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26 February 2021

To whom it may concern,

After careful consideration and discussion of the 'Options Paper – No Planning Approval Required Certificates' Meander Valley Council would like to submit the following concerns in relation to the implementation of Option 1 or Option 2 as presented in the Options Paper.

**Option 1 Amend the Director's Determination – Certificates by Qualified Persons for an assessable item to include certificates of No Planning Approval Required issued by Private Planning Consultants**

- In reality, there is a small amount of instances where Option 1 could successfully operate. Single dwellings in the General Residential Zone with no overlays are an example of this.
- The application of some codes require additional research, information and in some cases local knowledge, these include but are not limited to; Potentially Contaminated Land, Environmental Impacts and Attenuation Code, and the Flood Prone Areas Code. As such, consultants may contact Council to obtain information that is not readily available to them in order for them to form a decision.
- As the certificate type provided by the Private Planning Consultants would not remove the local council from their statutory functions as a planning authority, it is not expected that Option 1 would reduce any burden on council planning authorities to assess proposed works which do not require planning approval. This will inevitably retain the fee and time required to check documents lodged under the Building Act.
- Any consideration of private certification would need to be accompanied by a statutory indemnity for planning authorities to be inserted into the Land Use Planning & Approvals Act 1993, similar to that which was included for the private certification of Bushfire Hazard Management Plans.

**Option 2 Adopt Option 1 and require the Private Planning Consultants to hold a buildings services provider licence under the *Occupational Licensing Act 2005***

- The licencing requirements of this option provide an overarching reportable system, making it preferable over Option 1.
- The minimum requirements of licencing for this option (five years' experience as a planner) suggest that planners in a senior position would be the ones able to issue a NPR certificate. Having senior private planning consultants undertaking this work would likely result in a higher fee for the service and would reduce resources within private consultancies to work on projects requiring planning approval.
- It is understood that this option still does not relieve Councils from their statutory functions as a planning authority, again not reducing any workload on council planning authorities.
- A benefit outlined in the paper was that Option 2 "will result in a more efficient and timely confirmation that No Planning Approval is required, resulting in quicker building work commencements". MVC does not believe this will be the case. As explained below under Option 3, our current 'Planning Review' system has a 7 day turnaround, and applications are reviewed and assessed thoroughly against all applicable use and development standards.
- This certification should have a standard form to be completed (similar to the forms that are completed by Bushfire assessors) and include considerations such as if the property is Heritage Listed.

In addition to the above, it is important to note the following comments in regards to Option 3.

### **Option 3 Status Quo**

- Meander Valley Council has a Planning Review Process which was implemented in 2018. The Planning Review has a \$60 fee (this fee is deducted from an application fee in the event that a permitted or discretionary application is required) and once fees are paid, the review is completed within 7 days. The fee charged for a planning review is not an accurate representation of the time taken to complete a review and represents a substantive discount in regard to professional officer time that we believe will not be replicated by the private sector. If private services are to be introduced and Councils are either required, or choose, to maintain the same service, the principles of competitive neutrality in the costs of the service will apply and Councils will be forced to raise their fees for the service.
- These reviews also look beyond that of planning and also provide notes regarding other Council matters such as waste-water implication, working in road reserve requirements, if there is the requirement for food notification, construction within stormwater easements to name a few.
- Since July 2020 Council has received and completed 149 Planning Reviews.



- It is considered that there is no need for this process to be a statutory requirement through LUPAA like the operation of Section 57 and Section 58. As the Planning Authority is effectively providing an assessment to demonstrate that a proposal complies with the No Permit Requirements of the Scheme to distinguish the Planning Authority's liability.
- Because this is a service that we already provide, if consultants begin to operate in the space, there is the likely requirement for our fee to increase to meet the competitive neutrality requirements, because we do not believe consultants could undertake this work for \$60.
- It is recommended to achieve consistency between Councils, a standard Planning Review application package be implemented similar to Planning Directive No. 6 Exemption and Standards for Visitor Accommodation in Planning Schemes. The recommended application package should include a set fee and minimum application requirements.

In summary, in the absence of a provision indemnifying the Planning Authority of its obligations under S48 and S63A of LUPAA (seeking something like the indemnification for Bushfire), we do not believe that proposed options 1 or 2 are viable options for property owners. Meander Valley Council in order to meet our obligations will still require a review of an application and charge for this. If a different position is formed there will be additional costs to the property owner through the lodgement of the application. However, there is also the risk that planning compliance is required if the work is undertaken prior to Council becoming aware (i.e. low risk building work), which would result, as a minimum, double the planning application fees.

The proposal needs to be considered and be well established so that the property owners benefit from the process. Considerations such as what happens if Council's Planning Authority considers the proposal different to the opinion of the consultant need to be considered and also what the impact of this is to: a) the owner and b) the consultant. It should also be considered to indemnify Council of its obligations under LUPAA.

We believe that the Planning Review system that we have implemented is quick, cheap and effective and receives uptake because the benefit outweighs the cost.

Thank you for the opportunity to comment on the options paper.

Kind regards

Planning Team  
Meander Valley Council