

# The Planning System Implementation Review – Copper Coast Council

## **Planning, Development and Infrastructure Act 2016 & related Regulations**

<u>Issue</u>	<u>Discussion</u>	<u>Solution</u>
<p><b>1</b> <b>Section 125 of PDI Act – Time within which decision must be made</b></p>	<p>Section 125 of the Act enables the Applicant to apply for a Deemed Consent should the Relevant Authority not finalise the assessment in the required timeframe.</p> <p>Timeframes in which the RA has to assess a development application, particularly more complex applications and / or those with multiple elements, are not deemed to be sufficient to enable better planning outcomes to be achieved.</p> <p>The current timeframes put additional stress on the resources for smaller councils to assess applications, as a result of unforeseen absences / resignations etc.</p>	<p>The removal of the deemed consent provision within the Act. Amend Section 125 to allow the applicant to apply to the Court for an order to determine the application.</p> <p>Implement a hierarchy of assessment timeframes dependent on complexity / number of elements.</p> <p>Increase the assessment timeframes to be in line with the Rescinded Development Act (e.g. 40 business days for merit assessment).</p>
<p><b>2</b> <b>Fee payment</b></p>	<p>Section 119 of the Act states that an application is to be accompanied by the appropriate fee. However, there does not appear to be any provisions within the Act or Regulations with regards to a timeframe within which the fees are to be paid. As a result, applications are sitting there awaiting payment for extended periods of time.</p>	<p>Implement a timeframe within which fees are to be paid. Applications with unpaid fees after this period of time to be lapsed/cancelled/withdrawn.</p> <p>Timeframe could be 3 months with the opportunity to extend the due date.</p>

	Reg 67 states the operative period is 2 years from the operative date of the consent / approval on applications. This only relates to applications which have been lodged and 2 years is a long time to wait for building or compliance fees to be paid.	
<b>3 Minor variations S106(2) of the Act</b>	The Act allows for one (1) or more minor variations from the DTS provisions. What is deemed to be a minor variation is still to be accurately defined, and as such, some 'minor variations' are seen to have a cumulative effect.	Amend S106(2) to strictly adhering to the DTS provisions within the Code.
<b>4 Illegal development S213(12) of the Act</b>	The Act allows for enforcement for illegal development unless the breach occurred more than 12 months previously. The Regulations (R67(1)(b)(i)) allows up to 3 years from the operative date for a development to be completed.	Amend the Regulations to allow enforcement notices to be issues up to 3 years since the breach occurred.
<b>5 Requests for further information</b>	In accordance with Regulation 33(5) the Relevant Authority has a period of 10 business days in which to request further information. This period is not deemed to be sufficient when internal referrals /site inspections / liaising with other agencies or stakeholders is required and limited resources are available.	Amend R33(5) to increase the period to be 15 business days.
<b>6 Developer contributions for infill developments</b>	Infill developments put pressure on existing Council infrastructure. An ability for councils to seek a contribution for the upgrade of Council infrastructure to support the proper servicing of the intended development should be considered.	Introduce provisions within the Act and Regulations to allow for contributions to be made for the upgrade of Council's infrastructure.

<p><b>7</b> <b>Public Consultation of Practice Directions</b> <b>Section 42</b></p>	<p>The Commission can develop and implement Practice Directions relevant to the assessment of development application and can be varied and / or revoked by the Commission. The Practice Directions are to be adhered to by Relevant Authority and agencies, and should be available for comment on any proposed introductions / changes / revocations.</p>	<p>Amend S42 to include consultation with practitioners and agencies on any proposed introductions / changes / revocations to the Practice Directions under the Community Engagement Charter Principles.</p>
<p><b>8</b> <b>Open Space Consent S102(1)(f)</b></p>	<p>Section 102(1)(f) provides for Open Space to be issued under a separate consent, however no such section is provided on the Decision Notification Form.</p>	<p>Amend the Decision Notification Form to provide a section for Open Space. Subsequently the Portal will need to be updated to include the relevant details of the Open Space assessment.</p>
<p><b>9</b> <b>Restricted Developments S110(10)</b></p>	<p>Restricted Developments must take into account the relevant provisions of the Code, however it is not bound by the Code. Whilst Performance Assessed applications are required to be assessed only against the relevant Code provisions as populated by the Portal, a Restricted Development may be assessed against any document deemed to be relevant by the Commission. Restricted Developments by their very nature are thought to have a greater impact on the locality and should be required to be scrutinised to a greater degree in the assessment process.</p>	<p>Amend S110(10) so that Restricted Development <b>must</b> be assessed against, and bound by, the relevant provisions of the Code <b>and</b> any other relevant documents that the Commission sees relevant.</p>
<p><b>10</b> <b>Timeframes for applications to go to the CAP/RAP</b></p>	<p>Where an application is required to be assessed by the CAP, and depending when all the relevant responses are provided, this may fall outside of the assessment timeframe, therefore subjecting the RA to a deemed consent. Not all councils have the resources to accommodate</p>	<p>Where the next scheduled CAP meeting falls outside the assessment timeframe, there should be provisions within the legislation to allow for the RA to place the application on hold.</p>

