

12 October 2018

The Manager
Planning Reform, State Planning Commission
Department of Planning, Transport and Infrastructure
By email: planningreform@sa.gov.au



Dear Sir/Madam

Submission regarding the Technical Discussion Paper “Assessment Pathways: How Will They Work?” (Paper) due by 17 October 2018

Background

As we have indicated in our prior submissions, SWCCA is an association which was formed in August 2012 as result of ministerial interference with the planning system, from which our community was by and large excluded, with the introduction of the Interim Development Plan Amendment, about which the community had no knowledge at the time. Since then Adelaide City Council submitted the Residential (Main Street) Development Plan to the then Minister in 2014, but it has not been finalised.

Both of these Development Plans severely impact on the amenity of residents of the South West corner of the City. As we represent a number of community members, this submission should not be viewed as one, but as many submissions from the concerned people we represent. Primarily our comments will address the implications for the South West City.

In our previous submissions on Planning Reform and the Code we have observed and reported a bias in the Reform process aimed at facilitating development and allowing for unfettered infrastructure to proceed. What little protection that remained for existing communities is being dismantled by the formalising of the following in the Planning Reform Process:

- Re-zoning,
 - Multiple assessments Pathways based mostly on merit,
 - Independent certifiers,
 - Overlays,
 - Removal of non-complying developments; and
- the fact that the whole process is subject to random modification.

The Paper

This document is called a “Technical Paper” but there are no hard dimensions or regulations in it. In addition, very little mention is made in the Paper to high-rise development as such. This is the most contentious of all developments impacting the South West City community.

It has become apparent that many of the questions raised by the so-called reform process can easily be answered by putting all of the regulations that have been removed back into the planning process. When an application for a particular zone is required to provide for specific plot ratios, height limits, setbacks etc., this results in positive impacts on amenity. You can assess the suitability or otherwise of an application when you have specific numerical standards that must be complied with in a zone or area. In fact, a developer would know in advance whether his application complies with the planning rules.

The system that is being established now has so many variables involved that the community will have less idea what can be built next door to them. When an application is received, depending on what is proposed, and where, it should not be subject to interpretation. All detail required in an application should

be clearly defined in the Planning Code and not subject to rezoning, overlay, infrastructure, catalyst sites and outline sketches and other variables.

In the Paper there are 6 different methods of assessment generally based on some arbitrary level of complexity which is subject to interpretation. What is minor to one authority may be considered complex to another. Loss of privacy, sunlight, parking, open space, views etc. (previously referred to as 'amenity'), any of which would impact on nearby neighbours, is not a minor matter to those in the community directly affected by poorly regulated developments.

The entire process is based on the varying opinions of multiple authorities using a number of Pathways, covering multiple categories, and does not provide for consistent, transparent or acceptable outcomes to affected communities.

Now we look at the relevant authority. There are approximately 9 of these. They include:-

- Minister for Planning
- State Planning Commission, or by delegation to State Commission Assessment Panel
- An Assessment Panel – 5 types, the majority of which are appointed by the Planning Minister including
 - Council Assessment Panel
 - Regional Assessment Panel
 - Combined Assessment Panel
 - Local Assessment Panel
 - Joint Assessment Panel
- Assessment Manager
- Accredited Professional.

Prior to all of the alterations to planning starting back in 2011/12 in Adelaide City we had the Adelaide City Council (Now the City of Adelaide) and the State Planning Commission. Then the majority of applications were handled by the Adelaide City Council.

The Discussion Paper and questions contain references that refer to other Development Regulations/Schedules including Development Regulations Schedule 5, 2008 and Development Act 1993/Regulations 2008. If these questions were to be considered this information should have been included as attachments to the Paper.

Because the dimensions have been excluded from this new planning documentation, the Pathways do not have specific information to guide the different authorities to assist with assessing an application and as a result there will be very little if any consistency in the results of one development to another.

The fact that there are multiple options available to bypass the system altogether does not increase community confidence in the operation of the planning system. Catalyst sites, outline sketches, infrastructure (including a vast list of developments), the Minister, rezoning, precincts, overlays, deemed to satisfy, exempt, accepted: all of these provide for multiple outcomes and no surety/certainty to the impacted community. Comments (if allowed) from adjoining and other impacted residents would be routinely ignored, in fact decisions would be made before any consultation occurs. We see nothing is changing.

On 26 September 2018 we attended a workshop on the Technical Paper entitled "Assessment Pathways – How Will They Work?" along with a small group of other community members and members of various councils in South Australia. Listening to comments made, we noted the frustration and, in some cases, the ire of those present, when discussing the proposed system and their trepidation on whether the new changes would have better outcomes, yet we were reassured by staff that the new system would be better, and would offer better protection and certainty to existing communities. We are not seeing this demonstrated when reading this document.

