



Wattle Range
COUNCIL

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30 January 2023

Planning System Review
Attention Expert Panel
GPO Box 1815
ADELAIDE SA 5001

Emailed to: DTI.PlanningReview@sa.gov.au

To the Expert Panel

Thank you for allowing Councils additional time to provide feedback on the planning system implementation and potential reforms.

Please find below comments and relevant examples from the Wattle Range Council, one of South Australia's most regional, most productive and most rapidly developing Councils. Please note, we have only made comment on aspects of the planning system that concern the Council or which we have particular views on. All other matters as outlined in the discussion papers (of which we have not commented) we form a neutral position, neither for or against and without any significant experience to report.

1. Public Notification and Appeal Rights

Wattle Range Council believe appeal rights (outside of the ERD Court) are very necessary for Council/Regional Assessment Panel decisions. This is due to two reasons:

Firstly, the public notification process is not achieving adequate engagement and subsequent representations. Our feedback in relation to this is outlined in a separate section below.

Secondly, with the introduction of Regional Assessment Panels, many panels including the Limestone Coast Southern Regional Assessment Panel (LCSRAP) no longer have any Council representatives on them. This removes local community knowledge from the assessment process and additionally, Assessment Panels are not necessarily required to physically inspect the sites they are assessing, and meetings may even be held in a completely different town and Council jurisdiction. This effectively means that many Regional Assessment Panel decisions become a desktop exercise (and one that doesn't always have adequate community input).

Example:

On 6 September 2022, the LCSRAP assessed a development application for an 'Unmanned Fuel Outlet' to be built at Lot B and R1074A Ridge Terrace, Millicent, zoned Community Facilities. This development application was publicly notified, and compliant signs were displayed on the site from 8 July 2022 notifying that representations could be made until 11:59pm 29 July 2022. Only two representations were received, both against the proposal. Only one representor wished to be heard who was the owner of a competing staffed fuel outlet, just two allotments away on the same road.

Information about the proposed development can be viewed in the LCSRAP Agenda report:

The LCSRAP decided in favour of the developer and conditionally approved the development application.

Despite the LCSRAP meeting being held in Millicent, the same town as the development, it was not evident that the members of the LCSRAP familiarised themselves with the site prior to the meeting.

The Representor was very frustrated that there was no opportunity to appeal the decision outside of the ERD Court. The Adelaide-based ERD Court was not something they were willing to pursue.

Following this decision, the community became aware of the proposal and there was wide media coverage and public outcry. The Wattle Range Council elected members were particularly concerned that lush, green and treed open space, at the main entrance to Millicent which had been used by the community as parkland for many years, could be approved to be cleared and concreted for a fuel outlet. Council therefore resolved to provide feedback to this Planning System Implementation Review that the assessment process did not:

- a. Sufficiently allow for negative visual and aural impact and loss of amenity for residents;
 - b. Take into account the negative impact of bringing 30m vehicles into a residential area for the sole purpose to refuel;
 - c. Take into account damage to community infrastructure; and
 - d. Consider safety for children and other pedestrians
- (Minutes of Wattle Range Council meeting held 13 December 2022 Folio 10401, Item 17.2).

The inability to appeal a notifiable decision that the community feel they were not adequately informed about is a failing of the current system.

2. Accredited Professionals

Regional Councils have smaller planning and building teams and require flexibility in roles. Our planning and building officers undertake statutory work, strategic work, compliance work, admin work and more. The Wattle Range Council is one of the larger regional councils in the state and smaller councils would require even greater flexibility than us. Therefore, any changes to the accreditation scheme that further restrict the roles of building (or planning) professionals is not supported. Removing the ability for accredited building professionals to issue certain planning consents is not supported.

Regional Councils are finding it extremely challenging to attract and retain suitably qualified staff to professional positions. Our current organisational structure in the Development Services department contain the following roles:

Role	Qualification/Accreditation Required	Status
Manager Development and Regulatory Services	University degree in relevant field (not necessarily planning or building)	Filled – qualifications not in planning/building
Senior Planning Officer	Essential Level 1 Planning Professional Accreditation or ability to achieve	Vacant We have been unable to fill this position for almost 12 months
Planning Officer	Preferred Level 3 or 4 Planning Professional Accreditation or ability to achieve	Filled 1 st year graduate (unaccredited and unable to achieve accreditation until on-the-job experience is achieved)
Planning Officer	Preferred Level 3 or 4 Planning Professional Accreditation or ability to achieve	Filled 1 st year graduate (unaccredited and unable to achieve accreditation until on-the-job experience is achieved)
Building Surveyor	Preferred Level 1 Building Professional Accreditation	Filled Level 2 Building accredited
Cadet Building Surveyor	N/A Preferred building experience	Vacant Will not have a problem recruiting

As per the table above, of the four positions where professional accreditation is required or preferred, the Wattle Range Council has only been able to recruit and retain one accredited employee.