	special meetings outside of scheduled CAP meeting date.	
<b>11 Restricted Development Council referral</b>	Reg 23(2)(b) states the Commission must refer relevant applications to Council to provide a response to the Commission within 15 business days. The scope of the response is restricted to the matters identified within R23(3). Council have concerns with the limitation on the scope of the matters that they can comment on and feel that 15 business days is not sufficient to undertake a thorough review of the development considerations.	Amend the Regulations to amend the restriction on the scope of the report and increase the timeframe to 30 business days. Enable the CEO to delegate the authority for providing a response.
<b>12 Certificate of Title – Schedule 8</b>	The Regulations (General) do not require a Certificate of Title as part of mandatory documentation under Schedule 8. Certificate of Titles include valuable information relating to easements/land management agreements etc which could be crucial to the assessment of the proposal. The inclusion of the property diagram is also valuable to ensure property dimensions are correctly identified on the site plan.	Amend Schedule 8 of the Regulations to include Certificate of Title for all forms of development.
<b>13 Regulation 31(2) Verification timeframes</b>	Currently we have 5 business days to undertake verification after receiving the application. Timeframe is not realistic.	Amend the Regulation to allow a period of 10 days to undertake verification.

<p><b>14</b> <b>Regulation 38(2) Lapsing applications</b></p>	<p>Regulation 38(2) provides an opportunity to lapse an application after one (1) year from the application being lodged, however there is no definition for 'lodged'.</p>	<p>Provide a definition of 'lodged'.</p>
<p><b>15</b> <b>Schedule 4(4)(g) – Rain water tanks</b></p>	<p>A 10m<sup>2</sup>/4m high rain water tank can be located forward of the dwelling which has implications for streetscape.</p>	<p>Amend the legislation to include a clause which requires approval for any tank forward of the dwelling (even in bushfire risk areas).</p>
<p><b>16</b> <b>Schedule 4(10) demolition</b></p>	<p>The demolition of whole buildings is exempt from requiring a development application in some locations. Damage to Council's infrastructure can occur and there is no record for who undertook the works to allow Council to seek compensation for any damages. There is no longer an easy way to calculate gross dwelling increase by subtracting demolitions. There is confusion in the community about when an application is required for demolition.</p>	<p>Amend the legislation to require an Accepted application for all demolitions (except where Planning Consent is currently required).</p>
<p><b>17</b> <b>Section 146 (4)</b></p>	<p>Section 146 (4) requires an authorised officer to carry out an inspection under subsection (3) within 24 hours after a direction is given under that subsection, if such an inspection is not carried out within that time, the person may proceed with the building work. This 24-hour timeframe doesn't take into consideration weekends and office closures. For example, if a direction is given by an authorised officer on a Friday the inspection would have to be undertaken on the Saturday when the Council office is closed.</p>	<p>Suggest amending this to 1 business day to carry out the inspection after giving notice.</p>

