COORONG
DISTRICT COUNCIL

Department of Planning
Transport & Infrastructure
Planning Reforms Team
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To DPTI - Planning Reforms Team

The Coorong Council wishes to take the opportunity to provide our response in relation to the Assessment Pathways Discussion Paper. DPTI have sought comments in relation to set questions which Council has provided a response to, while noting some further comments and questions for DPTI's consideration.

Relevant Authorities

General Comments:

- The Assessment Manager Level 1 accreditation is misleading and confusing. Following the *Assessment Pathways and Performance Indicators Consultation Workshop* run by DPTI, it was indicated that there can be more than one Assessment Manager (so long as the required accreditation can be met) and it is possible to split the responsibilities of the Assessment Manager to other Assessment Managers. Based on the information released to date it remains unclear as to whether other experienced and suitably qualified planners can be assessment managers without having to be appointed as the as the overseer of the Panel or act as an authority in their own right. It would seem more appropriate to have Level 1 - Assessment Manager and Level 1 - Accredited Professional. They would have the same experience, only the Assessment Manager has been appointed by the CEO of the Council to oversee the Panel and be the relevant authority. This distinction will also assist the community in understanding the difference between the roles and responsibilities. DPTI need to issue more information to planners to clearly explaining how the Assessment Manager role will work and provide examples to assist in understanding.

- When an application is lodged onto the e-portal, how long does the relevant authority have to accept the lodgement of the application and review the nature of development, categorisation and public notification?

- How will the private sector be able to assess all aspects of development applications if they do not have the internal expertise's? For example new dwellings require Council's engineering department to provide feedback on crossovers and stormwater. They also require input from Council's EHO/Engineering department where the dwelling would be connected into a

waste water system. How will the private sector have the ability to assess these aspects of the applications without the expertise?

- Order of consents if the private sector is assessing both planning and building, if they both submit their documentation to Council on the same day, but the plans vary between the two consents, who's plans become the development approved set? Which practitioner will be responsible for amending their consent and what triggers are in place to effectively place a 'stop clock' on Council's timeframe for issuing the development approval?

1. **What should be considered when assigning relevant authorities?**
   While the Panel's have the ability to delegate decisions to an Assessment Manager the limitations and conditions as to the extent of that delegation needs to be outlined. At present Council staff have the ability to make a lot of decisions 'in house' without the need of going to the Panel. The proposed system is taking away a lot of the staff delegations. It is surprising that the Panel's are responsible for all applications that have undergone public notification. The new system will place greater reliance on Panels and the process does not appear to be streamlined.

   An Assessment Manger is an experienced and competent person who is capable of assessing complex applications. The proposed levels of assessment do not reflect faith in these professional's ability to assess complex applications, rather the proposed system removes their ability to assess these applications.

   If the impacts from a development are not significant then why are these categorisations of development being assigned to Panels?

Categories of Development

General Comments:

- The way in which the proposed categories are setup will result in a significant amount of applications being performance assessed development and require public notification. Applications that require public notification have the Panel listed as the relevant authority for the decision. This will result in a significant increase in the number of applications requiring public notification and the number of Panel meetings needed to be held.
- It will also be very confusing for the community to understand that for some applications that require public notification, they can only comment on certain elements of the development.

2. **Should the current scope of 'exempt' development be expanded to capture modern types of common domestic structures and expected works?**
   Smaller verandahs located behind dwelling facades should be included as exempt development. If one can building a fully enclosed shed then why not have the same parameters (floor area, height etc.) for a verandah.

3. **Should the current scope of 'building consent only' be expanded to allow for more types of common development with minor planning impacts?**
   Farm implement sheds are a form of development which is often sought in rural areas. Allowing for these forms of development to be building consent only up to a

certain size would be a positive outcome for the community. There is often minimal impacts to the locality for farm buildings.

Increasing the allowed sizes of domestic structures i.e. sheds, carports, verandahs.

