

## DEVELOPMENT ASSESSMENT PATHWAY FOR SIGNIFICANT DEVELOPMENT - OUTCOMES OF INVITATION FOR COMMUNITY COMMENT ON PROPOSED PLANNING ACT 2002 (NI) AMENDMENTS

The Community Strategic Plan and Council's Delivery Program (4-year Plan) include several large public infrastructure projects and Council resolved in March 2017, *'That Council supports any planning proposal that addresses the barriers to significant projects, such as the winning of rock, to be achieved'*. Since that time Council staff have worked with Commonwealth staff to address identified barriers within the *Planning Act 2002 (NI)* and drafted amendments to overcome these barriers resulting in a 'Significant Development Assessment Pathway'.

Concurrently with the drafting of the amendments to the *Planning Act 2002 (NI)* to introduce the Significant Development Assessment Pathway, the community was formally invited to make written comments on the Policy Paper, 'Proposed Amendments to the *Planning Act 2002 (NI)* - Development Assessment Pathway for Significant Development' presented to Council at its Ordinary Meeting held 19 July 2017. A Report on the outcomes of community comment was presented to Council at its meeting held last Wednesday 18 October 2017. This is a summary of that report and aims to clarify certain aspects of the proposed development assessment pathway for Significant Development.

Fifty-eight submissions were received. The submissions were reviewed and the key issues identified. As an issue was mentioned in a submission that 'mention' was noted in a spreadsheet and the frequency of 'mentions' was totalled. Issues were also noted for "frequently mentioned issues that are not features of the proposed amendments". They can be viewed in detail in the Report to the Council meeting 18 October 2017.

### **Key Issues Related to Features of the Proposed Amendments**

#### ***1. Objection to bypassing Council in the proposed process.***

Views expressed that the elected Councillors should have a decision making role or at least a role in the process. Under the current arrangements in the *Planning Act 2002 (NI)*, Councillors do not have a statutory role in processing development applications (DA's) including DA's for significant development such as extraction of rock, waste disposal facilities and electricity generating works. Under the proposed, Councillors would have a statutory role in the process: Councillors would have an opportunity to consider an application to be declared 'Significant Development' and to make a recommendation to the Minister on whether the Council supports or opposes the application for a specific project to be declared Significant Development.

#### ***2. Object to no appeal rights***

Views expressed that decisions on DA's assessed under the Significant Development pathway should be appealable. Under the *Planning Act 2002 (NI)* decisions on DA's are reviewable decisions and can be challenged in the Administrative Review Tribunal or the Administrative Appeals Tribunal. The proposed amendments do not include arrangements for decisions on Significant Development DA's to be reviewed. It is understood that this is consistent with decisions made on similar DA's for major infrastructure and projects by the responsible Minister in NSW and QLD.

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It is noted that the proposed amendments provide that the existing arrangements in the *Planning Act 2002 (NI)* for the Minister to make arrangements for an Inquiry on DA's would apply to DA's for Significant Development.

### **3. Objection to bypassing the Norfolk Island Planning & Environment Board (NIPE Board)**

Views expressed that Boards represent the community and concern that Council officers' recommendations would bypass the NIPE Board and elected Councillors. In the proposed amendments, 'Significant Development' would be defined as '*new infrastructure or the upgrading of existing infrastructure that supports economic growth and community welfare in Norfolk Island*'. Consistent with development assessment pathways in other jurisdictions for critical infrastructure, it is proposed that community consultation and input would be made at the public exhibition stage of the development assessment process and submissions would be considered in the planning assessment and recommendations provided to the Minister. Anybody or organisation would be eligible to make a submission on the proposed development.

### **4. Planning decisions should be local**

Views expressed that planning decisions should have local input, such as from the NIPE Board, and should be made by local Council. The proposed development assessment pathway provides for all DA's for Significant Development to be made available for public exhibition and comment for at least 28 days. Anyone would have an opportunity to make comment on the DA and all submissions would be considered in the planning assessment of the proposed development. The Council does not currently have a statutory role in the processing of DA's and decisions on DA's are currently made by the Minister and delegates.

### **5. Misunderstanding of the current development assessment procedures.**

For example, there is a perception in some submissions that elected Councillors currently have a role in and / or currently determine DA's under the *Planning Act 2002 (NI)*. Elected Councillors do not currently have a statutory role in processing DA's under the *Planning Act 2002 (NI)*.

### **6. Misunderstanding of the proposal**

For example:

- That DA's for Significant Development would not require environmental impact assessment: The proposed amendments would require all DA's for Significant Development to be subject to environmental impact assessment under the *Planning Act 2002 (NI)*.
- That DA's for Significant Development would not be made available for public exhibition and comment: the proposed amendments require all DA's for Significant Development to be exhibited for public inspection and comment.

### **7. Proposal lacks accountability**

Views expressed that the proposed amendments lack opportunities for public scrutiny of development assessment and determination of DA's for Significant Development; for example, that there would not be rights to call for a review of a decision on Significant Development and there would not be a role for the NIPE Board. The proposed amendments provide a statutory role for Councillors to consider an application to be declared Significant Development and to make a recommendation on whether Council supports or rejects the application to be declared Significant Development. The proposed amendments provide for all DA's for Significant Development to be made available for public exhibition and comment and the proposed amendments retain provisions for the Minister to arrange for an Inquiry on all DA's.

'Frequently mentioned issues that are not features of the proposed amendments', included comments relating to issues such as inadequate consultation; call to suspend the process to amend the *Planning Act 2002 (NI)*; dissatisfaction with the Commonwealth Government and the Regional Council; Call for a public meeting and questions related to the motives of the proposed amendments.

There was a perception that the proposed amendments are to facilitate private commercial development such as high-rise apartments and resorts. For clarification, the proposed list of activities that could be defined 'significant development' and the criteria that would need to be met for a project to be considered Significant Development, are not designed to include private commercial development.

The definition of 'Significant Development' specifically refers to '*development which establishes new infrastructure, or upgrades existing infrastructure...*'. Council resolved to support any planning proposal that addresses the barriers to significant projects and to enable public infrastructure to have a planning pathway separate to that of general Development Applications, including the involvement of Councillors in the process. Projects such as the winning of rock, waste management, electricity infrastructure and sewer treatment plant infrastructure fit into the category of what may be assessed as significant development under the proposed amendments.

Council will continue to work with the Department of Infrastructure and Regional Development including the consideration of the comments made on key features of the proposed amendments.

For the full comparison of current and proposed procedures, please visit [www.norfolkisland.gov.nf](http://www.norfolkisland.gov.nf) under Planning and Development 'Draft Policies and Plans'.

Lotta Jackson

**GENERAL MANAGER**

20 October 2017