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Rural City of Murray Bridge submission on Assessment Pathways:

General Comments:

Topic	Comments	Suggest Approach
Timeframes	<ul style="list-style-type: none">• How will the time taken be calculated?• Will it come from dates of when actions have been taken on the Portal?• What happens if the Portal is down?• Or if the internet is down for the relevant authority?• What about applications that are waiting on a Panel meeting?	<ul style="list-style-type: none">• Further information and details are on this matter are required for detailed comments Suitable contingencies must be in place for technological future.
Public notification	<ul style="list-style-type: none">• Signage – how will this work on high speed road?• Stopping on high speed roads may not be safe• Vegetation on country roads may not allow for signage to be visible• 60 metres – may not notify all affected parties in rural settings• Signage is non-complying in rural areas – is this sending the wrong message regarding temporary signage• Some rural properties have trees running the entire length of the property boundary (on the roadside verge). Where will a sign be located that is visible to the general public?• Council has included a video with our submission showing an A1 sign located on a	<ul style="list-style-type: none">• Further information and details are on this matter are required for detailed comments• Have a two-step signage process:<ul style="list-style-type: none">○ Allow for signage in urban areas (with a 50-60km/h speed limit and footpaths)○ In rural/country allow for the notification area to be expanded at the discretion of the Relevant Authority• Provide greater detail on the size and content of signs

	<p>100km/h roadside.</p> <ul style="list-style-type: none"> • This video shows that a sign is extremely difficult to see even when you know that it is there and are actively looking for it. 	
Figure 1 (page 14)	<ul style="list-style-type: none"> • Does this figure suggest that the Portal will manage the record keeping for all stages of the development? • Does this mean that Council will not need to keep records/registers for development (i.e. DNF's, plans, etc.)? 	<ul style="list-style-type: none"> • Further information and details are on this matter are required for detailed comments
Code Assessed / Simplicity of the system	<ul style="list-style-type: none"> • Concern that there will be confusion with having 3 different code assessed pathways 	<ul style="list-style-type: none"> • Change the Act to refine the system to realign the new system with the guiding principles of "Quicker, Simpler, and Faster".
Deemed Planning Consent	<ul style="list-style-type: none"> • Timeframe for appeals – 1 month to appeal + the amount of time that a court will take to consider the matter. • The way this process is set up can allow for a development to be so far progressed that a refusal may become point less • A deemed to consent application (for the construction of a building) could still see a change of Land Use that may also require consent. 	<ul style="list-style-type: none"> • Further information and details are on this matter are required for detailed comments
Reserved matters	<ul style="list-style-type: none"> • Who gets to decide that a matter should be reserved? • Who decides that the matter is not fundamental to the nature of the development? 	<ul style="list-style-type: none"> •
Third party appeal rights	<ul style="list-style-type: none"> • Given that there will be less restricted (non-complying) development it is concerning that 3rd party appeal rights have been removed. • This could lead to situations where 	<ul style="list-style-type: none"> • Reinstate 3rd party appeal rights for performance assessed development

	<p>developments that previously exceeded thresholds (to be non-complying) will now be treated as performance assessed.</p> <ul style="list-style-type: none"> • Removing appeal rights from these types of applications 	
Crown Development	<ul style="list-style-type: none"> • It is important that SCAP follow the same procedures as other development applications. • This means writing to affected land owners (within 60 metres of the development) and the placement of a sign on the land. • Creating a different process for this type of development creates confusion for the public and a perception of bias. 	•
Performance assessed and Agency Referrals	<ul style="list-style-type: none"> • It is interesting to note that developments that are considered to be activities of <u>major environmental significance</u> have limited public notification (sign, only writing to adjacent land owners) and no third party appeal rights. • I would argue that if a development is considered to have major environmental significance then it would be considered to have impacts well outside of the site (and 60 metres). 	•

Key Questions:

Key Question #	General Comments	Suggested Approach
Relevant Authorities		
1: Code assessed applications are assigned to an assessment panel,	<ul style="list-style-type: none"> • Public comments 	•

<p>except where the regulations assign an assessment manager or accredited professional. What should be considered when assigning these relevant authorities?</p>	<ul style="list-style-type: none"> • Referral comments • Non-compliance with assessment requirements 	
<p>Assessment Categories</p>		
<p>2: Should the current scope of 'exempt' development be expanded to capture modern types of common domestic structures and expected works?</p>	<ul style="list-style-type: none"> • Yes the scope of exempt development should be expanded from the current definitions listed in Schedule 3 (Not Development) of the Development Regulations. • Veranda's, garden sheds, decks, carports, garages 	<ul style="list-style-type: none"> • Consideration needs to be given to on- site conditions that may constrain the type, size and location of development (such as: Easements, Waste Control Systems, etc.). • The inclusion of diagrams showing what can occur would be helpful in explaining what can and can't occur as the written requirements that are currently in the Regulations can be confusing. •
<p>3: Should the current scope of 'building consent only' development be expanded to allow for more types of common development with minor planning impacts?</p>	<ul style="list-style-type: none"> • Yes the scope of exempt development should be expanded from the current definitions listed in Schedule 1A (No Development Plan Consent) of the Development Regulations, where relevant issues are appropriately considered (i.e. flooding, access, wastewater systems, etc.). • Similar to the above listed types of development 	<ul style="list-style-type: none"> •
<p>4: How should the scope of a 'minor variation' to deemed-to-satisfy development be defined?</p>	<ul style="list-style-type: none"> • This is a tricky question as it needs to ensure that minor variation(s) do not lead to a change in the nature of the application or a change to the assessment pathway. • Ideally a definition for what constitutes a minor variation should be provided in the Act or Regulations. 	<ul style="list-style-type: none"> • A Private Certifier should not be able to assess a minor variation

