



GOYDER

South Australia's Heartland

1 March 2019

Ms Anita Allen
Manager, Planning Reform
Department of Planning, Transport and Infrastructure
Via email: DPTI.PlanningEngagement@sa.gov.au

Dear Ms Allen

RESPONSE TO DRAFT REGULATIONS AND PRACTICE DIRECTIONS

Thank you for providing the Regional Council of Goyder the opportunity to provide comments on the draft *Planning, Development and Infrastructure (General) (Development Assessment) Variation Regulations 2019* (the draft Regulations) and the draft Practice Directions.

The draft Regulations and Practice Directions provide a significant level of operational detail associated with the planning reforms program. In this respect, the six week consultation timeframe has proved extremely challenging for a rural Council with a sole part time operator to review the regulations and provide informed comments, particularly with respect to Council reporting timeframes.

While it is acknowledged that the State Planning Commission and the Department of Planning, Transport and Infrastructure are working to deliver an ambitious large reform program by July 2020, the limited timeframes inhibit a genuine engagement process.

Several concerns set out in the attached submission stem from what are considered to be problematic clauses within the *Planning Development and Infrastructure Act 2016* (the Act), such as the removal of Councils as a relevant authority for planning consent and the introduction of deemed consents. Although an obvious solution is for problematic clauses within the Act to be amended or removed, it has been made clear by DPTI staff that amending the Act is considered to not be an option. This is disappointing as previous submissions on the new Act indicated these concerns which have not been resolved. As an alternative, serious consideration should be given to transitional regulations implementing these problematic clauses in stages beyond July 2020 to allow sufficient time for the new planning system to be established prior to additional complications, such as deemed consents, being introduced.

Other concerns relate to a perceived 'hand-picking' of responsibilities for relevant authorities without any reasoning, identification of the issues or understanding of what was sought to be achieved. Given that the new planning reforms aspire to create a simpler, more consistent and streamlined planning system, it is disappointing to observe some of the types of development listed in Schedule 6, where the Commission is the relevant authority in lieu of the relevant Assessment Panel. It is not considered necessary or appropriate for the Commission to be the relevant authority for developments which exceed a nominated dollar value or building height; this is not considered to provide a consistent and strategic framework of decision makers. Instead, it is perceived as a dilution of Local Government's decision making powers with no evidence being provided as to why this is necessary or appropriate, particularly given that Local Government is the most engaged with communities and the local area. Again, if

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there is evidence and justification of these changes, other than simple mantra or ideology, then this must be provided to Local Government and the community.

Accredited Professionals

The structure of the Accredited Professionals Scheme was first consulted upon in February 2018 and included a level for appropriately qualified town planners in the private sector and land surveyors to issue land division consents. Council's did not support this proposal due to the complexities and risks associated with privatising land division assessments and approvals. DPTI's review of submissions on the Accreditation Scheme had indicated that, due to overwhelming criticism of this proposal, land surveyors would not be part of the accredited professional scheme. The inclusion of a land surveyor accredited professional stream in the *draft Regulations* has therefore been a surprising and disappointing inclusion, which again is not supported.

Council's concerns:

- Accreditation scheme was intended to professionalise the industry but is undermined by the new delegations
- Financial implications
- Delegation in regional areas isn't possible as there isn't the staff to delegate
- Surveyors being involved in planning remains an issue/surveyors should not be permitted to approve land divisions. (eg. can the division actually be supported on the land –effluent issues(septic))

Public Notification

The *draft Regulations* propose changes to the timeframes within which decisions on Development Applications need to be made. Favourably, additional business days are proposed for Applications which require public notification, external referrals or decisions by an Assessment Panel. In the interests of efficiency, however, the timeframe has been reduced for an Application which does not require public notification, statutory referrals, or a Council Assessment Panel (CAP) decision. This type of Application can still require an involved assessment including non-statutory referrals within Council internal staff or external consultants. The reduced timeframe applicable to these types of applications will place enormous pressure on Rural Council's with limited staff resources and the need for a Council to engage an external Level 1 Planner when the current Level 1 Accredited Professional engages on Annual Leave, again incurring a further financial burden.

Under the *PDI Act* there will no longer be different categories of public notification for development applications, unlike the current system (Category 1, 2 and 3). Instead, an application processed at the Local Government level will either require public notification or not, with no variations in the scope of notification.

Development applications which are publically notified will require written notices sent out to owners and occupiers of land within sixty (60) metres of the subject land and a notice(s) installed on the subject land. The relevant authority (which will be staff on behalf of the Assessment Panel) is responsible for sending out notices to adjacent properties. The applicant is responsible for putting the notice on the land, unless they request the relevant authority to do so for a prescribed fee. The *draft Regulations* and *draft Practice Direction*, outline different requirements relating to the written notices and notice on the



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land, however it is apparent that ensuring the notice is maintained in an appropriate condition for the duration of the public notification period, could be a very resource intensive and challenging task if the notice is not installed in a robust structure.

Due to the vast area of Rural Council's this is a very timely and costly exercise if the applicant choses the Council to install the sign. The relevant fee needs to encompass the time and mileage the Council will be required to undertake. Together with;

- Signs coming down which could lead to extra days available for residents to make objections
- difficult on vacant land/rural areas
- Costs
- Extra work for authorities (Council's) to monitor

The period for public notification is proposed to be increased from ten (10) business days to fifteen (15) business days which is considered positive in the interests of providing a genuine opportunity for affected parties to comment on a development proposal. Unlike the current system, the relevant authority can decide whether or not to hear representations. Unfortunately, the *PDI Act* has already removed the opportunity for third party appeal rights for the majority of development applications.

EPlanning

As a Rural Council we have issues with the new EPlanning Portal and the lack of information being provided. The Regional Council of Goyder is allocated to come online in Phase 2 (November 2019) yet very little information is available about how this is to be implemented.

Our concerns;

- Who will be responsible for State Records Act
- Emails etc. sent outside the Portal (or internal memos etc.) can these be stored on the Portal?
- FOI's - how are these to be managed
- How much information is going to be publically accessible? (i.e., house plans, security concerns, confidentiality etc.
- How will refunds work within the portal
- Issue for a Council is in the event that Council incorrectly inputs information (on behalf of the applicant) the risk/liability issue
- Rural areas without internet
- Section 35 - 5 Business Days for verification will definitely create a resourcing issue for regional Councils

If you have any questions regarding the Regional Council of Goyder's submission, please contact Council's Development Assessment Manager, Fiona Barr on [REDACTED] or [REDACTED]

Yours sincerely

Fiona Barr
Development Assessment Manager

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