scoping Study process, in place of the Gateway process, but suggest inclusion of Council, DPIE and relevant State Agency representatives at the scoping stage to provide a greater level of certainty for proponents at this early stage.

Assessment Clock

The proposed starting of the assessment clock after the post exhibition (amendments, response to submissions) stage will not truly reflect the time required to achieve a rezoning.

Dependant on the extent of technical studies required, the timeframe from submitting the scoping study until the response to submissions could range between 6-12 months (particularly if proponents are asked to complete 12 month seasonal ecology testing).

We encourage DPIE to focus on the actual time from start to finish to achieve rezoning, not just assessment time frames.

Reductions in the actual time to complete a rezoning could be achieved by focussing on reducing the extent and complexity of technical studies required.

We also suggest that measurement of assessment times should start at the receipt of a scoping study, not at the response to submissions stage (excluding any stop the clock timings for completion of technical studies).

Resourcing

Local Councils are not as well resourced as DPIE and there are differences between Councils in terms of staffing resources and capabilities.

We ask DPIE to consider any State funded opportunities to provide adequate resourcing for Councils to ensure timely and capable assessment of rezoning applications.

Appeal Process

Currently, if a Council refuses to forward a Planning Proposal for Gateway determination, or takes longer than 90 days, a proponent can request a Pre-Gateway review by the Regional Planning Panel.

Should the Planning Proposal proceed to Gateway, there is a second review of the Planning Proposal before proponents commit to preparation of technical studies.

Under the proposed system, there does not appear to be a review mechanism available until the very end of the process, after public exhibition and completion of all technical studies.

To provide greater level of certainty under the proposed process, we recommend that an in-principle indication from the Council must be provided at the scoping stage on whether they are likely to support the rezoning.

If Council doesn't provide in-principle support, an opportunity should exist, similar to the current situation, for the proponent to request a review by the Regional Planning Panel.

ALDI also supports the proposed ability to review/appeal the rezoning decision at the end of the process, if a rezoning is not granted.

ALDI has not formed an opinion on whether a review process by the Independent Planning Commission, or a formal appeal through the Land and Environment Court is a better approach.

Conclusion

ALDI commends DPIE on its drive to improve economic productivity by reducing the time and complexity associated with the NSW planning system.

We thank you for the opportunity to comment on the New Approach to Rezoning's Discussion Paper and would be pleased to be involved in any further consultation.

Yours faithfully,



Ian Stewart | Director
Barker Ryan Stewart Pty Ltd