

MINUTES OF MEETING

2.00pm Tuesday 6 December 2022

Microsoft Teams

1. ACKNOWLEDGEMENT OF COUNTRY, WELCOME AND APOLOGIES

MEMBERS

Jason Bailey (Chair - Proxy)	Manager, Planning and Design Code
Margaret Smith	Director, State Assessment
Troy Fountain	Manager, Commission Assessment
Julie Vanco	Metropolitan Council
Hannah Bateman	Metropolitan Council
Andy Humphries	Metropolitan Council
Darren Starr	Metropolitan Council
Gary Mavrincac	Regional Council
Deryn Atkinson	Regional Council
Zoë Garnaut	Private Sector
Stephen Smith	Local Government Association Representative
Gavin Leydon	Planning Institute of Australia Representative
Andrew Cronin	Master Builders Association Representative
Chris Wiltshire	Housing Industry Association Representative
Nicolette Di Lernia	Australian Institute of Architects Representative

EXECUTIVE OFFICER

Jaclyn Symons	Governance Officer
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INVITED ATTENDEES

Nardia Symonds	Delivery Manager, PlanSA
Cassia Byrne	PlanSA lead

The Chair acknowledged the traditional custodians of the land on which they meet, and paid respect to Elders past, present and emerging.

The Chair welcomed all in attendance.

Apologies: Paul Bennett, Director, Growth Management (Jason Bailey as Proxy)
Ameya Sawant, Director, PlanSA
David Barone, Private Sector

Louise Frazer-Walmesley, Regional Council
Elinor Walker, State Planning Commission Representative
Kayla Gaskin-Harvey, Urban Development Institute of Australia Representative
Daniel Gannon, Property Council of Australia Representative

2. DECLARATION OF CONFLICTS

Nil.

3. MINUTES OF PREVIOUS MEETING

The Heads of Planning Reference Group noted the minutes of the 2 August 2022 meeting and updated minutes of the 6 June 2022 meeting.

4. ACTIONS

The Heads of Planning Reference Group noted the action list.

5. CURRENT BUSINESS

5.1 Spatial application of overlays

Jason Bailey provided a recap on the Overlay Relevant Matrix and the several overlays it applies to, which was discussed at the previous meeting.

Jason recalled that there were questions raised at the previous meeting regarding Bushfire Hazards Overlays (as well as the Interface Management Overlays), namely how and when bushfire overlays are intended to be used. He said that he hoped the supporting report addressed these questions.

Jason spoke of section 71 of the *Planning, Development and Infrastructure Act 2016* (PDI Act), that enables the Minister, Commission or Chief Executive to incorporate a policy or other document prepared or published by a prescribed body into a planning instrument such as the Planning and Design Code (the Code), and that this section of the Act may be used to update the State-wide Bushfire Overlay to align with updated data without a full Code Amendment being prepared under section 73 of the Act. However, this would mean that there is no consultation process.

Jason asked the group if they had any questions and/or concerns. Questions/concerns raised included:

- the potential to affect properties without consultation;
- the role of the community engagement charter; and
- the lag time in bushfire mapping being updated.

Jason also spoke of the Interface Management Overlays and the purpose of three of them, namely the Interface Management Overlay, Significant Interface Management Overlay and Noise and Air Emissions Overlay (the Resource Extraction Protection Area Overlay was not discussed as it is clear as to what the purpose of this overlay is).

Jason addressed the confusion about circumstances in which the Interface Management Overlays can be used.

Discussion focused on queries regarding the Noise and Air Emissions Overlay and the thought that it can be used in employment areas (zones) when this is not the purpose, and whether there was merit in considering the application of Ministerial Building Standard 10 – construction requirements, and if it can be enlivened in situations in employment zones.

A member raised that the Aircraft Noise Exposure Overlay (which is used over the Adelaide Airport) was being used rather than the Noise and Air Emissions Overlay and that although both policies are quite different, they have similar objectives. The need for a review of all policies was suggested, considering there are some that are achieving similar things.

The Heads of Planning Reference Group noted the supporting report.

5.2 PlanSA roadmap update

Nardia Symonds provided a PlanSA update.