The Wattle Range Council overcomes the lack of accredited personnel through the use of delegations and authorisations permitted under the Act and use of very costly contractor support (majority online service). However, there is risk with this, as it relies on the Assessment Manager appropriately overseeing the delegations to the unaccredited personnel, and in the case of the Wattle Range Council, our Assessment Manager is shared with three other Councils as part of the LCSRAP and delegates to up to 8 Planning Officers. Mistakes have been made.

Whilst the accreditation scheme is supported, Wattle Range Council have found the following issues with it:

- The scheme it is too restrictive, making recruiting accredited planning and building officers in regional areas very challenging
- Some of the specified qualifications required to obtain accreditation are no longer being offered as courses, reducing the number of qualified candidates and further extenuating the issue of recruiting to regional areas
- None of the specified qualifications required to obtain accreditation are offered in regional campuses and many are also not offered online, which reduces the likelihood of regional people taking up the courses

- Councils who are unable to recruit accredited professionals (many regional Councils) become reliant on external consultants to support statutory planning functions, which is an added cost (that metro Councils are not faced with)
- It is difficult for interstate applicants to confirm if they will be eligible for accreditation prior to applying for positions
- As non-accredited planning personnel can be delegated many of the functions of an accredited Level 3 or 4 professional anyway, does the accreditation for these levels need to be so vigorous?

Any further restrictions to the current accreditation scheme and the resulting functions of personnel will only make it more challenging for regional Councils.

We would like to see the State Government offer a short course for local government employees that will enable Level 4 Planning accreditation. And such a short course should be offered in regional areas in the first instance, specifically Mount Gambier.

3. Local Heritage

The Wattle Range Council supports Heritage Experts managing the local heritage listing process and decisions on heritage listed properties. In addition to the relevant expertise, experience and consistency that could be achieved with this change, many Councils are simply not resourced to undertake this work and therefore there is high risk that potential local heritage places are being lost across the state.

The Wattle Range Council agrees with removing sections 67(4) and 67(5) and replacing these provisions with a process that allows Heritage Experts to coordinate necessary planning amendments in partnership with the community and government.

4. Deemed Consents

The Wattle Range Council has not experienced many issues relating to deemed consents. Whilst we have had some applications exceed timeframes, applicants have generally been understanding and have not taken up the option for deemed consent.

That being said, we do not support reform for final development approval to be issued outside of Council, including by an accredited professional. The number of accredited professionals in regional areas is very low, and those that are consulting, may be acting for and submitting development applications on behalf of their clients. This could cause conflict of interest situations, where accredited consultants could approve their own applications, which increases the risk of poor planning and development outcomes.

Of the three options proposed, Wattle Range Council supports a review of the assessment timeframes, however such a review should not result in the decrease of any of the current timeframes. This review of timeframes should also take into consideration the full nature of work that our officers do which may not be just restricted to work under the Planning, Development & Infrastructure Act. For example our planning and building officers undertake a diverse amount of work including, but not limited to work under the Local Nuisance and Litter Control Act & Local Government Act, follow up compliance matters across large distances, undertake development assessment, provide customers with advice, undertake strategic planning and project work, etc.

5. Verification of Development Applications

Wattle Range Council supports the collection of the lodgement fee at submission, subject to the verification period being increased from 5 days to 10 days.

Whilst having a combined verification and assessment process for simple applications will improve efficiency, it will also increase pressure on planning and building staff. Regional Councils have small teams, often without back-up to cover periods of unexpected leave. Therefore, any reform that has the potential to increase pressure to personnel during the assessment process should be accompanied with a relaxed timeframe to compensate.

Wattle Range Council does not support the idea of any additional time taken to verify an application being deducted from the assessment timeframe. This will not promote thorough and detailed assessments.

