



Introduction

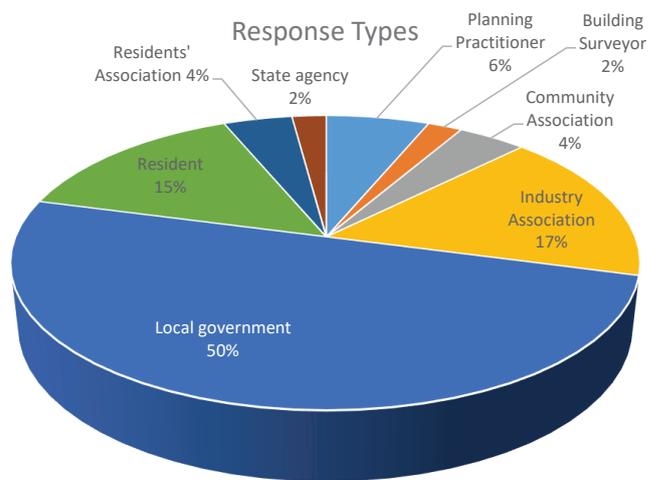
The Accredited Professionals Scheme (the Scheme) is a key component of the new planning system created under the *Planning, Development and Infrastructure Act 2016* (PDI Act). The Scheme aims to enhance the reliability, flexibility and accountability of decision-makers in the planning system and give development applicants greater confidence in the way that their development applications are assessed.

Consultation on the Accredited Professionals Scheme Draft was undertaken from 23 August to 17 October 2018. The draft Scheme comprised the Accredited Professionals Regulations (the Regulations), the Accredited Professionals Skills and Experience Requirements, and the Accredited Professionals Code of Conduct.

This paper summarises the key messages that were communicated to the Department of Planning, Transport and Infrastructure (the Department) throughout the consultation process. It also offers some clarification in response to common queries that were received in submissions.

Summary of submissions

Forty-eight written submissions were received in relation to the draft Scheme. The breakdown of response types is illustrated below:





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Planning levels

Planning Level 1 (Assessment Manager)

Several submissions raised concern regarding the ability for existing council staff (particularly in regional areas) to satisfy the accreditation requirements of an Assessment Manager.

Clarification: *It is noted that:*

- a) *There are methods for recognition of a professional to be accredited but comply with conditions that, if met, could allow them to reach Level 1.*
- b) *The PDI Act allows an Assessment Manager to be appointed who is not necessarily an employee of the council, and that person may be appointed to more than one panel. This arrangement would allow councils who do not have staff at the relevant level to engage an external consultant to act as an Assessment Manager (and also to delegate any relevant functions to council staff, as deemed appropriate).*

Clarification was also sought by respondents as to whether there is an expectation that councils maintain a “back up” Level 1 accredited professional (Assessment Manager) in case the Assessment Manager resigns or is on leave for a period of time.

Clarification: *Councils may wish to ensure that they have more than one Level 1 Assessment Manager on staff to cover periods of leave, however this is entirely up to the council as to how they resource and structure their staffing arrangements, or whether they consider the appointment of accredited consultants to cover staffing gaps.*

Planning Level 2 (Assessment Panel Member)

It was observed that two years of experience may not be sufficient to sit as a member of an Assessment Panel, with at least three years’ experience recommended, and with greater emphasis placed on relevant experience.

Planning Level 3 (performance-assessed development) and Planning Level 4 (deemed-to-satisfy development)

A number of respondents observed that there may not be a need for a Planning Level 4 accredited professional, as their anticipated functions could be performed by Planning Level 3 and minimum qualifications are the same.

The extent of experience and core skills for Planning Levels 3 and 4 was observed as being inadequate, particularly the one years’ worth of experience for Level 4. It was suggested that it would be more appropriate for a professional at Level 3 to undertake deemed-to-satisfy assessments than Level 4, noting that less experienced planners within councils could still undertake these assessments acting under delegated authority (from the Assessment Manager).



