



THE LAW SOCIETY  
OF NEW SOUTH WALES

25 February 2026

Ms K Fishburn  
Secretary  
Department of Planning, Housing and Infrastructure  
4 Parramatta Square, 12 Darcy St,  
PARRAMATTA NSW 2150

Via Planning Portal

Dear Secretary,

### **ESTABLISHING THE DEVELOPMENT COORDINATION AUTHORITY**

The Law Society is grateful for the opportunity to provide feedback on the proposed changes to the *Environmental Planning and Assessment Regulation 2021* (NSW) (**EP&A Reg**) and environmental planning instruments, to establish the Development Coordination Authority (**DCA**). The Law Society's Indigenous Issues and Environmental, Development and Planning Committees contributed to this submission.

We note the consultation documents on exhibition comprise:

- “Establishing the Development Coordination Authority - Proposed changes to the *Environmental Planning and Assessment Regulation 2021* and environmental planning instruments” (**Discussion Paper**)
- “Appendix A – A new framework for statutory inputs on DAs” (**Appendix A**)
- “Appendix B – Proposed amendments to the EP&A Regulation” (**Appendix B**).

### **General comments**

The Law Society supports planning reform proposals that improve coordination across government agencies and reduce unnecessary delays in the planning system. However, in our view, there are a number of matters which need to be further addressed to assist in achieving the intended outcomes. Given the high-level nature of the documentation provided, we also seek further information or clarification on several matters. Additionally, we would be pleased to be provided with an opportunity to review the draft legislation contemplated, such as the changes to the EP&A Reg.

### **Functions and resourcing**

We note that the DCA commenced its initial operations in January 2026, and material available on the website of the Department of Planning, Housing and Infrastructure indicates that the DCA will provide “one stop

advice” and “support for applicants”.<sup>1</sup> It is important that the DCA provides a high level of customer service for pre-lodgment queries to assist in achieving its stated aim of providing “a single front door to help councils, applicants and other users of the planning system...” as referred to on page 4 of the Discussion Paper.

We note that new s 2.111, Delegation to Development Coordination Authority, of the *Environmental Planning and Assessment Amendment (Planning System Reforms) Act 2025* (NSW) (**Planning Reforms Act**) contains a general provision permitting broad delegation powers by “a Minister or other public authority” to the DCA, or to a member of staff of the Department, with respect to the functions of the DCA. Additionally, Schedule 3 to the Planning Reforms Act made some consequential changes to legislation governing certain NSW Government agencies. Noting that the DCA will commence its full operation in July 2026, we trust that these delegations will ensure that the DCA is staffed with the appropriate in-house specialist expertise to carry out its functions.

### **Powers of the DCA**

In discussing the DCA’s role after consent has issued for a development application, page 11 of the Discussion Paper states that:

DCA will also help to solve problems that arise after a development consent is granted so that projects can begin construction sooner. This includes continuing the Housing Taskforce’s work providing dedicated assistance to developers that are experiencing a delay or issue with a council or State agency that is holding up construction or occupation.

We support this objective but query whether the DCA will be granted specific statutory powers in this respect.

We note that the DCA will be responsible for issuing the general terms of approval (**GTAs**) and most concurrences or referrals required for development applications (**DAs**) rather than the relevant NSW Government agency. The Discussion Paper on page 9 notes that in relation to consolidating a single response the “DCA will be the final decision-maker for these inputs.” However, there is no explanation of what powers or processes will exist within the DCA to resolve conflicts between GTAs, concurrence comments or other statutory inputs. We would welcome further information on how such matters will be resolved.

### **Integrated development**

The consultation documents appear to reflect a change in approach in relation to integrated development. For example, Appendix B on page 1 details that s 25 of the EP&A Reg will be amended such that “Applicants will need to identify all the statutory inputs that are required...”. Page 2 of Appendix B notes that a new section will be introduced in Part 3 to the following effect:

If the consent authority believes that statutory inputs from DCA are required in relation to a DA that has been submitted, it will need to check this with DCA prior to accepting a DA as lodged.

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<sup>1</sup> Department of Planning, Housing and Infrastructure, NSW Government, *Development Coordination Authority* (29 January 2026) < [Development Coordination Authority](#)>.

DCA will have two business days to advise the consent authority on whether the nominated statutory inputs are required and whether the DA contains the necessary documentation to allow DCA to provide statutory inputs.

If DCA fails to provide any response within two business days, the consent authority will be able to accept the DA as lodged.

The wording used in the consultation documents appears to suggest the established case law principle that integrated development provisions are optional or facultative (*Maule v Liporoni & Anor* [2002] NSWLEC 25<sup>2</sup>) will no longer be the case.

Although we note that such a change in approach to integrated development appears to be consistent with Commissioner Dickson's approach in *Artmade Architectural Pty Ltd v Central Coast Council* [2025] NSWLEC 1249, we are concerned with this potential departure from established principles. In our view, whether an applicant chooses to engage the integrated development provisions should be clarified. In our members' experience, sometimes the staging of developments in greenfield areas is such that an applicant does not want to trigger an integrated development process and approval because the developer is aware that it will be addressed by another development or other activities. We accept that if the applicant does not elect to proceed by way of integrated development, the consent authority will still need to consult on these other statutory approvals, and the applicant takes on the risk of inconsistency in development conditions. We therefore seek clarification whether a change in practice in relation to integrated development is intended with the introduction of the DCA, or if the established principle under *Maule v Liporoni* will continue to apply.

