



28th February 2019

Mr Michael Lennon
Planning Commissioner
State Planning Commission
GPO Box 1815,
Adelaide SA 5001

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27 Feb 2019

DPTI

Dear Michael,

Referring to the release of the 'Planning Development Infrastructure Act Draft Development Assessment Regulations and Draft Practice Directions' for consultation, we provide the following response on behalf of the State's independent retail supermarket sector, South Australian Independent Retailers (SAIR).

Background

SAIR advocates on behalf of the 120 owners representing 235 independent supermarkets stores which are branded Foodland, IGA and Friendly Grocer. This sector employs 15,000 people which also includes staff in the sector's major wholesale distribution centre.

The Retail/Wholesale Industry is the biggest 'private' employer in South Australia (circa 112,000) and independent supermarkets are the largest sector i.e. circa 13%

As a collective group, this sector is the largest private employer in the State and maintains a 29% market share, it is extremely competitive and punches well above its weight with a respectable circa \$2b annual turnover, equating to 2% of South Australia's Growth State Product (GSP).

Please find to follow our comments and feedback in relation to the draft Regulations and Practice Directions.

PDI (General) (Development Assessment) Variations Regulations 2019

In relation to the draft Regulation variations we provide the following comments.

Reg 56 - Deemed to satisfy - 10 business days to approve

The Regulations allow an authority 5 business days to determine whether an application is Deemed to Satisfy (Regulation 35) and then an additional 10 business days to approve it (Regulation 56). The additional 10 days is considered to be unnecessary. If the relevant authority has already made the determination that an application is a 'deemed to satisfy' development it has effectively determined that it must approve the application, and thus, there is no real need for a further two weeks after it has already determined that it must grant a consent.

Furthermore, the 10 days should start from the date on which the application (with necessary docs etc) has been lodged, not from when the decision has been made that it is a 'deemed to satisfy' development'.

Reg 56 - 30 business days for any referral

It is considered that 30 business days for a referral agency to comment on an application is too long, especially in the context of the 20 day period that a relevant authority has to assess a performance assessed development. If applications can be assessed in 20 business days it doesn't make sense that a referral agency should have 10 days longer.

It is our view that the referral time should be reduced to 20 days for agencies for consistency reasons.

If no comment is received within the 20 day timeframe, then it should be assumed that the agency does not wish to comment.

Reg 73, Old Dev Regulation 48

The Draft Regulations maintain the standard timeframes for implementing an approval. Consideration should be given to extending the operational periods for larger and/ or more complex developments to ensure they cover the practical life cycle of the project. The 12 month period for substantial commencement is somewhat subjective and has the potential to place unnecessary pressure on projects.

SAIR recommends extending the timeframes to allow:

- 2 years to substantially commence any development;
- 2 years to commence and 5 years to complete any development with a build cost of \$10M or over.

Reg 82 - Largely existing development Regulation 29

This gives the State Planning Commission 30 business days to provide its comments on a land division application plus any further time the Commission determines. This does create a certain level of ambiguity that makes it difficult for businesses to plan around.

In our view, the Commission should have 20 business days to comment on a proposal, for consistency reasons with Council and agency timeframes and if no comment is received within the 20 day timeframe then it should be assumed that the Commission does not wish to make comment.

Draft Practise Directions - Deemed Planning Consent Standard Conditions

The following comments are made in relation to the draft practice directions for deemed planning consent standard.

Waste

It is noted that the deemed consent conditions for waste as it relates to commercial premises are not consistent with current waste collection practices. We have assumed that a supermarket and moreover a shopping centre are considered to be commercial premises. Currently as it stands, supermarkets and shopping centres already have Saturday waste collections and in some cases during peak season and peak times of the year eg in lead up to Christmas and during Easter, Sunday collections do occur at times. This is current practice in centres within 100 metres of a residential zone.

From a work place safety and particularly a hygiene perspective rubbish collections must occur from supermarkets and shopping centres on Saturdays and to a lesser extent on Sundays, but as we say, only from time to time or during peak periods.

SAIR recommends the condition is amended to include *“and Saturday’s from 9am- 5pm and on Sundays only when required from 10am – 5pm”*.

Draft Practice Direction - Notification of performance Assessed Development Applications

The Regulations require an applicant to erect (or pay the Council to erect) an A2 poster (or posters) on the subject land for the duration of the public notification period. Concerns could arise around the practicality of A2 printing (most people would need to get this done commercially) and the fee that might be charged to get a Council to handle the process.

It is our view that the A2 posters should be able to be comprised of A3 and/or A4 sheets.

Other Comments

What is a minor variation?

We understand that the Commission intends to publish a practice guideline to clarify what constitutes a minor variation. While the guideline will be based on the concept of a minor variation to deemed-to-satisfy criteria, the principles could also be applied to post-decision requests for variations on all application types.

From a retail perspective there will need to be a degree of rigor around what constitutes a minor variation, particularly when it comes to supermarket floor space and gross leasable floors areas (GLA). SAIR would not be supportive of a situation where an applicant used this process to seek to obtain substantial or cumulative increases in retail floor space (or GLA) and/or changes to the floor space configurations, if in fact that additional area and land use make up differ to the Development Plan provisions.

Fees, Charges and Contributions

We understand that the Department is currently undertaking an investigation into the new fees, charges and contributions applicable under the Act and that the outcome of these investigations will be translated into future regulations known as the Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019.

On behalf of our independent owners, SAIR is really looking for consistency in relevant authority charges.

There are many examples of our owners’ lodging applications for variations to existing approvals or new applications and the fees charged vary enormously from Council to Council, for example why are lodgment and assessment fees in say Burnside hundreds of dollars dearer compared with Salisbury for the same work load and processing.

Our owners would like to see a fair and transparent fees structure which is consistent across all jurisdictions.

We thank you for providing us the opportunity to consider and comment on this latest round of planning reform documentation.

We look forward to working with you on the future stages and would welcome to opportunity to meet with you and DPTI staff at any stage you need to clarify any aspects of this submission or indeed any of our previous submissions too.

Yours sincerely



Colin Shearing

Chief Executive Officer

Cc: Minister for Planning, Stephan Knoll MP
Leader of the State Opposition, Peter Malinauskas MP
Shadow Minister for Planning & Local Government, Hon Tony Piccolo MP

SAIR acknowledges Amanda Price-McGregor in providing assistance and planning advice towards developing this submission.