Building levels

Respondents queried whether current council building officers would be required to become accredited under the Scheme.

Clarification: *As council is designated as a relevant authority with respect to Building Rules assessment under the PDI Act, council officers acting under delegation of the council (for the purpose of assessment against the Building Rules) will not necessarily need to be accredited under the new Scheme.*

However:

- a) *Future regulations are likely to require a council acting as a relevant authority for building consent to seek and consider the advice of an accredited professional who would be qualified to assess that particular application under the Accredited Professionals Scheme (similar to the function of regulation 87 under the Development Regulations 2008, but with qualifications aligned with the Scheme); and*
- b) *Building Inspectors will be required to be accredited under the Accredited Professionals Scheme (refer to section 144 of the PDI Act and future practice direction).*

It was observed that building officers are already required to be accredited through the scheme managed by the Australian Institute of Building Surveyors (AIBS), which was considered to require suitable qualifications/experience/training for Level 1-3 Building Surveyors.

Clarification: *This Accredited Professionals Scheme will supersede the private certification requirements under the Development Act 1993. While membership of AIBS may be continued by the relevant professional, accreditation under the Accredited Professionals Scheme will be mandatory to act as a building surveyor (in the private sector) for development assessment.*

It was observed that many states restrict building certification to the upper levels of accreditation, ensuring that only the most qualified and experienced

building surveyors can operate in the private sector. A number of respondents emphasised the importance of differentiating the experience requirements between those who operate in the public sector versus the private sector.

Building Level 3 (Assistant Building Surveyor)

Respondents observed that Level 3 Assistant Building Surveyors should be able to undertake assessment of Class 2-9 buildings, as well as Classes 1 and 10 (to reflect current legislation).

It was noted that changes to building accreditation may have a detrimental effect on regional councils, further reducing the inability to employ suitably qualified building surveyors.

Building Level 4 (Building Inspector)

Respondents generally agreed that a Level 4 Building Inspector, being the least experienced, should have duties and functions restricted to buildings of lower risk, compared to commercial buildings that may have higher occupancy rates.

The level of qualifications/experience that should be required for Level 4 Building Inspectors varied amongst respondents.

Some respondents identified that, given the functions and responsibilities of the Level 4 Building Inspector are primarily suited to inspection of building work to ascertain compliance with approved documentation, the current qualification requirements may be too restrictive. The qualifications necessary to become a Level 4 Building Inspector should be broader than that specified for a Level 3 Assistant Building Surveyor. By further separating the two qualification levels, it was observed that a wider range of skilled professionals may be utilised to perform the duties of a Level 4 Building Inspector.

Alternatively, other respondents observed the lack of tertiary qualification at Level 4, and noted that the inspection of buildings, roof truss and swimming pools was a complex safety obligation that involved considerable responsibility and required more than six months of experience.



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Register of accreditations

Respondents generally supported the idea of a register of all accredited professionals being maintained by the Accreditation Authority.

It was also suggested that the Department should maintain a register of persons interested in being appointed to assessment panels in rural areas.

Continuing Professional Development (CPD)

A majority of submissions supported CPD as part of the Scheme. Specifically, support was indicated for the inclusion of training requirements in technical skills related to the environment, and for recognition arrangements with relevant professional associations for membership and CPD (e.g. Planning Institute of Australia (PIA) or AIBS).

The SA Planning Portal asked participants: **“How important is design as a non-mandatory Continuing Professional Development topic compared with other non-mandatory topics?”**

A majority of respondents believed that design was an important component of CPD training, as it corresponded to the focus on design in the planning reform program. However, it was also observed that CPD training in design would be less important for accredited professionals at Planning Level 4, as they would only be dealing with deemed-to-satisfy development.