### Local councils

We are concerned as to whether local councils will be adequately supported and sufficiently resourced where they are required to take on greater assessment functions as a result of the changes. For example, referral to the DCA will now be limited to more complex development or impacts, whereas previously all development or impacts would have been referred, such as referral to the Rural Fire Service when the development does not comply with the requirements of *Planning for Bushfire Protection*.<sup>3</sup> Requiring individual local councils to undertake such assessments raises the potential for greater inconsistency within the State.

### Land and Environment Court

We seek further clarity in relation to what role, if any, the DCA will have during an appeal in the Land and Environment Court (**Court**). For example, it is unclear whether the DCA will be consulted in relation to amended GTAs where development is amended in the course of proceedings.

We also note that s 8.12 of the *Environmental Planning and Assessment Act 1979* (NSW) does not appear to have been amended to reflect the role of the DCA. It appears that where a determination is appealed to the

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<sup>2</sup> For example, paragraph 83 where Justice Lloyd describes the integrated development provisions of the *Environmental Planning and Assessment Act 1979* (NSW) as "beneficial and facultative". Further at paragraph 86 of the decision: "There was and is no compulsion on an applicant to make an application for an integrated development approval, if he or she chooses (sic) not to do so".

<sup>3</sup> See page 12 of Appendix A.

Court, the DCA does not receive notice of the appeal, but the approval body or public authority does, and is entitled to be heard. This appears to be inconsistent with the changes that shift power away from the approval body or public authority to the DCA.

## **Fees**

The proposed fee structure detailed on page 18 of the Discussion Paper is not scaled to the size of the development under assessment. In our view, an increase in the fee for each concurrence and integrated development approval from \$426 to \$1,100 is substantial. We further note that applicants will be paying fees based on individual referrals, even though the DCA is intended to operate as a “one stop shop”. Additionally, a statutory referral does not currently attract a fee, but the proposed fee payable to the DCA is \$1,100.

We note concerns that the proposed fee structure could create additional barriers and place further burden on Aboriginal landowners and Local Aboriginal Land Councils (**LALCs**) seeking to deliver housing and essential community infrastructure. When combined with the existing complexities of navigating the planning system, increased fees may further delay or deter projects delivering direct and significant benefits to Aboriginal communities. This may particularly be the case for Registered Native Title Bodies Corporate (**RNTBCs**), as they do not have the financial support accessible to LALCs through the NSW Aboriginal Land Council and there continues to be a significant lack of funding for RNTBCs.<sup>4</sup>

## **Effect upon Aboriginal land activation**

As above, the Law Society supports efforts to simplify and streamline planning in NSW, including by way of a centralised authority. However, for a centralised input model to deliver equitable outcomes, Aboriginal governance and expertise must be appropriately embedded for matters impacting Aboriginal land and communities, in a way that does not increase delays or barriers to activation of land owned by LALCs, RNTBCs and/or Aboriginal Community Controlled Organisations.

Further, strong accountability and transparency mechanisms must be introduced for matters affecting Aboriginal land, communities and rights. Without these safeguards, the centralisation of statutory and advisory inputs may inadvertently increase barriers to Aboriginal land activation and weaken recognition of Aboriginal land rights, self-determination and cultural rights. A centralised statutory input model may also unintentionally reinforce blanket restrictions rather than supporting nuanced, site-specific assessments that reflect a local context, support Aboriginal land management practices and contribute critical housing and infrastructure delivery.

Consultation and co-design with Aboriginal communities is critical to ensuring that these efforts are appropriate and accessible to these communities.

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<sup>4</sup> See Law Society of NSW, ‘Inquiry into economic self-determination and opportunities for First Nations Australians’ (20 May 2024) <[Letter to Law Council of Australia - Inquiry into economic self-determination and opportunities for First Nations Australians - 20 May 2024.pdf](#)>.



## Appendix A - A new framework for statutory inputs on DAs

In our view, Appendix A does not provide sufficient detail to facilitate meaningful feedback. There are multiple references to requirements for approvals or consultation that will be removed entirely. For example, page 4 of Appendix A in relation to Childcare Centres states:

It is proposed to remove the requirement to consult with the NSW Early Childhood Education and Care Regulatory Authority (the Regulatory Authority) on development for the purposes of centre -based childcare facilities that do not meet indoor and outdoor space requirements in the *Education and Care Services National Regulations*.

There are other general comments about condensing requirements or removing duplication without specific information being provided. Without seeing the draft instrument itself, it is difficult to comment on potential impacts.

Additionally, we note that on page 10 of Appendix A, there is reference to the new consultation requirement for Aboriginal cultural heritage replicating s 5.10(7) of the Standard Instrument LEP. However, this provision relates to archaeological sites. We suggest that the correct provision is s 5.10(8), which specifically addresses development in an Aboriginal place of heritage significance.

## Appendix B - Proposed amendments to the EP&A Regulation

While it is useful to be provided with an outline of intended changes to the EP&A Reg, as mentioned above we would be pleased to be provided with an opportunity to review the draft changes to the EP&A Reg itself.

### Savings and transitional provisions

We note the operation of the DCA is intended to commence on 1 July 2026. Consideration should be given to appropriate savings or transitional provisions to ensure that existing development applications do not have to recommence the application process. We note that the Planning Reforms Act contained some savings and transitional provisions in Schedule 2, item [40], however these provisions do not appear to provide the transitional relief sought. We further note that Appendix B which outlines the proposed changes to the EP&A Reg does not flag the inclusion of any savings or transitional provisions, although they may be contemplated.

If you have any questions in relation to this letter, please contact Gabrielle Lea, Senior Policy Lawyer, by phone (02) 9926 0375 or by email to [gabrielle.lea@lawsociety.com.au](mailto:gabrielle.lea@lawsociety.com.au).

Yours sincerely,

**Ronan MacSweeney**  
President