6. E-Planning and PlanSA Reform Options

Wattle Range Council supports all of the proposed reforms as outlined in the discussion papers, with feedback on the below:

Inspection Clocks: On the condition that the clocks are non-mandatory. Consideration should be given to allow more time for regional inspections given the distance that is required to be travelled e.g. the Wattle Range Council spans an area of over 3,900km².

Collection of lodgement fee upon submission: Refer to comments in section 5 above

Reporting: Reporting from the portal has historically been inconsistent and unreliable. It is also difficult to sort and filter data without exporting.

The Wattle Range Council have welcomed the recent amendments to the reporting functions, however we have not had opportunity to test accuracy and reliability prior to drafting this submission.

Reassigning Development Applications: We have experienced ongoing issues with reassigning.

Search Functionality: Terminology needs to be too specific. For example, the system will not recognise "St" if it is entered in as "Street" etc

General functionality:

- Once you've clicked on a DA in your list, you can't go back to where you were in your list. This takes unnecessary time.
- Approvals at the end – need to write a reason why it doesn't need endorsement – should be a drop-down option.
- Entering conditions – they need to go in backwards – the one you want at the top needs to go last – should be in order of priority. No numbers on the system, so don't know how many you've entered. Would be good to have sorting/ordering functionality added.
- Should be able to hover over a condition or have a column to read the detail of what it is instead of having to press 'edit' each time
- Conditions populate the report – should be the other way, as the report comes first

- Should be able to review the ESP Form before approving

Conditions: Standardised conditions for referral agencies would be welcomed. It is a challenging situation where Councils are required to enforce the conditions of other agencies – a situation that this the Wattle Range Council is not supportive of. When these conditions are poorly written, enforcement, which may be challenged in Court, becomes a complex and unnecessary issue for Councils. Standardised conditions would also improve consistency across the state.

7. Notified Planning Applications

Whilst Wattle Range Council acknowledges the improved notification process under the new system, we have still experienced issues with notified developments, mainly a lack of community knowledge and participation. We believe this is because:

- The signage displayed on the proposed development site is not suitably visible. An A3 size sign is not sufficient in regional areas where speed limits are very often in excess of 60km/hour and/or there is limited foot traffic.
- Neighbours within a 60m radius may not necessarily be representative of the wider community, particularly in commercial zones that border residential.
- Communities with older populations, such as the Wattle Range Council, are less likely to use online systems to source information and provide feedback.

Examples: The Wattle Range Council's own project of constructing a new Council Administrative Building was recently publicly notified. This \$6M project has received widespread public interest and comments, including a dedicated social media group with the objective of stopping the project. Yet, despite the known opposition to the project, the notification process resulted in just 4 representations.

As mentioned above in section 1, a similar outcome was received in the notification process for the unmanned fuel outlet proposed on parkland.

Some improvements that could be made to the current process:

- Increase the size and visibility of the signage that appears on the proposed development sites. For example, the Northern Territory use bright pink, core flute signage:



- Introduce a requirement for proposed, notified developments over a certain value to have a requirement to place an advertisement in a local newspaper. This value could be scaled depending on location e.g. \$1M for regional areas, \$5M for metro
- Widen the radius for written 'neighbour' notification to 150m
- Ability for the public (who haven't submitted a representation) to attend RAP meetings, ask questions and express their concerns. Some Councils do this at their Ordinary Council meetings through a dedicated question time section of their agenda, where the public may ask a question(s) off the floor. These are often well structured so that there is a time limit on this and that questions are relevant.

8. Development Fees

The Wattle Range Council is of the view that in general, development fees have risen, particularly for smaller developments.

9. The Code and Policy

The Wattle Range Council has a significant issue with shipping containers being used as both habitable and non-habitable structures without development approval. We are certain other regional councils experience this issue too. We are attempting to address this within the provisions of the code, but it would be of benefit for the Code to define transportable structures and shipping containers as a separate element as opposed to an outbuilding. Policy should exist for the appearance of shipping containers, such as being roofed, clad and guttered to obtain DTS.

Frost Fans are also not defined, which causes inconsistency across the wine regions of South Australia.