The following suggestions were offered to further improve the CPD program:

- Recognise that a person with less experience will inherently require more training as opposed to a person that has demonstrated core competencies through an extensive career.
- Emphasise the importance of demonstrated development assessment skills.
- Offer CPD training online for rural planners who would otherwise find it difficult to attend training in the city.
- Establish a simple and consistent method of recording CPD activities for a clear and speedy assessment process, such as through the SA Planning Portal.

It was also suggested that in order to recognise CPD courses or activities, the following would be required:

- Definition of competencies at each level
- Description of course/activity content and how it relates to these competencies
- Assessment of CPD courses/activities to determine the number of eligible CPD points
- Protocols for defining the learning outcomes that will be achieved by completing the course/activity (also important for audit/re-accreditation purposes).





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Audits

A guiding question on the SA Planning Portal posed: **“Should accredited professionals be penalised for failing to participate in audits in accordance with the Scheme?”**

A majority of respondents agreed that there should be some form of penalty for failing to comply with auditing requirements.

The following matters were also recommended in respect to auditing:

- The Regulations should be amended to make the auditor responsible for arranging audits, rather than the accredited professional.
- A list of matters which may be examined in an audit should be included as a schedule in the Regulations.
- Any report prepared by the auditor should be provided to the accredited professional’s employer.
- Auditing should be more frequent in the private sector because local government already has a number of auditing and decision review processes which reduce the risk of maladministration and/or inappropriate decisions.
- A list of auditors should be held by the State and assigned at random to councils and private practitioners.
- Auditing should occur every three years instead of five years.
- Auditing of building professionals should also apply to Level 4 Building Inspectors, not just those undertaking assessments.

Complaints

A guiding question on the SA Planning Portal posed, **“Should industry bodies be allowed to deal with complaints against accredited professionals on behalf of the Chief Executive of the Department?”**

Respondents generally agreed that an independent body or the Accreditation Authority should be responsible for dealing with complaints against accredited professionals, instead of industry bodies.

It was also suggested that:

- the employer of the accredited professional –such as a council – be notified of the complaint, investigation and findings of the investigation and any action taken by the Accreditation Authority
- complaints be centralised and consistent to provide complainants, the community and accredited professionals with confidence in the process
- accredited professionals against whom a complaint is lodged should have first right to respond/address
- a process of independent review be implemented to escalate the complaint where a resolution can’t be reached. This can start with an industry body, before ultimate escalation to a regulator (or Ombudsman)
- a clear and accessible lodgement process for legitimate complaints be implemented by councils, private practitioners and the community regarding both individual developments and the regulatory system as a whole.

Respondents also queried whether the relevant authority or the Accrediting Authority could revoke the relevant development authorisation if the auditing process finds an irregular process has occurred.

Clarification: *The complaints process only relates to the behaviour and professionalism of the accredited professional. If the validity of a decision made by the accredited professional is in question, the PDI Act and other legislation provides for appeal processes either to the Environment, Resources and Development Court or the Supreme Court.*



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Cancellation or suspension of accreditation

Respondents supported having a clear process around suspension and cancellation of accreditation, and observed that the criteria proposed in the draft Regulations seemed appropriate.

It was also recommended that:

- consideration be given to a regime of fines as well as suspensions and cancellations
- the Regulations be amended to include a requirement that if the Accreditation Authority proposes to vary, or varies, a condition of an accreditation, cancel or suspend an accreditation, or if an accredited professional voluntarily surrenders their accreditation, that the person or body by whom the accredited professional is employed be notified by the Chief Executive of the Department.

Insurance

The SA Planning Portal asked participants: “**Should certificates of currency be submitted as proof of insurance, or is annual self-certification sufficient for this purpose?**”

Respondents generally believed that proof of insurance should be provided but had mixed views on what type of proof would suffice. Some recommended that the Accreditation Authority could request a certificate of currency (for example, to satisfy a complaint or CPD audit matter), while others agreed that certificates of currency should be provided by each accredited professional as proof of insurance.

It was also noted that insurance requirements should only be necessary once the person is appointed as a relevant authority, which should be separate to being accredited.