## Planning and Design Code and related instruments

<u>Issue</u>	<u>Discussion</u>	<u>Solution</u>
<b>1</b> <b>Rural Living zone - capped number and size of sheds</b>	In the Rural Living Zone DPF2.5(b) seeks for a combined floor area not more than 150/200m <sup>2</sup> , and (f) limits the number of sheds to not more than two (2). In the RL zone it is expected to have larger sheds and a greater number of sheds due to the nature of the use of the land. The provisions are restricting the use of the land.	Rather than capping the size and number of sheds, a cap on site coverage % could be imposed, i.e. 5% for outbuildings, or 10% for all development onsite.
<b>2</b> <b>Neighbourhood zone - capped number and size of sheds.</b>	In the Neighbourhood Zone DPF10.1(b) seeks for outbuildings not to exceed 60/80m <sup>2</sup> . Multiple sheds can be applied for as long as the site coverage is not exceeded. There is an increasing trend for multiple outbuildings on allotments, especially larger allotments which may have 4-5 outbuildings. Capping the number of outbuildings and the combined size could provide a better outcome for our residential areas.	Cap the number and size of sheds to not more than 2 outbuildings and combined total area of, for example, not more than 150m <sup>2</sup> , or cap the outbuilding % to not more than 15%. Maintain the 60% overall site coverage provision. This could be included as a TNV layer.
<b>3</b> <b>Land use definitions and car parking rates</b>	The car parking rates do not correspond with the land use definitions. Some uses within the carparking rates remain undefined.	Review the carparking rates and ensure there is a corresponding definition within the land use definitions.
<b>4</b> <b>Overlooking and visual privacy from single storey buildings and transportable dwelling - Policies PO10.1 and DTS/DPF10.1 General Section, Design</b>	We have been getting a significant number of applications for single storey and transportable dwellings on sloping allotments which are creating overlooking into adjoining POS. There is no policy for overlooking from ground floor windows or alfresco areas, this is a concern for development on sloping allotments, or transportable with a high FFL.	Additional policy to accommodate for transportable dwellings and / or dwellings on sloping allotments which have direct overlooking.

<p><b>5</b> <b>Rural Living allotments, side setback</b></p>	<p>Rural Living policy does not specify minimum side setback provisions for outbuildings. The RL zone seeks for a spacious and secluded lifestyle, the Code allows for an outbuilding to be constructed on the boundary. This is not thought to be consistent with the desired outcome as it could be considered to be quite imposing on the owners of adjoining properties.</p>	<p>DPF2.5 should be amended to include relevant side setback provisions for outbuildings / agricultural buildings i.e. 10m.</p>
<p><b>6</b> <b>Linkages - Workers accommodation &amp; Ancillary accommodation</b></p>	<p>Workers accommodation is defined as temporary accommodation for seasonal rural activities, however the assessment pathway pulls through Rural Zone PO5.2 which refers to 'aging in place'. However, ancillary accommodation speaks to a subordinate residence but does not pull through PO5.2.</p>	<p>Remove Rural Zone PO5.2 from the workers accommodation assessment pathway and include it within the ancillary accommodation pathway.</p> <p>Also, some additional consideration for multigenerational farmers to allow for multiple dwellings on an allotment to keep buildings in a single locality and reduce the impact to productive farming land.</p>
<p><b>7</b> <b>Linkages – Dwelling front doors</b></p>	<p>Having a visible entry door is an important element with regards to visible entry especially for emergency services personnel. The assessment of the importance of this provision for a visible entry door is deemed to be an assessment of the merits of the development as the PO is only applicable for performance assessed applications. This should be included in the DTS provisions as a default and be a requirement of DTS dwellings and dwelling additions / alterations.</p>	<p>Design DTS11.2 to be included in the DTS dwelling provisions and the dwelling additions/ alterations provisions.</p>