We are often assessing/ receiving request for outbuildings of a much greater size than what is sought in DTS/DPF 10.1 that applies to allotments captured within the Neighbourhood Zone. We believe this is attributed by the greater site area of allotments in regional areas, as compared to metropolitan areas. We request for consideration to be given to contemplating larger outbuilding site areas or a percentage increase with the deemed to satisfy criteria relative to larger allotment sizes.

Currently there is no provision within the portal to manage the ongoing requirements of Essential Safety Provisions, particularly Form 3. This would be a nice inclusion to have in the portal (and improve Council efficiency by removing the need to duplicate information into our own systems to be able to manage on an ongoing basis). An automatically generated reminder for any development that has the Form 3 requirement could be issued and owners required to submit the completed forms into the portal would enable easier compliance checks and centralises all relevant information.

Being a Regional Council in SA with large rural areas, Council undertakes a significant amount of development applications for farm buildings/sheds which include concessions for building fire safety, as detailed in the National Construction Code (NCC) Volume One (Part H3) and the South Australia (SA) Variations. A farm building/shed with a floor area over 500m² is required to have an ESP Form 3 which after applying Part H3 and the SA Variations may only require portable fire extinguishers to be provided and included in the ESP Forms.

Farm buildings and farm sheds would form a large part of Councils ESP Form 3's. Given the concessions in the NCC & SA variations for the reasons that these type of buildings (livestock

cover yards, implement sheds and hay sheds) are infrequently used, have low occupancy and at times are large open structures or have open sides, that consideration is given for these type of buildings (especially where buildings only require portable fire extinguishers) to not require an ESP Form 3 and/or whether farm buildings/sheds are able to be categorised differently to other class 2 to 9 buildings, with floor areas over 500m² for the above reasons.

Interestingly the Wattle Range Council would receive development applications that would comply with the Planning, Development and Infrastructure (General Regulations) 2017, Schedule 7, 6 – Haysheds etc. for buildings with a floor area up to 500m², that only require planning rules consent.

The definition of Workers accommodation excludes Tourist accommodation. Our Council area receives an influx of seasonal hospitality / tourism workers along side those involved in rural activities such as fruit picking, pruning, etc. It would be beneficial that seasonal hospitality/tourism workers could be included in the definition of workers accommodation (as separate to accommodation that is provided to tourists).

Land Use Definitions Table (page 4778 of the Code)

Workers' accommodation	store electricity to an existing use of land (e.g. domestic wind generator). Means premises used to accommodate workers on a temporary basis while they carry out employment: (a) on the same site as the workers' accommodation, (b) in mining or petroleum extraction, (c) in seasonally intensive rural activities such as fruit picking, pruning, animal shearing, meat processing or similar; or (d) in the construction of essential infrastructure.	Mining camp; Road workers camp; Shearing quarters; Railway workers camp	Tourist accommodation.
Tourist accommodation	Means premises in which temporary or short-term accommodation is provided to travellers on a commercial basis.		Campground

Flooding overlays in the Wattle Range region (and wider Limestone Coast Region) need updating. They are currently not accurate.

Wastewater considerations for development in regional areas is fundamental, particularly for townships on CMWS and areas not serviced at all. The On-site Wastewater Systems Code refers to working closely with Planners to ensure that appropriate outcomes are able to be achieved. Wastewater, planning and building consents work hand in hand – changes to one can impact the other. Members of the community often do not understand the nuances of this and that if they change something on their plans for building consent (e.g. additional bathroom), that they may need to change wastewater plans also. Our team is regularly identifying different / inconsistent plans being provided for the different approvals. Local Government is well placed to be able to address this, however it would be good to have some further support through the planning system to help ensure that the public are aware of this too, such as:

- Unserviced / unsewered areas Overlay of where on-site wastewater systems and CWMS need to be considered (as part of what rules apply to my property);
- Automatically make it a reserve matter if a wastewater application is required or trigger a formal referral with the ability to stop the assessment clock until a Wastewater approval is gained. The consistency check prior to development approval could also apply to ensure wastewater plans and development plans are consistent. If a wastewater approval is unable to be granted, then development approval should also be refused.

Thank you for the opportunity to provide comment on the Planning System Implementation Review. If you require any clarification please do not hesitate to contact Council's Director of Development Services, Emma Clay, or Manager Development & Regulatory Services, Catherine Loder 08 8733 0900.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Ben Gower', written over a faint, stylized logo or watermark.

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Chief Executive Officer

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