

17 October 2018

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DPTI

Department of Planning, Transport and Infrastructure

By email: DPTI.PlanningEngagement@sa.gov.au

Dear Sir / Madam

Re: Submission on the Assessment Pathways Discussion Paper

Thank you for the opportunity to make a submission on the *Assessment Pathways Discussion Paper*.

I have considered the paper and provide the following comments in question and answer form followed by generic discussion items;

1. Code assessed applications are assigned to an assessment panel, except where the regulations assign an assessment manager or accredited professional. What should be considered when assigning these relevant authorities?

Accredited professionals should only be assigned development of minor significance and consequence, and development that results in quality outcomes for the community. This should be based on clearly defined parameters with very limited options for minor variances as this is too hard to control in the current system given the level of subjectivity.

2. Should the current scope of 'exempt' development be expanded to capture modern types of common domestic structures and expected works?

Yes, however clearer definitions are needed. Unfortunately for the majority of these developments the applicant/owner has no idea what is involved and when the exemptions don't apply – this scope is better off in deemed to satisfy rather than the confusing exempt process. People also hear the word exemption and think that they don't require any approval without realising there are conditions attached.

3. Should the current scope of 'building consent only' development be expanded to allow for more types of common development with minor planning impacts?

No, it is already pretty broad. If it is broadened, probably should include exempt BRC too – i.e. no approval required.

4. How should the scope of a 'minor variation' to deemed-to-satisfy development be defined?

Don't have them, results in too much confusion and conflict between private practitioners and councils. A straight line in the sand is easy to apply and provides industry certainty.

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?

Excessive construction on boundaries, building heights, community significance, industry near residential etc.

6. What types of performance assessed development should be assessed by an Assessment Panel?

Where objection is received and the representor wishes to make a verbal submission, Development Applications of political and community interest.

7. What types of principles should be used when determining 'restricted' development types in the Planning and Design Code?

State agency matters, existing infrastructure limitations, long term strategic planning requirements for the state and local community

8. How should restricted development be assessed? What other considerations outside of the Code should be taken into account?

EIS, agency comments

9. What scale of development and/or impact types would be suited to the impact assessment (not restricted) pathway?

Developments that offer significant economic, social or environmental benefit but are not contemplated in the code, developments of state significance

10. Should accredited professionals/assessment managers have the capacity to determine publicly notified applications?

Only assessment managers and only where person does not wish to appear before Panel.

11. Who should be responsible for placing a notice on the subject land?

Council – fees could also be capped for the installation and maintenance/removal of the notification

12. How would that person/body provide/record evidence of a notice being placed on the land throughout the specified notification period?

Photo, but if done by council then evidence is not needed as it would use its own statutory controls

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?

14 days for every application, no matter the complexity

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?

Sch 5, however relevant authority should have ability to waive compliance with a clause where reasonable for certain types of minor applications – this changes or alterations should be presented to the state on a regular bases to ensure the requirements are updated to reflect industry changes

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?

Yes, within reason and justification must be provided

16. Should a referral agency or assessment panel be able to request additional information/amendment, separate to the one request of the relevant authority?

Yes

17. Should there be an opportunity to request further information on occasions where amendments to proposal plans raise more questions/assessment considerations?

Yes, it should not be possible to an applicant to provided limited info just to get around answering specific questions about elements or details of their application that only become apparent with the submission of additional information

18. How long should an outline consent be operational?

Three months

19. When, where and for what kind of development would an outline consent be appropriate and beneficial?

Land use approval

20. What types of relevant authorities should be able to issue outline consent?

Assessment Managers only

21. What types of development referrals should the regulations allow applicants to request for deferral to a later stage in the assessment process?

Compliant in principle but merely requires that technical detail to finalise the application – traffic management arrangements, storm water details

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?

Yes so this can be monitored and ensure its reliability

23. Should there be a fee involved when applying for preliminary advice?

Council's no, private practitioners should be able to but would be unlikely if they are trying to win work.

Additional comments

- There are inherent conflicts with private accredited professionals determining performance based developments, particularly where this involves the consideration of trade-offs
- The relationship between a private client and relevant authority (accredited professional) differs to that of a relationship between a customer and a public relevant authority (Panel or Assessment Manager) where such trade-offs need to be considered. Subjective judgements that are require a balance between the applicant's desire to maximise development outcomes and the potential external impacts are more effective when determined by an independent Panel or Assessment Manager
- As council will continue to be the relevant authority for development approval. The new system requires Council to check that all the necessary consents have been issued before issuing the final approval. Given an applicant may choose multiple accredited professionals to assess an application or elements of a development, or defer elements of a development application; Council will be compelled to review the plans much more comprehensively than today. This is an increased workload as Council. This level of administration should be recognised in the future system, including cost implications that should be borne by the applicant who benefits from this mechanism or a penalty applied to the accredited professional who has failed to ensure consistency in their assessment.

Yours sincerely



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