

Dear review team

I would like to make a brief submission about two aspects of the Act.

1. I believe that a right of appeal to VCAT should be introduced to allow an applicant for an amendment to contest the decision of a planning authority to refuse to exhibit an amendment.

At the moment, it is possible that reasonable development and/or land use for a site cannot proceed without an amendment to zone or overlay and a council / planning authority can block such development or use with virtually absolute power. Even if they are not opposed in principle to the use and development, there is no pressure for councils to act expeditiously on rezoning requests, leading to unreasonable delays. A right of appeal would lead to matters being expedited.

This situation is at odds with a dynamic economic system that produces continually evolving land uses and development forms. In the face of this dynamism we retain a somewhat rigid zoning system that can prevent reasonable use and development when there is no valid reason to do so. Indeed, the need for zoning itself is declining due to the operation the Environment Protection Act and similar provisions which reduce the need to absolutely segregate theoretically incompatible uses. Where segregation by zoning does not occur the application of carefully considered design measures and comprehensive permit conditions can often cover potential amenity conflicts between uses.

I note that you say that "the process for 'changing the rules' is a governance process which is different from a review of whether 'the rules' have been complied with, as occurs at VCAT". However, I believe that VCAT as presently composed has the knowledge and experience to judge whether a planning authority is being unreasonable in refusing to start the process to adjust "the rules" to allow a use or development; it has a comprehensive understanding of the range of proposals from dealing with permit appeals, it has a thorough understanding of the effect of the rules and it is impartial. I am not putting that it should take the matter entirely out of the hands of the planning authority, just that it should be able to direct the authority to start the process.

2. Also, I do not see why it is necessary for the Minister to authorise the exhibition of amendments. Local Government should be expected to understand State planning policy, and trusted to apply it. Surely the comprehensive SPPF, Minister's Directions and published policies and guidelines provide a sufficient basis for this. Of course all amendments should be thoroughly reviewed by DPCD upon exhibition or if exemption from notice is requested, reviewed then. Upon review the Minister might direct that any deficiencies be fixed, he might state that he will not approve the amendment, that only he can approve it or that it is a local matter that can be finalised by the council. Removal of the authorisation process would remove an early bureaucratic step that now serves to deter or delay the commencement of reasonable amendments. We should be trying to simplify the amendment process.

Regards
Ian.

Ian Walters
Lain Walters Pty Ltd
Tel: 6 13 9397 2360
Fax: 6 13 9397 2370
PO Box 771
Williamstown Vic Australia 3016