<p><b>8</b>  <b>Neighbourhood Zone PO9.1 and DPF 9.1 - Definition of Dwelling walls</b></p>	<p>Neighbourhood Zone PO9.1 Refers to <b>buildings</b> are setback.....,however, DPF9.1 refers to <b>dwelling walls</b> are set back....</p> <p>The PO and DPF contradict each other. The PO talks about a <b>building</b> (building defined in the Act -means a building or structure or a portion of a building or structure)  The DPF talks about <b>dwelling walls</b> (no definition provided in the code or legislation).</p> <p>Therefore, if a dwelling has an open alfresco at the rear technically it does not meet the PO, however, it has no walls so would meet the DPF.</p>	<p>The wording of the PO and the DPF must be reviewed to be consistent and a definition added for <b>dwelling wall</b> if this is to be used for a determination of a setback.</p>
<p><b>9</b>  <b>Change of use of existing buildings</b></p>	<p>The Code has lots of policy for the construction of new buildings however has very little policy around change of use of an existing building. For example a dwelling to be proposed within an existing building within a TMS zone.</p>	<p>Some additional policy designed to assist assessment for change of use of an existing building.</p>
<p><b>10</b>  <b>All Code Assessed applications</b></p>	<p>When an application does not have a specific assessment pathway, it defaults to 'all Code assessed'. This returns all general policies and can be quite cumbersome.</p>	<p>Have an additional step to be able to select the applicable general policies so that the assessing officer can 'turn off' irrelevant general policies. Zone and Overlays should remain.</p>
<p><b>11</b>  <b>Definition of Private Open Space</b></p>	<p>Part 8 – Administrative terms and definitions refers to Private Open Space as meaning the private outdoor area associated with a dwelling. The provisions within the Code relate to overlooking to POS areas of adjoining areas. Where there is no established or approved dwelling the POS definition and overlooking provisions within the Code do not apply and</p>	<p>Amend the definition of POS to include a dwelling or future dwelling.</p>



	there is not provision to mitigate overlooking to a future dwelling.	
<b>12 Open Space</b>	<p>General policy land Division PO5.1 seeks for 'Land division proposing an additional allotment under 1 hectare provides or supports the provision of open space'.</p> <p>However the Act only provides for open space contributions when the division creates more than 20 allotments. PO5.1 isn't referenced in the major land division i.e. over 20 allotments.</p>	Remove PO5.1 from minor land divisions and include it in Major land divisions.
<b>13 Land Use definitions</b>	There is confusion about the application of some land use definitions. For example a shop includes a restaurant however there is a separate definition for a restaurant. This is resulting some confusion when trying to undertake an assessment, a restaurant has a different impact to a retail store ie clothing. A shop also includes as bulky goods outlet which also has its own definition. Therefore, how do we determine if there is a change of use if a shop include various land uses with their own definitions?	The definitions need to be reviewed to ensure they are not doubled up and there are separate assessment pathways.
<b>14 Grammatical errors</b>	<p>Grammatical errors in the policy impact in the way in which the policy is read and interpreted.</p> <p>DPF5.1 in the Strategic Employment zone, has grammatical errors which impacts the interpretation of the policy.</p>	Review of the P&D Code to ensure the spelling and grammar is correct throughout.

## e-Planning system

<u>Issue</u>	<u>Discussion</u>	<u>Solution</u>
<p><b>1</b> <b>Application number at top of pages / documents</b></p>	<p>On the Application Snapshot, the development application number to be located on the top of the page - would assist when downloaded.</p> <p>The application number is also not shown at the top of other pages, creating confusion and possible mistakes when uploading documents.</p>	<p>The application number should be shown at the top of all pages / documents.</p> <ul style="list-style-type: none"> <li>- Application snapshot</li> <li>- Variation requests</li> <li>- Upload file for full development approval</li> <li>- Add conditions</li> <li>- Referrals</li> <li>- Etc</li> </ul>
<p><b>2</b> <b>Building statistics</b></p>	<p>When entering building statistics for development approval, it is a requirement for you to select a frame, wall and roof material however not all structure have a wall or roof. This should either not be mandatory or include a N/A tab in the drop down.</p>	<p>Create another drop down in each tab to say 'N/A' so this can be selected when there are no walls or roofing materials for the structure.</p>
<p><b>3</b> <b>Completion and Statement of Compliance (SOC) Notifications</b></p>	<p>These notifications are currently separate on the portal. The SOC is required at the completion of building work as per PDI General Reg 104 (3). Therefore, it makes sense to have this as one notification.</p>	<p>Combine completion and SOC notifications.</p>
<p><b>4</b> <b>Determining Building Assessment Fees</b></p>	<p>When determining the estimated development cost for each element the portal requires the value to match the proposed development cost provided by the applicant to the decimal point. However, it only shows whole numbers. Therefore, the only way to progress past this stage of verification is to input the decimal points gradually through trial and error, which is very time consuming.</p>	<p>Either display the development cost as inputted by the applicant to the decimal point or allow the estimated development cost for each element to be determined using whole numbers.</p>

