

Commencement of the PDI Act and Transitional Act – Practitioners update #2 (1 April 2017)

Introduction

The *Statutes Amendment (Planning, Development and Infrastructure) Act 2017* passed by Parliament on 15 February 2017 is the transitional Act that will enable the seamless transition between the current *Development Act 1993* and the new *Planning, Development and Infrastructure Act 2016 (PDI Act)* in order to establish the new planning system for the State in stages, over a five year implementation program.

This supports the Government's economic priority to 'establish the most efficient and certain system of development control in the nation'. Implementation of the PDI Act will provide a modern and competitive planning system to help unlock the State's additional economic potential. The current planning system under the *Development Act 1993* will be repealed in stages, and progressively replaced by the new system.

In accordance with the transitional Act, 1 April 2017 has been proclaimed* as the date the first components of the new planning system will commence. Complementary actions include:

- the PDI (General) Regulations 2017 and the PDI (Transitional Provisions) Regulations 2017, to facilitate this first stage of implementation
- commit administration of the PDI Act to the Minister for Planning
- related proclamations including to activate section 7 of the PDI Act relating to Environment and Food Production Areas.

The transitional Act will help to support the transfer of processes and rights granted under the current system, as each stage of the new system goes live. It also provides for the staged introduction of new planning tools and governance frameworks in a way that maximises the benefits of the reform program, while minimising disruption for the people using the system. A number of the longer term provisions of the PDI Act will be suspended until the relevant supporting administrative structures and policy frameworks are developed.

Significant elements of the PDI Act to be commenced from 1 April 2017 include:

- objects, principles, and general responsibilities under the Act
- the establishment of the new State Planning Commission
- establishment of the Minister's statutory advisory committees
- commencement of basic infrastructure scheme provisions and pilot general scheme provisions
- the Environment Food Production Areas
- capacity for multiple councils to establish joint planning agreements
- the first stage of ePlanning via the SA Planning Portal
- various related minor administrative matters.

*SA Government Gazette, 28/3/17, pages 957 & 960

Planning Development and Infrastructure Act

The following table indicates the sections of the PDI Act that will come into operation on 1 April 2017, and those that will be suspended to a later date. The sections coming into operation are shaded for ease of reference.

Section of PDI Act	Explanation	Commencement (Yes/No/In part)
Sections 1-3	These sections are formal and provide for the title of the Act, its commencement and for the interpretation of words and terms that are used in the Act	Yes
Section 4	The section sets parameters for determining where the commencement or revival of a discontinued land use constitutes a change in the use of land.	No
Sections 5-6	This provides for the establishment of planning regions, including Greater Adelaide, and subregions.	Yes
Section 7	This section provides for the environment and food production areas. Upon establishment of the environment and food production areas, immediate restrictions will be placed on residential subdivisions in these areas (other than in rural living zones and equivalent, which will be subject to a grace period of two years).	Yes
Sections 8-10	These sections deal with the application of the Act and its interaction with other Acts	Yes
Section 11	This section relates to the preparation of State Planning Policies and will be commenced when the relevant State Planning Policies sections are commenced.	No
Sections 12-16	These sections relate to objects, planning principles and general responsibilities	Yes
Sections 17-43	These sections are administrative and include the establishment of the State Planning Commission and its functions and powers; the functions of the Chief Executive under the Act; joint planning agreements and joint planning boards; and the preparation of practice directions of practice guidelines.	Yes
Sections 44-47	These sections relate to the community engagement charter and its preparation.	Yes
Section 48	This section requires the establishment and operation of the SA planning portal website, a preliminary version of which is already operating.	Yes
Sections 49-50	These sections require the establishment of the SA planning database and online atlas and search facilities and will be commenced when these systems have been developed and are ready to commence operation.	No

Section of PDI Act	Explanation	Commencement (Yes/No/In part)
Section 51	<p>Section 51 provides for the publication of standards and specifications.</p> <p>As 51(1)(b) and (c) relate to the SA planning data base and the online atlas and search facility these subsections will commence operation in conjunction with sections 49 and 50.</p>	<p>In part,</p> <p>Section 51(1)(b) and (c) will be suspended but the remainder of section 51 and section 52 will commence operation.</p>
Section 53	Provides for the online delivery of planning services and will be commenced when an online system has been developed.	No
Sections 54-56	These sections provide for protected information, freedom of information and fees and charges.	Yes
Section 57	Provides principles to be considered in the creation of statutory instruments under the Act	Yes
Sections 58-161	These sections that deal with substantial components of the new planning system including the creation of statutory instruments such as State planning policies, regional plans and the planning and design code; relevant authorities; assessment pathways and development assessment processes and; building matters.	No
Sections 162-163	These sections provide for the initiation of basic infrastructure schemes	Yes
Section 164	<p>This section provides for the initiation of general infrastructure schemes and cannot be commenced for 2 years under section 245(6) of the Act.</p> <p>However, clauses 30-31 of Schedule 8 provide for pilot schemes, subject to the same requirements, to be established as a transitional measure.</p>	No
165-191	These sections provide the framework for operation of infrastructure schemes.	Yes
Sections 192-232	These sections provide for a range of ancillary matters including land management agreements; open space contributions and other funds and; appeal and enforcement matters.	No
Section 233	This section provides an exemption from liability for acts or omissions in good faith for persons or authorities performing functions under the Act	Yes
Sections 234-235	These sections provide for professional indemnity insurance and for professional advice to be obtained in relation to certain matters.	No
Section 236	This section makes it an offence for a person performing functions under the Act to use or disclose confidential information.	Yes

