



**Ms Rhiannon Hardy
Department of Planning Transport and Infrastructure
50 Flinders Street
Adelaide 5000**

Via Christel Mex President/ Tom Matthews Secretary
Community Alliance SA

RESPONSE TO DRAFT REGULATIONS AND PRACTICE DIRECTIONS

Dear Ms Hardy

The Prospect Residents Association would like to thank you for allowing us an extension of two weeks to submit our comments on the draft Planning, Development and Infrastructure (General) (Development assessment) variation Regulations 2019 which we will refer to in this document as the draft regulations.

We support the submission made by the Community Alliance Inc of which we are a member. We support the submission made by Prospect Council.

We make the following comments in relation to the draft regulations.

Planning and Building approval and land subdivision

We are exceedingly concerned that someone can apply for planning and building approval at the same time. This does not make sense and is very worrying. If someone obtains building consent before planning consent and there are problems with planning consent which could require changes to the plans what then happens to the building consent. Does the person then need to reapply for building consent? This should not be allowed.

There are many anomalies in the planning and building systems which need to be fixed by the regulations. We currently have a nursing home development in Prospect where the developer is trying to get planning consent with frosted glass in 8 upper storey room windows which is banned in the building code. This could be considered abusive to residents if allowed. The regulations need to halt any approval for planning consent where there are aspects that are banned in the building code. These developments should not be allowed to progress through the system until the banned aspects are resolved. Currently these plans could go all the way through to the Supreme Court which is a complete waste of peoples/systems time and money.

We also have a significant concern that there is too much focus on fast tracking approvals to suit developers at the expense of good and appropriate outcomes. This has the potential for many bad decisions to be made that negatively impact on communities.



Accredited professionals

We do not approve of building certifiers issuing planning consents. This does not fit with both having to meet certain professional qualifications. There can be a conflict of interest in allowing the same private person to make both these decisions and so we are of the opinion that the two roles must be kept separate.

We also remain concerned about the decision making powers of accredited professionals in relation to 'deemed to satisfy' minor variations. How will these be defined or will the accredited professional be able to determine this themselves? Is this reasonable given decisions could impact negatively on local neighbourhoods/neighbours? Do these need to be prescribed or the preferred option is that this task is taken away from accredited professionals and given to council staff who know the local area and potential negative impact on streets and neighbourhoods.

We do not support the privatisation of land subdivision to land surveyors. This task must remain with councils who will have a better understanding of the potential impact on local streets/communities. It requires planning qualifications.

State Planning Commission

We are very concerned that Schedule 6 does not require that the Commission refers applications of buildings over 4 storeys in our neighbourhoods to the council for comment. How can a body that is so removed from the council area have enough knowledge and expertise to pick up on the nuances and impacts of such decisions? The current process of councils commenting on these decisions needs to be retained.

We do not support developments over three storeys and exceeding \$5 million being referred to the State Planning Commission for assessment. These matters should stay with the local Community Assessment panels (CAPS) which have been set up with professional members.

We also question why buildings over 4 storeys are not decided by local CAPs. In Prospect there are a number of 5 storey buildings which would have been better decided by council CAP who have some knowledge of local traffic considerations, greening issues and infrastructure needs which are often severely impacted by these developments. We are concerned that there will be so many of these developments that irreparable damage will be done to the liveability of the council area and it will be too late to repair the damage done.



Exempt development (Schedule 4)

We have concerns about the following being exempt development ie

- Demolition of single storey buildings
- 3.1 metre fences/retaining walls

We are pleased that swimming pools are not included in this category as they have the potential to impact negatively on neighbours due to noise issues.

Demolition of single storey buildings should not be exempt development. We do not support this.

This is particularly important in Historic conservation zones where contributory items are extremely important to the ambience of the zone. Demolishing houses in these zones must be restricted and assessed by councils. The character of these zones must be protected. We will be making more submissions about this in future. We would like to see greater protections to contributory items in these zones particularly as they may be rezoned as local heritage in the future after this topic undergoes further review.

We do not support single storey demolitions without replacement plans being approved. This requires council involvement. We are seeing too many of the character homes of the inner suburbs replaced by what could be considered characterless boxes instead of being built to complement the locality.

