

11 November 2022

John Stimson
Presiding Member
Planning System Implementation Review Expert Panel
DTI.PlanningReview@sa.gov.au

Dear Mr Stimson

Thank you for the opportunity to provide a submission to the Expert Panel on the Planning System Implementation Review.

As a [Council Assessment Panel](#) (CAP), we discussed the matters being considered for the review at our meetings of 20 October 2022 and 10 November 2022. We note that the City of Onkaparinga will provide a separate submission, building on the summary table of issues approved by Elected Members at the 8 November 2022 [Council meeting](#), so our submission is provided independently in accordance with clause 9 of our Meeting Procedures.

From our meetings held since the introduction of the new state planning system in March 2021 (including the Planning and Design Code, legislation, practice directions etc), we have noted the following issues:

- Appeal rights for third party representors have been removed for most applications coming before the CAP, resulting in increased pressure and scrutiny on CAP members (including the Elected Member position), council planning staff, applicants and representors. We advocate for a return of third-party appeal rights for some performance assessed developments, similar to the previous category 3 arrangements.
- Some development applications do not seem necessary to be notified to the general public and/or be heard by the CAP. Examples are those only notified due to built form on a boundary, where representations are made by people who aren't the neighbour affected by the boundary development. Other examples are tennis court lighting that meets the relevant Australian Standards, fences and retaining walls, and residential developments that generally meet the Planning and Design Code Technical and Numeric Variations and other Deemed to Satisfy/ Designated Performance Features. Conversely, some developments are not notified but could appropriately be heard by the CAP, such as large land divisions or commercial developments (although noting there is discretion in our Terms of Reference for the Assessment Manager to refer significant developments to the CAP).
- Code provisions could be further improved for design matters such as energy efficiency, solar orientation, eaves, roof colours, allotment layouts and widths, landscaping etc.

- Accreditation requirements are considered to be too onerous and costly, particularly for ongoing years after initial training has been completed. This is viewed as having a negative impact on panel diversity, as non-planners in particular see it as too onerous and too costly. Could the CPD requirements for the Level 2 scheme for CAP members be better aligned with existing CPD requirements for PIA and other industry associations?
- Local heritage assessment is a particularly difficult process. The initial listing process for councils is lengthy and costly, while the assessment process is challenging, particularly for demolition applications based on building condition or safety, and with emotive representors and applicants. Different engineering opinions and advice on economic considerations can affect the assessment of whether a building is 'beyond reasonable repair' or 'irredeemably beyond repair'. Could the Code provide tougher benchmarks to discourage demolition applications, and could penalties be introduced to oblige current and future heritage property owners to properly maintain their heritage listed buildings? Could local heritage listing processes be better aligned with state heritage listing processes?
- Trees and landscaping also continue to be an issue of high interest to the CAP and others, as the Expert Panel is well aware. Of relevance to the City of Onkaparinga is that both the Native Vegetation Act and the regulated/significant tree provisions in the PDI Act apply together. The interaction between the two Acts is not well understood and should be clearer and simpler.
- The City of Onkaparinga also has foothills suburbs within the Hazards (Bushfire – High Risk) Overlay, where developments can challenge bushfire safety with land use, building designs, access/egress, character, tree retention and landscaping. Stronger Code provisions should be considered, including for non-residential developments, for council and the Country Fire Service to ensure appropriate siting, access/egress (including for urgent evacuations), and sufficient building setbacks to allow for tree retention and landscaping in keeping with the character of these areas. Further, Ministerial Building Standard MBS008 currently only applies to Class 1, 2 and 3 buildings and should be revised to include additional provisions for class 9b buildings, having particular regard to early childhood centres and school age care facilities. In May 2023, the National Construction Code will introduce extended bushfire construction provisions for building classifications of this nature and a revision of the Ministerial standard would support the intent of the Code to safeguard occupants from the effects of bushfire and to provide adequate provisions for firefighting authorities.
- Deemed consents should not be issued for development applications that have or need to be notified, before third party representors have been given a chance to lodge a representation and be heard. If the CAP does not have the chance to consider and hear such representations, then perhaps the Environment, Resources and Development Court can instead.
- The PlanSA website undertakes its system maintenance on Thursday evenings from 6:30pm – the exact time our CAP meetings commence. This prevents members and staff being able to access critical information during a meeting. We ask that this maintenance be undertaken at a different time.

Please contact me or Ben Victory, Assessment Manager ([REDACTED] or [REDACTED]) if there are any questions.

Yours sincerely

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Nathan Cunningham
Presiding Member