Section of PDI Act	Explanation	Commencement (Yes/No/In part)
Section 237	This section deals with the accreditation of building products and will be commence operation with other building control sections.	No
Section 238	This section deals with copyright issues	Yes
Sections 239-240	These sections relate to charges on land and registration requirements on the transfer of land.	No
Sections 241-246	These sections are administrative in nature and include the requirement to establish the implementation advisory committee and the head power for the making of regulations by the Governor.	Yes
Schedules		
Schedules 1-5	Provides for disclosure of financial interests, subsidiaries of joint planning boards, codes of conduct for the state planning commission and others, performance targets and monitoring, and heads of power for the making of regulations under the Act.	Yes
Schedule 6	This schedule provides for the repeal of the Development Act and a range of consequential amendments to other Acts.	No
Schedule 7	This schedule relates to the Environment and Food Production Areas that will be established on the commencement of section 7.	Yes

Statutes Amendment (Planning, Development and Infrastructure) Act 2017 (Transitional Act)

The following provides a detailed summary of the sections of the Transitional Act that will come into operation on 1 April 2017.

Section of PDI Act	Explanation	Commencement (Yes/No/In part)
Sections 1-3	These sections are formal and provide for the title of the Act, its commencement and that this Transitional Act amends a specified Act where so specified.	Yes
Sections 4-8	These sections amend provisions in the PDI Act that relate to the preparation of State planning policies and can be suspended until the relevant PDI Act sections commence operation.	No
Section 9	This section corrects an omission in section 78 of the PDI Act which will come into operation at a later date.	No
Section 10	This section inserts a new Schedule 8, dealing with transitional matters, into the PDI Act. While some of its clauses will commence operation others will be suspended.	In part

Section of PDI Act	Explanation	Commencement (Yes/No/In part)
Schedule 8 - Transitional provisions		
Clauses 1-3	These clause are formal and provide for interpretation, definitions and savings provisions.	Yes
Clause 4	This clause provides mechanisms that deal with a change in the use of land and the commencement of subclauses (8) and (9) will enable new timeframes in the PDI Act to be brought into operation by subsequent proclamation should the need arise.	No
Clauses 5-9	These clauses deal with the establishment of the State Planning Commission and the functions it can perform under the repealed Development Act; the establishment of planning regions; the preservation of existing development authorisations and rights and; the Planning and Design Code.	Yes
Clause 10	This clause deals with local heritage. A further Bill to amend the heritage provisions in the PDI Act is currently being considered.	No
Clause 11	This clause deals with significant trees. It provides for trees designated as significant under a Development Plan to be transitioned into the Planning and Design Code and can be commenced when the Code is operational.	No
Clauses 12 -17	These clauses provide transitional provisions for panels, assessment managers and accredited professionals.	No
Clauses 18-29	These clauses provide transitional arrangements for existing development application processes; building classification and swimming pool and fire safety.	No
Clauses 30-31	These clauses provide for pilot infrastructure schemes to be established.	Yes
Clauses 32-35	These clause provide transitional arrangements for a range of matters including Land Management Agreements; Car parking and Urban Tree Funds; Proceedings to gain a commercial competitive advantage and; Authorised officers.	No
Clause 36	This clause provides for the dissolution by 30 June 2019 of the Advisory committee that will be established under section 244 of the PDI Act.	Yes
Clauses 37-40	These clauses deal with a range of other administrative and transitional matters.	No
Clauses 41-43	these clauses are machinery provisions and deal with the making of regulations	Yes

Section of PDI Act	Explanation	Commencement (Yes/No/In part)
Parts 3-27 – Consequential amendments to other Acts		
Sections 11-85	These sections provide for consequential amendments to a range of others Acts, primarily to replace references the <i>Development Act 1993</i> and terms used in it to the <i>Planning, Development and Infrastructure Act 2016</i> and corresponding terms.	No

Future Stages

Following commencement of the new Acts outlined above, subsequent parts of the new planning system will be progressively introduced over the coming years.

The Minister's Road Map, first published on the SA Planning Portal on 29 November 2016, indicated the initial order and structure envisaged for the staged introduction of the main elements of the new system over the first three years of the program.

The Road Map has now been updated and refined in-line with timing and progress made to date, and extending out to the year 2020 (see the following link to the [Minister's Roadmap](#)). Significant elements expected to be commenced in the near future include:

- the commencement of Council Assessment Panels - 1 July 2017
- the Accredited Professional Scheme – commencement late 2017
- preparation of the first State Planning Policies.

The exact dates for commencement of each of the above elements will be confirmed/proclaimed in due course.

Each new stage of the implementation program will require a specific proclamation, and where required will be accompanied by regulations. Regular updates will continue to be provided as these dates are established and the program continues to evolve.

Further Information

For further information on the planning reforms and the new planning system, please visit the SA Planning Portal:

[SA Planning Portal - Our New System](#)