<p>5: Are there some elements of a project that should always be notified if the deemed-to-satisfy criteria are not met (e.g. buildings over height)? Are there other things that don't matter as much for the purposes of notification?</p>	<ul style="list-style-type: none"> • Buildings over height • Over site coverage • Structures on the boundary 	<ul style="list-style-type: none"> •
<p>6: What types of performance assessed development should be assessed by an Assessment Panel?</p>	<ul style="list-style-type: none"> • Development where representations have been received • Developments of Environmental Significance (whether Major or not) • 	<ul style="list-style-type: none"> •
<p>7: What types of principles should be used when determining 'restricted' development types in the Planning and Design Code?</p>	<ul style="list-style-type: none"> • Development that is entirely incompatible with zone provisions (i.e. a factory in a residential area) should not apply to development that may be incompatible (i.e. a shop, office or school in a Residential Zone). • Major infrastructure (i.e. new ports) 	<ul style="list-style-type: none"> •
<p>8: How should restricted development be assessed? What other considerations outside of the Code should be taken into account?</p>	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
<p>9: What scale of development and/or impact types would be suited to the impact assessment (not restricted) pathway?</p>	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
<p>Public Notification</p>		
<p>10: Should accredited professionals/assessment managers have the capacity to determine publicly notified applications?</p>	<ul style="list-style-type: none"> • Yes 	<ul style="list-style-type: none"> •

<p>11: Who should be responsible for placing a notice on the subject land?</p>	<ul style="list-style-type: none"> Essentially this boils down to either the relevant authority or the applicant placing the sign on the land. There are a number of pros and cons for each scenario. 	<ul style="list-style-type: none">
<p>12: How would that person/body provide/record evidence of a notice being placed on the land throughout the specified notification period?</p>	<ul style="list-style-type: none"> This could be difficult as it could be argued (in court) that the sign did not conform to the specific requirements for placement, or that it was removed prematurely or that it was vandalised or removed by a third party. If the applicant were responsible then a Statutory Declaration could be one way of providing a level of certainty to this process as that is a legal document. 	<ul style="list-style-type: none">
<p>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 applications?</p>	<ul style="list-style-type: none"> 3 weeks is a sufficient period of time for public submissions. Instead of extending timeframe for comment for complex applications an extended area of notification should be allowed for, for applications that will have impacts outside of the site (i.e. broiler sheds, piggeries, feed mills, etc.) This allowance for an increase in the notification area could be at the discretion of the Assessment Manager. 	<ul style="list-style-type: none">
<p>Provision of Information</p>		
<p>14: What type of information should be submitted with deemed-to-satisfy applications? Are the current requirements in Schedule 5 of the Development Regulations 2008 sufficient/too onerous?</p>	<ul style="list-style-type: none"> Currently the requirements of Schedule 5 are sufficient (in terms of plans and details) however Council finds that applicants (including developers) do not provide the required level of detail. As such the Portal needs to ensure that applications are not 	<ul style="list-style-type: none">

	<p>forwarded to the Relevant Authority until that information has been supplied.</p> <ul style="list-style-type: none"> • In stating the above it is acknowledged that when dealing with large rural allotments scaled (professionally drawn) site plans may not be required. • In these cases something similar to an aerial photo (i.e. a Google Map) with approximate setback distances are appropriate. 	
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?	<ul style="list-style-type: none"> • Yes – see the above comment regarding development (i.e. Farm sheds, farming developments) and the need for detailed (professionally drawn) plans. 	•
16: Should a referral agency or assessment panel be able to request additional information/amendment, separate to the one request of the relevant authority?	<ul style="list-style-type: none"> • Yes, often times this provides a critical and much needed check of the application. Planning officers aren't experts in fields such as: Stormwater Management, Environmental Management, Site Contamination, Bushfire management, etc. As such, critical information may not be supplied and may not be requested by the planning officer. 	•
17: Should there be an opportunity to request further information on occasions where amendments to proposal plans raise more questions/assessment considerations?	<ul style="list-style-type: none"> • Yes. • It does occur that an application will be received with very little information provided, or the applicant cannot articulate the exact nature of the development initially. This can lead to a situation where the planning officer needs to request additional details to properly tease out the exact nature of the development. 	•