The update focused on a detailed overview of the workshops and the status of them, as well as key projects.

Questions were raised regarding:

- the Parent Child Title and whether the deployment will fix up all incorrect information without council needing to do anything on their end;
- any consultation occurring with councils as part of the testing phase for each project; and
- Crown development applications making their way into the system and external referrals going to different location and getting missed.

The possibility of workshop sessions being recorded and released was also discussed.

The Heads of Planning Reference Group noted the supporting report.

5.3 PlanSA objective trapeze

Nardia Symonds advised that PlanSA are looking into a single vendor around documents in the Development Application Processing (DAP) system.

The group was asked where they see this project fitting in the priority list with the other projects, if there are other solutions regarding stamping etc and whether people would be interested in this project.

Members spoke about Bluebeam software as opposed to Trapeze and the need for the project to be prioritised as high.

The Heads of Planning Reference Group noted the supporting report.

5.4 Development Application Register

Andy Humphries spoke of an issue recently encountered regarding the Development Application Register.

The issue revolves around members of the public being able to perform searches on applications that are performance assessed and do not require public notification and the resultant ability to, for example, access information such as referral advice which in some cases is leading to the assessment process being misconstrued, and in turn, pressure being applied to relevant authorities.

Several sections of the PDI Act were examined by the group.

The group discussed the transparency element of having information available, the right for people to see what is proposed, the potential to have information available post decision instead and the important role referral bodies have in the decision-making process/the need for accountability.

There was a broad agreement from the group that there is reason to continue to look at this, and examine first, how the regulations could/should be amended to realise the balance and subsequently, to do this with an enhancement in the DAP that identifies that what is being uploaded will be publicly available.

The Heads of Planning Reference Group noted the supporting report.

5.5 Airport building height data

Zoë Garnaut spoke about airport building height data, including the Obstacle Limitation Surface (OLS) and Procedures for Air Navigational Services – Aircraft Operations Surface (PANS-OPS), and that currently, in order to obtain this data, a planning practitioner is required to contact Adelaide Airport as this information is not readily available.

Zoë put to the group that the OLS and PANS-OPS data be readily available either on SAPPA as a data set/layer or embedded within the Code.

The group broadly supported this idea.

The Heads of Planning Reference Group noted the supporting report.

5.6 Gross leaseable floor area (GLFA) definition – roofed customer click and collect loading areas

Zoë Garnaut went through the definitions of 'Gross Leaseable Floor Area' (GLFA) and 'Total Floor Area' (TFA) and spoke of the potential to review the definition of GLFA as it relates to roofed 'click and collect loading bays' and specifically exclude these areas from the GLFA definition.

The group discussed case law, namely *Parabanks Shopping Centre Pty Ltd v Salisbury & Anor [2013] SASC 138* and *Ampol Road Pantry v Corporation of the City of Brighton & Leslie PAT No 323 of 1991*.

There was concern raised by members about adding click and collect areas as a specific exclusion as they could take a multitude of forms. Nevertheless, there was a shared view amongst the group that there was benefit associated with looking into the definition.

The Heads of Planning Reference Group noted the supporting report.

5.7 Build-to-rent

Zoë Garnaut addressed the group and provided a background on Build-to-Rent (BTR) development. Further, Zoë spoke of exploring the opportunity to include a separate definition and planning policy within the Code to facilitate Build-to-Rent (BTR) development.

Members discussed the topic. General observations raised included that the planning system is not concerned about tenure (Torrens title, strata etc) and that if concessions are given based on tenure, it will stop people from selling up to individuals in due course or alternatively, selling individual units from time-to-time.

The Heads of Planning Reference Group noted the supporting report.

6. OTHER BUSINESS

6.1 Recent judgment

Several members referred to a recent judgment that focused on 'neighbourhood' v 'locality', where the Commissioner asked what relevant 'neighbourhood' is understood to mean and whether it is similar to 'locality'.

Members of the group discussed the judgment and the question posed above.

7. NEXT MEETING:

To be confirmed.

8. MEETING CLOSED:

The Chair thanked all in attendance and declared the meeting closed at 4.01pm.