4. **How should the scope of a 'minor variation' to deemed-to-satisfy development be defined?**
   Where an application is lodged and the bulk of the development can be considered to meet the deemed-to-satisfy criteria then the relevant authority has the ability to call a minor variation on the aspects that may not quite meet all the criteria. This judgment call is already occurring within the current system. An allowance of up to 5% of the set criteria could be deemed as minor. For example the shed footprint is 3.5% over the set criteria, which is only a few metres square over, the actual impact of this would not be noticeable nor result in any negative impacts therefore could be accepted as a minor variation. Problems may occur when with varying opinions and having the private sector able to make decisions on applications. Their decisions may be influenced and they could be more likely to push the boundaries/limits for discretionary areas.

5. **Are there some elements of a project that should always be notified if the deemed-to-satisfy criteria are not met (i.e. buildings over height)? Are there other things that don't matter as much for the purposes of notification?**
   The building height is important as it can create overlooking concerns. Building footprint can also be of a concern i.e. a large shed along the boundary, has the potential to create a solid wall along a boundary impacting on the amenity and overshadowing.

   A lot of people in rural towns do not like structures being built on their boundary with their consent.

6. **What types of performance assessed development should be assessed by an Assessment Panel?**
   Where a development application has undergone public notification and representations have been made then the application would need to be presented to the Panel for a decision. Any application that has undergone public notification and no representations have been lodged, an Assessment Manager should be the relevant authority to assess the application. An Assessment Manager should be able to assess all other forms of development that fall within this criteria. Applications that are recommended for refusal under the current system typically go to the Panel, unless it is a refusal for non-supply of information. This is working well in the current system for Coorong Council.

7. **What types of principles should be used when determining 'restricted' development types in the Planning and Design Code?**
   What are the true impacts the proposed development will have on the adjoining allotments and locality in which it is situated within. The best way for the impact to be understood is through a site inspection. It the proposed development fair and reasonable expectation within the locality. What are the actual impacts in terms of visual, noise, use/ frequency and are these impacts appropriate. Would the proposed development have a negative impact on the locality and what measures have been included with the design to reduce any impacts.

8. **How should restricted development be assessed - what other considerations outside of the Code should be taken into account?**
   As per the answers to question 7, but in addition the types of development seeking consent are likely to be complex applications which may require consideration or reviewing of other publications relevant to the form of development. For example intensive animal keeping has many standards that have been published and adopted, these publications should be reviewed and could be taken into consideration through assessment. PIRSA and NRM Boards have access to all these publications and have officer's whom understand them, they should be included with assessment of these types of applications.

9. **What scale of development and/or impact types would be suited to the impact assessment (not restricted) pathway?**
   Major projects are best suited to this category and the proposed method of assessment outlined in the discussion paper seems appropriate.

Public Notification

General Comments:

The public notification method of placing a physical sign on the subject land is not considered suitable for a rural context. Majority of the roads within rural areas are 100km/hr speed limit. How is a sign placed on the land altering the public of a development application going to be visible when travelling at high speeds and has consideration been given to the potential dangerous situations that may occur when vehicles slow down or try to pull over to read the sign. We appreciate that the public notification signs may very well work in a city area where speed limits are low and it is easy for members of the public to view the signs, but the practical sense of it working in a rural area are questionable.

It remains unclear on what information must be provided on the public notification notice that is placed on the subject land. In the example provided indicated when the Panel meeting would occur and the times/dates, this is not possible for rural Council's whom hold their panel meetings on an as needs basis. In addition for applications where only certain elements require public notification, how is the community meant to understand that they can only provide feedback on that specific element not the whole development.

Will there be a criteria of suitability for the placement of the sign? What happens if a sign is ordered and fails to come in on time. The relevant authority is relying on a third party to provide the notice whom does not have legislative timeframes to adhere to. Will there be additional timeframe periods allowed to compensate for the notices being printed and delivered to the relevant authority in addition to the time taken for them to erect the notice on the subject land?

There remains a lot of unanswered questions regarding the e-portal as follows:

- What level of detail will be made public on the e-planning system for development applications?
- For those applications that require public notification will sensitive material be obscured from public view i.e. internal floor layouts of residential and commercial businesses?

- Will accredited professionals assessment reports be made public?
- Will and DNFs and approved plans be available for the public to view and download.
- Will any member of the public be able to type in a random DA number and be able to view the content of that application regardless of whether they have an interest in it or not?