3.1 metre fencing/retaining walls being exempt is also not supported given the potentially negative impact on neighbours. In Prospect a resident keeps applying to build a 5 metre galvanised iron fence at the rear of his property. The resident could get his height by building a retaining wall first and then adding a 3 metre galvanised fence on top. He could do this and then claim ignorance of the required height allowance. So far he has been refused twice to build his 5 metre fence.

A structure like this has the potential to ruin the lives of the people living in the 2 storey units behind only 2 metres from his 5 metre fence. They would bake in summer, freeze in winter, and their only view would be a terrible view of an iron fence. This would be detrimental to their mental health. They would get no cool breezes. The units could be uninhabitable in summer and skyrocket the power bills of people living in what are affordable housing units.

We don't think making this height of fencing exempt has been well thought through given how common fencing disputes are. Fencing heights must be negotiated with neighbours.



What is the purpose of allowing fences that are so high? Do you want the community to become more isolated or to increase community conflict?

Also we think that high fences have the potential to hide illegal activity.

Financial implications

We are concerned that these regulations will increase costs for our council which will result in yet again increases in rates for the community. With less plans to approve councils will lose money and with increased responsibilities costs will increase unless these costs are transferred onto applications. How will these matters be dealt with?

E-planning

We are of the opinion that all plans for assessment must go through the same point in the new system by the applicants ie the e-planning portal. Allowing some people to submit hard copy plans through councils and then leave councils with the responsibility to submit the plans through the planning portal leaves councils open to legal issues. All applications should be electronic through e-planning by the applicant. It will then be easier to interpret timelines.

All applications must go through the same entrance point which is DPTI and the e-planning portal. If applicants are having trouble then their architect or designers can submit the plans on their behalf or DPTI need to organise to receive the hard copy plans and then put them up for the applicant. Councils will not have the resources to do this on an applicant's behalf with losing so much money from approving applications and it is not their responsibility either. If applicants want a faster system they have to take more responsibility.

The 5 day timeline for approving an application should start once a council receives the plans from DPTI. We are of the opinion this timeframe is too short and should be 10 days. Otherwise there will be increased poor decision making.

Public notification

Again the regulations are espousing a dual system. However we are of the opinion that public notification and public notices must be the responsibility of the developer/applicant. They have been given significant privileges in the new planning system and so need to take responsibility for those aspects where there are requirements they need to follow including where they have to inform the community about what they are planning.



**Prospect Residents
Association Inc.**

ABN 18600859844.
Registered No. 12864M

PO Box 287, Prospect,
South Australia 5082

prospect.residents.assoc@gmail.com

<https://sites.google.com/site/prospectresidentsassociation/>

11 March 2019

DPTI need to specify clearly what is required and the developer needs to adhere to that requirement. It is too complicated to run a dual system and adds to council's costs and work. Council's role should only be to check/inspect that the requirements have been met and developers should be fined if they do not erect signs as required or leave them in place as required.

There needs to be a way that DPTI informs councils that a developer requires signage on a property.

Assessment Timeframes

We have concerns about "deemed planning consents" where planning assessment has not been completed within the relevant time frames. This could be open to corruption as a private certifier who is uncertain about a decision can delay the decision and then blame the deemed planning consents ie the system for the outcome. This could also be a strategy for getting consent for plans at significant variance of requirements for mates as well as for a private certifier who is struggling with work overload. As previously stated the time line of 5 days for assessment is too short to make reasonable decisions and should be extended to 10 business days. There are also too many restrictions on how much additional information councils can ask for again potentially resulting in poor quality decisions.

We do not support the proposed reduced timeframes for assessment in relation to Performance Assessed applications determined by the assessment manager. Such assessments may still involve an assessment process that requires referrals in relation to noise, air-conditioning, traffic, trees and heritage etc. This can take time and can be quite complex as is the situation with the cinema on Prospect Road where many issues remain for the residents who live near the complex. It is recommended that the proposed 20 days be amended to 30 business days to allow for the more complex assessments to be done properly so that there are not ongoing complex issues.

Elizabeth Crisp
President
Prospect Resident's Association
C/- Box 287
Prospect East
SA 5082
prospect.residents.assoc@gmail.com
Facebook: <https://bit.ly/2Lt8jil>
MOB: [REDACTED]

Caroline Ashmeade
Secretary