	<ul style="list-style-type: none"> Situations can also arise where the applicant will amend an application after receiving public notification comments or comments from Council that will lead to new elements (i.e. development) which will naturally require additional details. 	
Outline Consents		
18: How long should an outline consent be operational?	<ul style="list-style-type: none"> No more than 12 months as the outline consent should represent the initial design of a development (i.e. height, form, etc.) and as such the detailed drawings and other information should be easily available. A timeframe greater than 12 months will essentially allow for a new "holding mechanism" for potential development. 	<ul style="list-style-type: none">
19: When, where and for what kind of development would an outline consent be appropriate and beneficial?	<ul style="list-style-type: none"> Intensive animal keeping Multi-storey residential developments 	<ul style="list-style-type: none">
20: What types of relevant authorities should be able to issue outline consent?	<ul style="list-style-type: none"> Council, State Government, Assessment Manager 	<ul style="list-style-type: none">
Referrals		
21: What types of development referrals should the regulations allow applicants to request for deferral to a later stage in the assessment process?	<ul style="list-style-type: none"> As few as possible. I am unable to think of a development application where a referral does not "go to the heart" of the assessment. 	<ul style="list-style-type: none"> What happens if the referral body asks for an amendment? How does this impact on the consent granted? Will referral bodies be less inclined to request amendments because of this? Will this see an increase in the number of conditions as this will be the path of least resistance to bring about changes to the proposal?

Preliminary Advice		
22: The Act stipulates that preliminary advice may be obtained from agencies. Should there also be a formal avenue for applicants to seek preliminary advice from the relevant authority?	<ul style="list-style-type: none"> • A majority of Councils provide preliminary advice as a matter of course. • Formalising preliminary advice may assist in a consistent approach. 	•
23: Should there be a fee involved when applying for preliminary advice?	<ul style="list-style-type: none"> • Yes. • This is because the expectation that preliminary advice will be detailed, thorough and lead to a quicker approval; essentially they want a mini assessment to be undertaken on the application prior to lodgement. 	<ul style="list-style-type: none"> • Consideration should be given to a mechanism for the relevant authority to prevent multi lodgements/requests for preliminary advice. • Multiple lodgements end up with the proposal being work shopped with that planner. • This takes time, resources which should not be taken for granted (or provided freely).
Decision Timeframes		
24: How long should a relevant authority have to determine a development application for each of the new categories of development?	<ul style="list-style-type: none"> • The Council would prefer to comment on suggested timeframes once they have been devised. 	•
25: Are the current decision timeframes in the Development Act 1993/Regulations 2008 appropriate?	<ul style="list-style-type: none"> • No. Extending them should be considered. 	•
Deemed Planning Consent		
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	<ul style="list-style-type: none"> • No 	•

- any other special circumstances?		
27: What types of standard conditions should apply to a deemed consent?	<ul style="list-style-type: none"> That is dependent on the type of development proposed. 	<ul style="list-style-type: none"> Council considers that it will be an impossible task to devise a "standard" list of catch all conditions
Conditions and Reserved Matters		
28: What matters should addressed by a practice direction on conditions?	<ul style="list-style-type: none"> What constitutes a valid condition In what circumstances can conditions be applied When, how and what types matters should reserved matters be attached to /used 	<ul style="list-style-type: none">
29: What matters related to a development application should be able to be reserved on application of an applicant?	<ul style="list-style-type: none"> As is currently the case reserved matters should only be used in situations where the details can be considered at a later date and do not "go to the heart" of the matter. 	<ul style="list-style-type: none">
Variations		
30: Should the scope for 'minor variations' - where a new variation application is not required - be kept in the new planning system?	<ul style="list-style-type: none"> Yes, until the recent (Paior) Court case relevant regularly authorities considered minor variations. However the extent of these were truly minor (changes window shape, footing type, roof colour, etc). However with the advent of the court case the extent, type and complexity of minor variation requests has increased. 	<ul style="list-style-type: none"> A clear definition for what constitutes a minor variation should be included in the Act or Regulations, along with a practice direction providing examples. This will clarify what is currently a grey area in the legislation for planners, builders/developers and the general public.
31: Should a fee be required to process 'minor variations'?	<ul style="list-style-type: none"> This is similar to the discussion surrounding preliminary advice and whether fees should be charged. This really boils down to how much work is involved in processing these requests and how many requests can be made on the one application. If as mentioned above the scope of minor 	<ul style="list-style-type: none">

	variations is better defined (and narrowed) then a fee may not be required.	
Crown Development and Essential Infrastructure		
32: What types of Crown Development should be exempt from requiring approval (similar to Schedule 14 under the current Development Regulations 2008)?	<ul style="list-style-type: none"> This should stay the same as currently listed in Schedule 14 	•
33: Are there any other forms of development/work that should be included in the definition of 'essential infrastructure'?	<ul style="list-style-type: none"> No 	•