The Workshop was asked to comment on what should be automatically excluded from the system as exempt and on the lowest level, but not throughout the various levels of Pathways. We were referred to guidelines set out in yet another document (which was not part of the paper on which we were to comment), and no information was given to those at our table for us to make any informed input into the debate. We waited for a chance to comment on the more complex of the categories of Pathways but this did not occur. As a result, we wondered if there was ever going to be a chance for community groups to comment on those categories which have a more damaging and long lasting effect on our community.

Exempt development and other minor developments including fences, small sheds, pergolas etc. are more strictly regulated than multi-storey buildings. These minor items need no assessment as they are required to conform with certain specific heights, set-backs and maximum areas. Yet the reform contains no such restrictions for much larger developments which can be initiated based on the size of the block, re-zoning, or an outline sketch on a table napkin at a luncheon. There is something wrong with a system that regulates the minor things and leaves major development decisions open to interpretation and merit-based decisions.

There was a session the prior day aimed at developers. We wonder what questions they were asked to consider.

There were 33 questions in the document which we were to address. In all these questions you are asking whether the rules should be relaxed even further. As the current system is clearly not working, we cannot agree to this.

The categories were:-

- Relevant Authorities
- Assessment categories
- Public notification
- Provision of information
- Outline consents (or paper napkin sketches)
- Referrals
- Preliminary advice
- Decision time-frame
- Deemed planning consent
- Conditions and reserved matters
- Variations
- Crown development and essential infrastructure.

Although we have issues with others, we comment on a few of these questions below.

- **Relevant Authorities:** who is responsible for the outcome of the resulting development – the Assessment Panel or Assessment Manager or an accredited professional? It seems that an accredited professional could walk away from something he has signed off on. We do not believe it is appropriate for the CEO of the Planning Department to provide accreditation (conflict of interest). Who pays the accredited professional? The developer or the taxpayer via the Planning Department?
- **Assessment categories:** this has become so complex under the new system. Who decides what is exempt, minor and of sufficient scale? Should not this information be listed in the Code? What we see is a mechanism by which anything can be approved by various avenues. We believe the conditions on the assessment categories should not be relaxed or expanded any further.
- **Public Notification:** The proposal to put a notice board on the property (Items 10, 11, 12 and 13) should be spelt out clearly in the Planning Code. Item 10: we reject the concept that accredited professionals should decide whether the public will be notified of a development. We thought this was supposed to make the whole process transparent. The requirement to advertise in a daily newspaper

circulated in the State should be returned to the public notification requirements, not excluded. Once again individual decisions will vary depending on the authority, providing uncertainty from one development to another. The time allowed to provide submissions should be a minimum of 4 weeks, and longer for more complex developments.

- **Outline consents:** these can be sketches on napkins of mere concepts, able to be approved/granted on that basis. This looks to us like a re-imagined version of a Catalyst Site, but without the restriction of the minimum land size of 1,500 square metres, and like Catalyst Sites they should not be included or form a part of any viable planning system.
- **Deemed Planning Consent:** this should not be granted on the basis of an arbitrary time frame. If time limits have expired the application should be refused, not automatically granted due to inaction or accidental overlooking by the Authority.
- **Crown development and essential infrastructure:** We do not know what is in Schedule 14, Development Regulations 2008 to comment on this, but do not believe that any other forms of development should be included. As before, the information was not provided – not even a few examples.

Conclusion:

In every submission we investigate, the Reform Process seems to be getting more complex, and is resulting in existing communities and, to a large extent, councils being totally removed from the planning process using poetry that implies one thing and results in another.

Again, in the questions, as in the substance of the Paper, we have been asked to comment on matters referred to in regulations, legislation and other documents, and yet, they were not provided or attached to the Paper.

What you are proposing to improve: clarity, transparency and certainty in the planning system, is a process that will combine 72 different development Plans covering vastly different geographical areas into one digital planning code that will be operated using 4 main Pathways to assess 7 different types of development that will be administered by approximately 9 relevant authorities which will be able to delegate any of their functions or powers to a particular person or body. What could possibly go wrong?

The majority of the above Pathways, categories and authorities are subject to manipulation due to the multiple methods available to target a desired outcome. For example, on Page 58:-

- the assessment tool for Impact Assessed /Restricted applications is the Planning and Design Code; and yet it is stated here that it is “not bound by the Code”.
- Impact assessed (not restricted) the assessment tool is “Guidelines issued by the Commission”. Where are they, and will they be available to the public?

And all this is replacing a one-pathway one-authority process (the Development Plan was the pathway and the Council was the relevant authority) that provided us with the 5th most liveable city in the world. Under this Planning Reform process, we have already dropped to 10th position, and we predict a further decline.

Yours faithfully,

Susan Collins

Chair

South West City Community Association Inc

Direct email: [REDACTED]

General email: swcityca@gmail.com