

Latrobe City Council

Submission to Regulatory Impact Statement Planning and Environment (Fees) Regulations and the Subdivision (Fees) Regulations



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Revision	Date	Written by	Reviewed by
1.0	24 June 2016	D.Smith	Gail Gatt
2.0			
3.0			
4.0			
5.0			

Officer Submission

Introduction

Latrobe City Council welcomes the opportunity to submit to the Regulatory Impact Statement for Planning and Environment (Fees) Regulations and the Subdivision (Fees) Regulations.

Latrobe City Council understands that the Planning and Environment (Fees) Regulations were set in 2000 and subsequently scheduled for review in 2010. Interim regulations have been made annually since 2010; however, the Government has since indicated that a full adjustment will occur in October 2016.

It is noted that due to the tight timeframes in which submissions were required, this submission has been prepared by council officers without the formal endorsement of a Council resolution. Therefore, Council may require the opportunity to amend this submission following the outcome of an Ordinary Council Meeting.

Latrobe City Council acknowledges that the proposed new fees are aimed at recovering a greater percentage of costs from applicants. However, some categories of fees are being set below the estimated costs in order to achieve policy objectives such as a fair accessibility to the planning system.

Land use planning in Latrobe City is unique; it's affected by many, often conflicting factors not experienced elsewhere in the state. This continues to impact on the ability of Latrobe City to promote a healthy, balanced municipality, offering affordable lifestyle and housing choices while providing adequate jobs and prosperous modern industries to support its existing and growing population.

The Socio-Economic Indexes for Areas (SEIFA) measures the relative level of socio-economic disadvantage based on a range of Census data including: income, education, unemployment, occupation, single parent families, rental price and English proficiency. In the 2011 Census, Latrobe City ranked as the seventh most disadvantaged community across the state, with a score of 940.

As such, securing sufficient funds from planning fees in an era of rate capping is important to Latrobe City. Of greater importance is the need to be encouraging developers to invest in the growth of Latrobe City in preparation for the transition from an energy and mining economy.

The submission to the Regulatory Impact Statement is based around the key issues as seen by Latrobe City.

Should there be any questions regarding this submission, please contact Phil Stone, General Manager City Development on (03) 5128 5446 or via email at Phil.Stone@latrobe.vic.gov.au.

Value of Reviewing the Fees

Latrobe City commends the government on its review of fees. It is recognised that the current fee recovery is not considered sufficient. However, the increase in planning permit fees and costs of the consideration of submissions for planning scheme amendments is considered excessive in some situations.

Full Fee Recovery

Latrobe City Council is supportive of moves towards greater fee recovery; however, not to the extent that has been proposed and supported by the Municipal Association of Victoria (MAV). Latrobe City Council is concerned that the fee increase is so substantial as to affect the public's interaction with the planning system. In regional and rural areas, this impact is expected to be greater as the return on investment is less than in the metropolitan areas. It is in these areas, such as Latrobe City, that economic development relies greatly on planning intervention.

Fee recovery is not the only influence on the planning services provided to the community. The inefficiencies in processes, delegations and complexity of individual planning schemes also influence the time taken in assessing planning applications and cannot necessarily be offset by more resources.

The move towards full fee recovery is expected to increase the communities' service expectations, however full fee recovery will have little impact on increasing efficiencies in the planning system. As such, councils will be expected to justify why the increase in fees has not facilitated a more efficient service for the community.

Fee Suitability

It is identified in the RIS that fees should avoid creating inappropriate incentives for non-compliance or inadequate consideration of applications. Fees should not be set so high as to encourage avoidance of compliance with planning requirements, nor too low as to encourage numerous amendments that could be amalgamated into a single amendment.

The increase of fees is expected to increase the levels of non-compliance with the planning scheme. There are no proposed fee increases under the *Infringements Act 2006*, therefore this represents minimal deterrent to the undertaking of illegal works. For example, the removal of native vegetation will incur a planning application fee that is greater than the corresponding infringement.

Planning Scheme Amendments

With regard to the fees associated with Planning Scheme Amendments (PSA), it is expected that this substantial increase will deter proponent-led PSAs. The quantum increase does not respond to the differences in land development costs between Metropolitan Melbourne and Regional Victoria. Economies of scale don't exist for development in regional areas and land values are significantly less.

Latrobe City Council has examined the last seven planning scheme amendments received and the corresponding number of submissions received to each amendment. Four of the amendments were at the request of an external proponent and three were Council initiated amendments.

