



QUESTION AND ANSWER SHEET

July 2008

EXPOSURE DRAFT OF THE STATE ENVIRONMENTAL PLANNING POLICY (REPEAL OF CONCURRENCE AND REFERRAL PROVISIONS) 2008

What are concurrences?

Concurrences are where a consent authority (usually a council) is required either by a local, regional or State plan to obtain the approval of a government department to a development application or new environmental plan.

Without this approval, the proposal being considered by the council (such as a new residential subdivision, new development or infrastructure project) cannot proceed.

What are referrals?

Referrals are also requirements in planning instruments where the consent authority must refer a development application or new environmental plan to a government department for comment or feedback.

Why is the NSW Government exhibiting this proposed new planning policy?

The NSW Government has embarked on planning reforms to improve the efficiency and transparency of the planning system. This has included the approval of the NSW Parliament in June 2008 to planning reform legislation.

There have been concerns that requirements for concurrences and referrals are unnecessarily adding to the complexity of the planning system, significantly increasing processing times and adding to the cost of development.

The Department's Local Development Performance Monitoring Report found that in 2006-07, NSW government departments took about 48 days to consider applications referred to them, which added to overall development assessment times.

For many applications, comprehensive guidelines, other assessment mechanisms or legal requirements already exist which means that such concurrence or referral clauses are often unnecessary. Councils can consider relevant issues as part of the development assessment process or when creating new planning instruments to ensure that important issues receive the scrutiny necessary to deliver good environmental outcomes.

What does the SEPP do?

It removes from 237 separate local, regional and State environmental planning instruments more than 1300 provisions requiring either a concurrence or a referral.

For development assessment processes, it removes concurrence and referral provisions across areas including:

- Road and traffic issues;
- Acquisition of land for proposed public utilities or services;
- Heritage;
- Biodiversity, habitat protection and managing environmental impacts;
- Mining and extractive industries;
- Agricultural matters or forestry matters;
- Water management and water quality control;
- Acid sulfate soils.

It also removes provisions in certain regional environmental plans that relate to the preparation of draft local environmental plans.

How will the SEPP assist councils?

In addition to streamlining the assessment process, the removal of concurrences also acknowledges that, in many cases, the particular matter is already able to be considered by the local council as part of its evaluation of the likely impact of the development. As a result, planning powers will be returned to local councils.

Once the SEPP is finalised, the Department will publish a list of relevant assessment guidelines to assist councils in their assessment processes.

In some cases, standard conditions of approval will also be developed to assist councils in the development approvals process. These will be maintained on the Department's website.

How will this new SEPP affect my development application (DA) with my local council?

The proposed SEPP at this time is simply an exposure draft for comment and therefore, until finalised, is not government policy.

However, once implemented, it will have benefits for applicants. For any given DA, concurrence or referrals may currently be required from a number of different government departments. This can be a potentially time-consuming process during which assessment of the proposal by the local council effectively stalls. At times, government departments can give feedback which is conflicting and therefore make it difficult for the consent authority to finalise its assessment.

By removing the need for consent authorities to obtain concurrence or referrals, in many circumstances, the assessment process for DAs will be greatly streamlined, allowing members of the public to receive a faster decision on their proposed development.

Will adequate assessment of proposals still occur?

The Environmental Planning and Assessment Act (EP&A Act) already requires the consent authority to consider impacts on natural and built environments, social and economic impacts on the locality, the suitability of the site for the development and the public interest. Councils must consider these matters irrespective of whether any individual government department has a formal concurrence or consultation role.

In some local government areas, councils have undertaken strategic heritage, biodiversity, traffic and other studies which provide an appropriate framework for decision making.

In addition, there is an extensive list of government guidelines that have over the years been developed specifically to assist councils in assessing particular environmental and socio-economic issues of proposed developments.

Importantly, the removal of compulsory concurrence and consultation processes does not prevent a consent authority from liaising with the relevant NSW Government department on any matter of interest. The proposed SEPP also does not prevent government departments from providing input into the assessment of a development application or the preparation of a draft local environmental plan in a submission during the consultation process.

The distinction is that these consultation processes will be discretionary and cannot be used to indefinitely delay the assessment and processing of development applications or the development of a local environmental plan.

What other concurrence and referral reforms are being proposed by the NSW Government?

Several other initiatives are proposed to be implemented to complement this proposed SEPP, but are not yet in place.

In the **plan-making process**, there will not be any fixed referrals or concurrence requirements in the EP&A Act. The only exception is the requirement to consult with the Department of Conservation and Climate Change in relation to threatened species if they are likely to be adversely affected.

A new “gateway” process for new plans will determine on a case by case basis which government departments are required to be consulted and the timeframes for consultation. Referral criteria and guidelines are to be developed with relevant departments as to what matters are to be referred to them. Section 117 Ministerial directions for matters to be considered when developing LEPs are to be reviewed and updated in light of the new “gateway process”.

For **development assessment**, regulatory changes will be made shortening timeframes for any necessary concurrences to 21 days. Where advice is not received within 21 days, it will be deemed that the concurrence or approval is granted. Councils will be instructed that, if advice is not received within 21 days, they must not delay the determination of a DA or finalisation of a plan.

How can I comment on the proposed SEPP?

The exposure draft of the proposed SEPP is being exhibited for public comment from 23 July to 22 August 2008. It will be available at www.planning.nsw.gov.au or at the Department’s Information Centre at 23-33 Bridge St, Sydney, during ordinary office hours.

Submissions on the exposure draft can be:

Emailed to assessments@planning.nsw.gov.au ; or

Posted to Policy and Systems Innovation, Department of Planning, GPO Box 39, Sydney NSW 2000; or

Faxed to (02) 9228-6466