10. **Should accredited professionals/assessment managers have the capacity to determine publicly notified applications?**
    Yes, the current system allows for development applications which have undergo public notification to be assessed by officers. Any application which has undergone public notification and no representations are received should be assessed by accredited professionals/assessment managers, without the need for going to a Panel meeting. Accredited professionals/assessment managers are professionals who are appropriately qualified with sufficient experience and have the ability to determine applications that have undergone public notification. For applications where representations have been made and or are complex in nature then it is standard practice to have these types of applications presented to the Panel. This aspect of the system is working.

11. **Who should be responsible for placing a notice on the subject land?**
    This matter presents a lot of issues as to whether it should be the responsibility of the relevant authority or the land holder/developer. It would be more risk adverse if the responsibility fell to the relevant authority as they would ensure the notice is erected on the land when required. This method does however place greater resources on the time taken to inspect the land, erect the sign and continue to monitor that the sign remains present for the period of notification and then a further inspection to remove the sign. Rural Council's cover a vast area of land and the time taken to travel around the district to erect, monitor and remove these signs could easily take half a day for each trip. The proposed public notification method presents a significant burden on the relevant authority and it not considered to be a practical approach for rural settings.

12. **How would that person/body provide/record evidence of a notice being placed on the land throughout the specified notification period?**
    Photograph evidence that is date stamped would be the only legal way to ensure it has been done. This does present issues on how often the notice would have to be inspected to ensure it has not been removed.

13. **For how long should an application be on public notification (how long should a neighbour have to provide a submission)? Should a longer period apply for more complex (i.e. impact assessed) applications?**
    The existing two week timeframe for applications does work well, allowing interested parties opportunity to review and provide feedback while not delaying the assessment process significantly for the applicant. If accredited professionals are responsible for erecting the notice on the subject land additional time for the public notification period should be allowed within the relevant authorities timeframe to cover the period the application is on notice plus the time to have the notice produced and erected.

The more complex applications should have a four week public notification period plus time to produce and erect the notice. Often the more complex applications interested/affected parties may need to seek professional assistance with their submission. The additional time would allow for greater review of the applications which can often contain large documents.

Provision of Information

14. **What types of information should be submitted with deemed-to-satisfy applications? Are the current requirements in Schedule 5 of the Development Regulations 2008 sufficient?**
Sewer connection points/waste water systems should be included for all applications. Majority of the site plans submitted with development applications rarely show the location of the waste water system, this is a fundamental piece of information to ensure the proposed development does not impact on the system. This information should be provided for all categories of applications, not just deemed-to-satisfy. It is even more crucial to provide this information as not all private consultants are aware of which areas within Council's are or aren't connected to a mains sewer. This has already presented issues with applications that only require Building Rules Consent and the consent has been obtained by a private certifier. There should also be more standardised information for commercial/industrial businesses to provide at the time of lodgment.

    It has also been argued that the requirements of Schedule 5 specifically relate to building rules consent only, therefore the Regulations should clearly indicate the requirements for both planning and building rules consent.

15. **Should relevant authorities (including accredited professionals) be allowed to dispense with the requirement to provide the mandatory information listed by the regulations/code/practice directions?**
The quality of the plans often provided to the Coorong Council would not meet the required standards set-out in Schedule 5 of the Regulations. Officer's currently use their discretion to ascertain whether the applicant has provided sufficient level of detail to assess the application. All site plans are able to clearly identify the location of the proposed development, setbacks, stormwater etc. but they are not professionally drawn, not to scale and often do not have the contour levels (unless for a new dwelling). If the applicants were required to spend the money to have their plans professionally drawn, it would result in a lot of illegal development within rural areas.

    Yes there does need to be some discretion allowed, but not to the point of it being exploited. Concerns here may arise when a construction business employs a professional to issue their approvals, they may exploit an aspect that should always be provided on a site plan for the applicants gain, rather than best practice.