Item	Year of Exhibition Period	Proponent or Council Led	No. Of Subs.	Current Fee	Option 3 Proposed Fee
1	2015	Proponent led C89 Marshalls Road, Traralgon	36	\$798.00	\$37,082.00
2	2015	Proponent led C93 Ashworth Drive, Traralgon	21	\$798.00	\$37,082.00
3	2015	Proponent led C90 Glendonald Road, Churchill	12	\$798.00	\$27,737
4	2014	Proponent led C85 Crinigan Road, Morwell	6	\$798.00	\$13,882.00
5	2014	Council led C87 TGAR, Traralgon, Morwell, Tyers, Glengarry	42	N/A	N/A
6	2015	Council led C97 MSS Review	8	N/A	N/A
7	2015	Council led C94 Parking Overlay, Morwell and Traralgon	8	N/A	N/A

The table demonstrates that Council receives a varying number of submissions to planning scheme amendments; however, the majority totals 10 or more. Therefore, it is likely that fees are going to have a significant impact for proponents of Planning Scheme Amendments in Latrobe City. Proponents for C93 and C85 previously expressed concerns with the various costs such as planning panel fees. Subsequently, the proponent of C85 requested to abandon the amendment after the exhibition period due to the fees.

It is noted that out of all the options in the RIS, Option 3 is preferred, although all options represent full cost recovery. Option 1 and Option 2 result in a potential fee of \$31,415 for proponents which represents an increase of approximately \$28,497 per proposed planning scheme amendment.

Fees Based on Submission Numbers

Option 3 could result in an additional cost of approximately \$14,642 to \$37,842 for proponents, depending on the number of submissions received. Option 3 provides a range of likely fees and the sliding scale approach to fees is supported in principle as it attempts to assign a fee to the complexity of a planning scheme amendment. However, Latrobe City Council does not agree with the Regulatory Impact Statement of May 2016 that the Department does not consider that the fee amounts would have any impact on the willingness of parties to make an application, even if a large upfront fee is required.

For example, costs incurred by a landowner/developer for a residential development that requires a rezoning and subsequent preparation of background documents to provide justification may cost in excess of \$100,000. This is significant combined with panel costs in the order of \$30,000 - \$50,000 minimum and, if approved, the preparation of a development plan which may cost a further \$100,000 and a subdivision with a \$30,000 minimum. In regional areas, the land value does not increase by the same margin as in the city. Moreover, the required infrastructure is often not immediately available which also becomes an upfront cost. For example, this may be to bring the sewer through which can cost an additional \$1 million. The landowner/developer will not receive the return on investment in selling the lots

that the metropolitan investor would receive, estimated to be a quantum factor of 10 in some cases, for rural areas versus urban fringe areas of Melbourne.

Factored into this is the difficulty rural developers have in obtaining finance in rural areas. If this is compounded by an increase in fees similar to those proposed in Option 3, it may create a tipping point for what makes development viable in rural areas.

The result will be greater pressure on councils to undertake these PSAs which will create a greater cost burden for Latrobe City Council given the requirements of the PSA process. Economic growth driven by appropriately zoned land may also stagnate as councils fail to keep up with these rezoning requests.

Latrobe City Council has already experienced a proponent-led PSA in a growth front being abandoned due to the uncertainty and extent of planning panel fees. This uncertainty of fees is increased with the proposed tiered fee structure based on the number of submissions, regardless of whether they are a submission of support or objection. A fairer scenario may be to apply a fee more strongly linked to land value and proposed development. This would assist to balance the inequity in return on investment between metropolitan Melbourne and regional Victoria.

Latrobe City is generally supportive of some increase in fees for planning scheme amendments in an attempt to represent an increase in cost recovery. These comments on the proposed planning scheme amendment fees, principally relate to the issue of fees for consideration of submissions that seek a change to a proposed amendment. There is no objection to the other fees that relate to the planning scheme amendment process and there is an acknowledgement that the current fees are needed to increase to better align with the resources required to consider planning scheme amendments.

Late submissions

It is not clear from the Regulatory Impact Statement of May 2016 how late written submissions are to be considered. In other words, is council able to seek a higher fee for late submissions? This is important where one submission may trigger a new threshold fee from 10 submissions to 11 or from 20 submissions to 21. Council has the ability to not consider a late submission but is often directed to do so during a planning panel hearing and it is often good governance to consider late submissions prior to determining a planning scheme amendment proposal.

Resourcing Councils

Therefore it is anticipated that many proponents will request Council to run planning scheme amendments to avoid the proposed fees. It is also likely that the proponents may lodge the initial request to consider an amendment fee and then request abandonment of the amendment or request council assistance after the public exhibition period has closed. This scenario may have a significant impact on economic development opportunities within Latrobe City. Council often relies on the development community to prepare proponent led, and costed, amendments due to the prioritisation of other Council strategic planning actions.