<p><b>5</b> <b>Inspection Outcome Letters</b></p>	<p>The automatically generated rectification letters often leave out items specified in the rectification/ breaches section on the portal and the date of inspection. If the letter is not carefully checked before sending this can result in items being left off the letter.</p>	<p>Ensure the automatically generated letters function is operating correctly and suggest improving the formatting to achieve a professional standard for the letters.</p>
<p><b>6</b> <b>Expired RFI notification</b></p>	<p>The system generated emails to advise that the time to respond to the RFI is sent to the allocated officer of Council and not the Applicant.</p>	<p>The Applicant is the one that needs to action this, it should be also sent to the Applicant to advise that their application may now be refused.</p>
<p><b>7</b> <b>Definitions</b></p>	<p>Elements within the Planning sections which do not have definitions, or corresponding assessment pathways or parking rates. For example: <i>Function Centre</i> is listed as an element at verification but does not have a corresponding definition, assessment pathway or parking rate.  <i>Indoor recreation facility</i> is listed as an element at verification, the definition includes a fitness centre, the parking rate has a separate rate for a fitness centre than to all other indoor recreation facilities. How does a fitness centre different from a gymnasium or Pilates studio? What differentiates these types of fitness facilities?</p>	<p>Ensure all elements shown on the Portal have a definition and all definitions within the P&amp;D Code have an element type.</p>
<p><b>9</b> <b>Internal communication capability</b></p>	<p>Currently all communications are to be undertaken outside of the portal, converted to pdf and then uploaded to the portal. This can become quite an onerous task especially for larger applications.</p>	<p>Provide the ability to communicate directly with the applicant through the portal where it is capture and uploaded automatically.</p>

<p><b>10</b> <b>Additional certificates at Grant Development Approval stage</b></p>	<p>Within the Edit Notifications page of Development Approval stage, the Portal asks the question 'Would council like to request any additional certificates, reports, or other documents that must be provided at the completion of the building work with the completed Statement of Compliance'. Reg 104(5) only the RA for the building consent to request additional certificates, reports documents.</p>	<p>This should either be removed as a question for the Council to answer or the Regulations changed to allow the Council to request additional certificates, reports etc at this time. For example plumbing CoC's</p>
<p><b>11</b> <b>Satisfy Clearance Requirements</b></p>	<p>Currently, when an application comes in for Clearance, if Clearance is not able to be issued, the RA details the outstanding requirements. This stays on the application list. This should not show until the request for clearance is resent.</p>	<p>Can't see this in the new database.</p>
<p><b>12</b> <b>Withdrawing variation requests</b></p>	<p>The system currently allows for variation requests to be withdrawn up until the RA commences their review. There is no ability for the RA to withdraw the application. We have had several occurrences where incorrect plans were uploaded to the variation and the applicant has created a new variation. There is no ability for the RA to 'close off' the superseded variation.</p>	<p>Provide the ability for the RA to 'close off' variations which are no longer required and include the ability for the RA to upload correspondence from the applicant to confirm the variation is no longer required.</p>

## **PlanSA website / SAPPA**

<b><u>Issue</u></b>	<b><u>Discussion</u></b>	<b><u>Solution</u></b>
<p><b>1</b> <b>Scrolling in Tables in the Code</b></p>	<p>When browsing the tables within the Code, there are three separate places to scroll. This can be very frustrating.</p>	<p>Suggest table to open in a different format</p>

<p><b>2</b> <b>SAPPA imagery</b></p>	<p>This is outdated and not an accurate reflection of the State. This is misleading as it doesn't accurately reflect development and how it relates to overlays. If this is a source in which the Government uses to determine the locations for overlays then the current mapping doesn't provide a true reflection and the overlays will be incorrectly applied. For example Bushfire Overlays</p>	<p>Update the imagery on a regular basis ie minimum every 12 months</p>
--	--	---