16. **Should a referral agency or assessment panel be able to request additional information/amendment, separate to the one request of the relevant authority?**
Yes. The current method of one only additional information request has not worked well and can lead to poor decisions and undesirable outcomes. It was obvious the intent behind the implementation of one request only was to prevent Council's seeking information in a piece meal fashion and to prevent delaying tactics. A way to avoid the more than one information request being exploited may be to issue practice

directions that list the type of details required to be provided for various forms of development. For example an industry business would need to provide more details than just the list from Schedule 5, a practice direction could be issued for practitioners to utilise to ensure as many aspects of this form of development could be ticked off as being provided at the time of lodgment or used as a prompt to seek that information from the applicant.

17. **Should there be an opportunity to request further information on occasions where amendments to proposal plans raise more questions/assessment considerations?**
    Yes. We have had applications which were lodged seeking consent for one type of development and then the applicants adds another aspect to the development which also raises further questions. There is no point in restricting the number of further information letters if we seek to achieve desirable outcomes for good development. The trick is to prompt the relevant authority to review checklists etc. prior to the further information letters being sent, to ensure they have reviewed the file in depth and considered all potential impacts and understood the development prior to sending the letter out.

Outline Consents

General Comments:

It is important to set down the extent of an outline consent and where it can/can't be used. It is likely that an applicant who is seeking consent for a form of development that does not meet the Code criteria may seek this avenue thinking it's a cheaper option than going through the assessment process. For example an applicant would like to construct a shed larger than the zone criteria parameters, so they seek an outline consent for the development. The outline consent should be targeted solely at large scale projects.

18. **How long should an outline consent be operational?**
    The timeframe for an outline consent is hard to depict as it would be dependent on the scale of the project. Assuming the projects' that are seeking an outline consent are considered to be of a large scale, the consent could last for 5 years with the project having to be substantially commenced with the first 2 years.

19. **When, where and for what kind of development would an outline consent be appropriate and beneficial?**
    The outline consent would have been beneficial for The Bend Motorsport Park. The current system is not practical for large developments of this scale. It has resulted in so many minor amendments to the original approval, as modifications have needed to be made as the site has been developed. The files are a logistical nightmare for anyone to pick up and try to understand what has happened over the years. The outline consent would have been great to issue over the site to allow the Motorsport Park to be developed and subsequent applications lodged for the various elements it entails i.e. pit buildings, tracks, grandstands etc.

    Intensive animal keeping is another form of development where an outline consent could work. Large scale intensive animal keeping projects can take years before they are fully operational and are undertaken in stages. The outline consent would again grant consent for the whole development in principle and then allow subsequent

applications for the relevant structures. As the development has approval through the outline consent the subsequent applications for the various elements would be more streamlined (i.e. no public notification required, in house assessment etc.).

20. **What types of relevant authorities should be able to issue outline consents?**
    Assuming the outline consents remain applicable to large scale developments only, the relevant authorities should be The Commission or Panels - given the accreditation scheme that has already been drafted, applications which require public notification cannot be assessed by an Assessment Manager (unless the Regulations allow for sub-delegations from the Panel to the Assessment Manager). Initial discussions should involve the Assessment Manager.

Referrals

21. **What types of development referrals should the regulations allow applicants to request for deferral to a later stage in the assessment process?**
    Referrals from the EPA, Heritage and DPTI can often lead to amendments made to the proposed development. These types of referrals should not be deferred. Referrals to PIRSA, DEW, NRM Boards could be deferred as they are more likely to provide responses on management practices or protection, not actually alter the proposed development itself.

Preliminary Advice

22. **The Act stipulates that preliminary advice may be obtained from agencies. Should there also be a formal avenue from applicants to seek preliminary advice from the relevant authority?**
    No, in order to provide formal preliminary advice an assessment would need to be undertake. The e-portal proposes to provide all the criteria that the proposed development would be assessed against. The developer will already be more informed of how their application is going to be assessed than the current system.

23. **Should there be a fee involved when applying for preliminary advice?**
    Yes any who seeks preliminary advice in a formal manner from a referral agency should be required to pay a fee. They have chosen to seek this advice formally which takes up time and resources from that agency. It is not simple questions they are asking but a preliminary formal assessment.

Decision Timeframes

24. **How long should a relevant authority have to determine a development application for each of the categories of development?**
    Accepted development - 2 weeks
    Code Assessed Development
        Deemed-to-satisfy - 4 weeks
        Performance Assessed - 8 weeks
    Restricted - 8 weeks
    Impact Assessed - 12 weeks
    Land divisions - 12 weeks

Plus time for public notification (which should be 3-4 weeks, of which 1-2 weeks to allow for the notice to come in and be erected plus 2 weeks on notification) and referrals.