It is difficult to determine how many proponent led planning scheme amendments will be lodged with Council in any one year. Therefore, it is problematic to rely upon full cost recovery

fees to fund resources for Council to effectively run these amendments where proponents wish to abandon or request waiving of fees. It is acknowledged that council has the ability to waive or rebate the fee under a range of situations. However, in the circumstances of the four proponent led amendment examples in the table above, the waiving of fees is not considered appropriate.

An increase in the current fees is needed to better align with the resources required to consider planning scheme amendments. However, the amount of proposed increase is considered to be too high. A more reasonable balance may need to be structured to achieve some cost recovery whilst supporting economic development opportunities through proponent led planning scheme amendment proposals.

Transition Period

The move to transition fees through a 50% increase initially, and full increase in 12 months is supported. However if the quantum increase was to remain as proposed, Latrobe City Council would support a slower transition to allow the municipality time to adjust. There needs to be clarification on the application of the new fees to existing permits, for example certification and satisfaction matters.

With Regional Growth Plans and Plan Melbourne directing stronger growth in regional cities, it is imperative that the introduction and level of the fees do not detract from the ability to achieve these goals.

Conclusion

In conclusion, it is acknowledged that the current fee recovery is not considered sufficient, and the current fees need to increase to better align with the resources required to consider planning matters. However, Council officers believe that the quantum increase in fees proposed does not consider differences between metropolitan and rural areas relevant to development costs and land values. This will severely disadvantage rural areas that rely on planning to drive economic growth. The likely increased requests for Council led planning scheme amendments is also of concern to Latrobe City Council due to associated costs and resourcing issues. The inconsistency with the proposed increase in fees, versus infringement penalties requires further thought so that non-compliance is not encouraged. If the increase proposed were to be implemented a longer transition period is recommended.

Response to RIS questions

Stakeholder Question (p.45 RIS)

The proposed fees seek to require the full cost to councils (on average), however fees for permits related to single dwellings and low value developments are set below the full cost recovery level. Is it reasonable to apply significant discounts for these applications? Is the size of the proposed discount appropriate? Are the thresholds at which they are proposed appropriate (e.g. should they apply to single dwellings with a value of \$1 million to \$2 million as proposed?) Please explain your views.

Setting the fees for single dwellings and low value developments below the full cost recovery level is considered appropriate as these permits are generally related to home owners or

small business owners and have been generally supported in the past.

Stakeholder Question (p.24 RIS)

The proposed Regulations retain the current approach to fee waivers and rebates; that is, councils may only provide waivers or rebates in limited, defined circumstances and will not have a general discretion to charge a lower fee. Where the department believes there is a basis for some fee categories to be set at less than full cost recovery to reflect considerations of ability to pay, these are included within the proposed fee schedules, rather than in the ability of councils to reduce fees, to ensure that the approach to affordability is applied consistently across the state.

Response: The proposal to retain the current approach to provision of waivers and rebates is supported, including the need to document and record the justification for the decision whether or not to waiver or rebate a fee.

Stakeholder Question (p.45 RIS)

In recognition that VicSmart now offers a streamlined permit decision process; the proposed planning regulations include new fee categories for VicSmart applications. These are for VicSmart permits:

- For use or development up to \$10,000 in value, including non-monetary value applications. This fee category is set at 50 per cent of the actual cost to councils; and
- For developments over \$10,000 for which the fee is set to recover the full cost.

Bearing in mind that currently VicSmart permits only relate to low impact application, including minor building or works of up to \$50,000, as well as some small subdivision matters, are these categories appropriate?

Response: This is considered appropriate as these permits are generally related to home owners or small business owners and have been generally supported in the past.

Fees for satisfaction matters

Stakeholder Question (p.58 RIS)

The proposed fee for each satisfaction matter is \$300. What impact would this have if there are a large number of satisfaction matters (i.e. conditions on a permit) or the same matter is considered at different stages of the development? Please explain your views.

Response: The proposed fee for each satisfaction matter is \$300 (e.g. conditions on a permit) or the same matter is considered at different stages of the development. This seems excessive, especially if there are multiple stages of the development or where there are a large number of conditions to be met before works can commence. Such permits would have large fees attached but it is noted that subdivision permits now have reduced fees associated with the certification process so this may balance those permit fees out.

Fees for supervision of works

Stakeholder Question (p.59 RIS)

Under regulation 8 of the Subdivision (Fees) Interim Regulations 2015 (fee for supervision of works), a council or referral authority may charge of fee of up to 2.5 per cent of the estimated cost of constructing the works when they supervise the construction of works. Is the level of this fee appropriate? Is it likely to over recover costs? Please explain your views.

Response: Council officers have not had sufficient time to review figures on this.