Several respondents sought assurance that relevant council staff and assessment panel members will be covered by the Local Government Mutual Liability Scheme as intimated in the *Accredited Professionals Scheme* discussion paper.

***Clarification:** Any accredited professional employed by a council, including Assessment Managers and assessment panel members, will be covered by the Local Government Mutual Liability Scheme.*

General comments

Multiple accreditations

A number of respondents queried the ability for persons accredited at a certain level to act at a different (lower) level. For example, is a Level 1 Assessment Manager able to act as a Level 2 Assessment Panel Member?

***Clarification:** The PDI Act does not allow for different relevant authorities to perform the same functions. A person would need to apply for and obtain each required level of accreditation to undertake each particular “relevant authority” role under the PDI Act. This ensures that an accredited professional cannot act outside of the qualifications specific to their accredited role. For example, an assessment panel member may not have the skills and experience to undertake planning assessment at Level 3, but in circumstances where they may have that experience and wish to undertake that role, they can apply for and attain that additional accreditation. Despite these restrictions, it is anticipated that the Regulations will acknowledge the scope of each role. For example, the role of an Assessment Manager would include the assessment of deemed-to-satisfy applications, so there would be no need for them to apply for a Level 4 accreditation in addition to Level 1.*

Planning policy accreditation

The omission of practitioners who develop planning policy from the accreditation requirements was identified, noting the critical role of those undertaking policy investigation and development.

***Clarification:** The Accredited Professionals Scheme, facilitated by Section 88 of the PDI Act, is not legislatively able to accommodate the accreditation of policy planners. While the Scheme can only relate to the accreditation of “accredited professionals” for the purposes of the PDI Act, further investigations into the minimum qualifications of policy planners may form part of the reform program in the future.*



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Terminology

A number of submissions requested that classes of accreditation be renamed and simplified to avoid confusion, such as 'Accredited Professional Level 1, 2, 3 and 4'.

Assessment of land division

Local government representatives noted opposition to the possibility of the private sector acting as a relevant authority for land division. However, an industry association requested the opposite, emphasising the desire for licensed surveyors to be accredited under Level 4 (deemed-to-satisfy) for land divisions only.

Private sector accredited professionals

The increase in the role of private certification was raised as concern by a number of respondents. The concern was based around the ability for private sector accredited professionals to exercise judgement-based, discretionary powers on multiple planning considerations, on the basis of paid engagement by an applicant. It was also observed that the community expects its council to be able to influence the local environment and provide information about the planning system.

As a result of these concerns, a number of submissions recommended that the Regulations limit the assessment powers of private planning professionals to 'deemed-to-satisfy' applications only.

Partnership with industry bodies

Submissions questioned why the Scheme replicated the functions and systems of professional bodies such as the Planning Institute of Australia (PIA), which are already in place, rather than entering into a partnership with these bodies to manage the Accredited Professionals Scheme on government's behalf.

Clarification: The Scheme is designed to operate independently of the industry bodies to encourage trust and professionalism across the industry, whilst still facilitating a market-driven approach to providing services.

Cost / resourcing implications

Local government representatives noted a perceived increase in costs to undertake their development/compliance functions, such as accreditation, registration and renewal fees for both assessment panels and Council Assessment Panel (CAP) members.

The time required for Level 2 Assessment Panel Members to undertake ten professional development units per year and the associated cost of the training was identified as unreasonable in relation to the current CAP sitting allowances, especially since most CAP members were also in full or part-time employment.

The cost for Level 2 Assessment Panel Members was requested to be lower than that of other accredited professionals under the Scheme because of the lesser evidence requirements and exemption from auditing.

The appropriateness of an annual registration requirement was queried given most professionals maintain accreditation with other entities (eg. PIA or AIBS).

Clarification: Refer to 'Renewal/continuance' section below

Number of Assessment Managers

Confusion was noted around whether more than one Assessment Manager could be appointed per Assessment Panel.