25. Are the current decision timeframes in the *Development Act 1993/Regulations 2008* appropriate?

The suggested timeframes above are consistent with the existing timeframes. The concurrence of 10weeks within the existing system is considered too long.

Deemed Planning Consent

General Comments:

Council raises concerns regarding the proposed deemed planning consent process. We often have development applications where we have sought further information and the applicant would like a longer timeframe to provide a response than the legislated 30 day timeframe. We also have applicants who wish to place their applications on hold for a period of time. Under the new system, we would not be able to support our communities needs, we would have to refuse their applications due to insufficient information etc. otherwise Council would run the risk of exceeding the assessment timeframes and having a notice requiring the relevant authority to approve the application. This clause has the potential to create undesirable outcomes and poor planning. It is not the right way to go about ensuring applications are assessed in a timely manner.

26. Should a deemed planning consent be applicable in cases where the timeframe is extended due to:

- **a referral agency requesting additional information/amendment**
- **absence of any required public notification/referral**
- **any other special circumstances?**

A deemed planning consent is not a good solution to force relevant authorities to finalise development applications. There appear to be enough control measures being put in place in the new system to ensure applications are assessed in a structured and monitored system, the deemed planning consent is just not needed. It should not be applicable for applications that require referrals, public notification nor where the applicant makes additions/amendments to their application. It would not be fair on the relevant authority when an applicant makes an alteration/additions to their application and the relevant authority only has one week to review that aspect before their assessment timeframe is up.

27. What types of standard conditions should apply to deemed consents?

- Standard condition relating to the development proceeding in accordance with the plans and details submitted with the application.
- Ensuring all materials and colours are maintained to avoid deterioration (this is becoming a problem where external appearances are not being maintained and become dilapidated to a point where there is negative impacts on the amenity).
- Stormwater is appropriately managed to avoid impacts on the proposed structure and adjoining properties.

- where relevant, ensuring the development is connected to an appropriate waste water system and approval is obtained from the Council.
- building rules consent must be obtained.

Conditions and reserved matters

28. What matters should be addressed by a practice direction on conditions?

A standard set of conditions relating to residential, commercial, industrial and agricultural type activities should be compiled and provided in a practice direction. This would ensure consistency with conditions being placed on developments throughout the state. They should also be legally checked to reduce the number of appeals lodged against the wording and imposition of conditions.

29. What matters related to a development application should be able to be reserved on application of an applicant?

We raise concerns regarding reserving matters for noise impact assessments. In some cases the noise mitigation measures may alter how the development is being proposed i.e. an industrial business and the acoustic report requires the doors to be relocated which in turn changes how traffic will maneuver the site. The traffic changes could have the potential to impact an adjoining neighbour with light spill. How can Council then condition for additional landscaping or other measures to reduce the light spill impact on the adjoining neighbours which was required to be amended as a result from the acoustic report. While I appreciate an applicant's perspective of not wanting to pay for specialised reports without having some guarantee of an approval, the outcomes of these specialised reports can alter the proposed development.

Careful consideration needs to be given as to the types of reserved matters and whether those matters may have other consequences to the development which in turn could impact on neighbouring properties.

Variations

30. Should the scope for 'minor variations' - where a new variation application is not required - be kept in the new planning system?

At present Council can determine a Regulation 47A minor variation without the applicant required to lodge a new development application. There is no limit on how many variations they can lodge nor is there any fee payable. While this minor variation does work well for smaller applications, it is not working well for more complex applications. Coorong Council has one application that has been varied 24 times, all of which has consumed a significant amount of staff time. There should be limits on how many times an application can be varied after a decision has been made.

31. Should a fee be required to process 'minor variations'?

The applicant should know precisely what they want to develop at the time of lodgment. If they wish to vary the application after a decision has been made, then yes a fee should be payable. The variations still require the relevant authority to assess the elements that are being varied.

We are looking forward to seeing a response to the questions and comments we have raised.

Kind regards

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