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28 February 2019

Department of Planning, Transport & Infrastructure
Planning Reform Team
GPO Box 1815
ADELAIDE SA 5001

Via email DPTI.PlanningEngagement@sa.gov.au

Dear Sir/Madam,

Draft Development Assessment Regulations and Practice Directions Submission

In reference to the Draft Development Assessment Regulations and associated Practice Directions recently released under the *Planning, Development and Infrastructure Act, 2016*, the Mid Murray Council provides the following comments for consideration:

1. Practice Directions

Draft Practice Direction – Deemed Planning Consent

- Draft conditions relating to flood management need to be included to enable a relevant authority to apply suitable conditions within a known flood plain (e.g. River Murray flood plain) such as:
 - o Sheds and other similar outbuildings shall have openings in the direction of river flow;
 - o The underside of the elevated dwelling shall not be enclosed at any time;
 - o Freestanding sides of carports, decks, verandahs etc. shall not be enclosed at any time.

Draft Practice Direction – Notification of Performance Assessed Development Applications

- Definition of adjoining land would be clearer if the words 'other land' were removed.
- Part 11, 1: Placing a sign within reasonable distance of a public road may have little impact for an application for a river structure or houseboat mooring, this is even more complicated if the proposed development is located along a Crown Reserve which has no road frontage.
- Part 11, 2: Will additional fees be applicable if more than 1 sign is required for the subject land?
- Part 13: Requirement to take photograph of signage within a prescribed timeframe is too onerous for rural Council's who often operate with 1-2 planners and have to travel great distances to get to a site.

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2. Draft Regulations

- *Regulation 22*: Concern that there will be an increase in applications being presented to Panels for a decision, rather than being assessed by the Assessment Manager and their delegates.
- *Regulation 30*: Applications should only be submitted electronically. Council's should be able to provide facilities for members of the public to use to submit an application via the 'portal'.
- *Regulation 32*: It should not be the relevant authority's responsibility to lodge an application on behalf of an applicant – in fact, this should be avoided so there can be no responsibility placed on the relevant authority if an application is refused.
- *Regulation 35*: Five business days is too short of a timeframe. This should be increased to ten business days and this is considered to be reasonable for larger/complex applications.
- *Regulation 44*: Supportive of concept, providing agencies meet the statutory timeframes for providing a response.
- *Regulation 50 (1) (d)*: The relevant documents are available on the 'portal'. Why should hard copies be available or provided?
- *Regulation 50(2)*: Clarification should be provided as to the minimum timeframe a notice must stay in place e.g. for the length of the notification period.
- *Regulation 52*: What is meant by 'Principal Office'? For a rural Council with three (3) offices the documents should be available at the nearest office to make it easier for the public to inspect.
- *Regulation 53(2)*: Consideration to increasing this number for rural Council's.
- *Regulation 56*: Given the ability to obtain 'deemed consents' it is critical that point at which the 'clock starts' on a decision is absolutely clear. If this is the date of verification or fees being paid then this should be inserted as a definition within the Regulation.
- *Regulation 99*: Recommend removing notification via registered post. Will Council's be notified immediately via the Portal once a notification has been received? This is critical so that action can be undertaken by Council's Building Surveyors.
- *Regulation 99 (3)(c)*: Written notice must be left with a duly authorised officer. Can this be an administration officer in the event an authorised officer is not present at the time of delivery.
- Expiations have been added to Regulations 100, 101, 109 etc. – this may increase the amount of compliance work.
- *Regulation 101*: Specifies that a smoke alarm is required to be installed with 6 months of transfer (sale) of a property. It would be more efficient to have the searches changed to state that an electrical certificate of compliance has been received prior to sale. Council do not have resources to follow up on smoke alarms 6 months after the sale of every property within their Council area.
- *Regulation 108*: Building Classes 1 – 9 require Certificate of Occupancy to be issued by Council. Currently, both Council and Private Certifiers issue these certificates. Concern that Council will be issuing certificates where they were not responsible for the decision. This will also significantly increase the workload of Council Building Surveyors.

Schedule 3

- Part 3, (a): Agriculture needs to be clearly defined. Should also exclude any excavation/filling required for incidental purposes e.g. gardening/landscaping.

Schedule 4

- *Part 4, (1) (j)*: Supportive of inclusion of capacity of tanks. However, consideration should be given to location of tanks given tanks could possibly be located in front yards of dwellings.
- *Part 4 (1) (h)*: 3.1m is very high for a fence. Consideration should be given to reducing this height to 2.5m.
- *Part 4 (m)*: Tree house should also include 'cubby house'.
- *Part 4 (2)*: Clarification that doors can only be placed on two (2) sides of a carport otherwise there is potential for all four (4) sides to be 'enclosed' with doors.
- *Part 10*: Demolition of all dwellings should require a DA similar to how the current system operates. Due to existence of asbestos in old buildings and the need to monitor how this is disposed of and to prevent illegal dumping within Council areas.

Schedule 7

- *Part 5*: Minimum separation distance haysheds should be included.

Schedule 8

- The addition of the types of plans for certain development is of assistance to planning officers and is supported.
- The requirement to submit plans to a scale of not less than 1:500 can cause some frustration to applicants in a rural area. Often relatively minor forms of development are required to be referred to agencies and often these plans are hand drawn with written dimensions and even though they may not be to any scale, they are clear and legible. More flexibility should be given with the acceptance of plans.

I thank you for your consideration of Council's comments and commend DPTI staff for the amount of work that has gone into this process so far. Please do not hesitate to contact me via either telephone on [REDACTED] or via email at [REDACTED] to discuss this matter further.

Yours faithfully,



Jake McVicar
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cc. Stephen Smith – Director, Policy
Local Government Association
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