Clarification: When the PDI Act was drafted, it was intended that there would be no more than one Assessment Manager per Assessment Panel. This matter is under current investigation by the Department and advice will be provided prior to operation of the new Scheme.



Accreditation application to all Assessment Panels

Some respondents requested that the Accredited Professionals Scheme be applied to all Assessment Panels in the state, because some of the more important planning decisions would be made by the State Planning Commission (through the State Commission Assessment Panel (SCAP)).

Clarification: *While the PDI Act does not require the Commission or SCAP members to be accredited under the Scheme, the Department acknowledges that there is concern about this. Moving forward, the Commission will seek to ensure that SCAP members meet the minimum qualifications specified for a Level 2 Assessment Panel member (although actual accreditation may not be required, the minimum experience and qualifications will be achieved).*

Peer-reviewed compliance

It was observed that peer-reviewed compliance may be unnecessary for local government but important for accredited professionals in the private sector if/when they are assessing performance-assessed applications.

Respondents queried the process and practicalities of peer reviewed compliance of Level 1 Assessment Managers, specifically relating to who can act as a peer reviewer, their qualifications, and how to ascertain their level of independence.

Clarification: *It is the Department's initial view that the peer reviewer should also meet the requirements of a Level 1 Assessment Manager. Further details of the peer-reviewed compliance process will be confirmed in future training materials and Practice Direction(s).*

Recognition of other qualifications

It was observed that the Scheme should recognise a person with extensive levels of experience and who may not necessarily have a prescribed qualification in planning.

A number of local government representatives also raised concern regarding the ability of existing council staff (particularly in regional areas) to satisfy the accreditation requirements. It was observed that the Accredited Professionals Scheme needed to be flexible enough to recognise a person's current qualifications and experience.

Clarification: *The Department is obliged to continue to observe the requirements of mutual recognition legislation for the assessment of qualifications and experience in applications for accreditation. These matters are assessable on a case-by-case basis.*

Equivalent schemes

The applicability of an equivalent scheme under the planning levels was welcomed by a number of respondents. Respondents questioned what schemes would be recognised and expressed concern about whether agreements with other professional bodies would be permitted under the discretionary powers of the Accreditation Authority.





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Transition to the new Scheme

It was noted that there should not be automatic transition to the new Accredited Professionals Scheme; all professionals should be made to re-apply for accreditation through the transition.

It was requested that a minimum of two to three years be granted to obtain accreditation to avoid unnecessary pressure and cost to the industry.

Clarification: *Current qualified building surveyors will transition to the new Scheme as accredited professionals (until such time as their renewal is due), given that they are required to be qualified under the current legislation. However, given that no accreditation scheme exists for planning decision-makers in the current planning system, an automatic transfer of 'planning certification' is not proposed.*

It is likely that planning decision-makers will have between six months and two years to obtain accreditation, depending on when the Planning and Design Code is implemented in the relevant authority's area of jurisdiction.

Renewal / continuance

It was noted that frequency of accreditation renewal should be not less than two to three years, noting however a professional should have the ability to obtain a higher accreditation at any time.

Clarification: *Accredited professionals will only need to apply for accreditation once. Thereafter, they will only need to validate their accreditation annually to demonstrate that all conditions and obligations have been met in that period. This process will involve a simple submission and nominal fee.*

Accreditation fees

Respondents queried the cost of accreditation and renewal, particularly noting that members of industry associations are required to pay their annual membership (approximately \$600-700) in any case. It was suggested that members of industry associations who meet the equivalent scheme requirements should be charged a reduced fee.

Next steps

The Department offers sincere thanks to everyone who provided valuable feedback during the consultation process.

A final draft of the Scheme is now being prepared, taking into account the comments received.

It is anticipated that planning and building practitioners will be able to apply for accreditation in early-mid 2019.

More information about South Australia's new planning system is available at

www.saplanningportal.sa.gov.au

www.saplanningcommission.sa.gov.au