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HICK2022-081

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Email and post: DTI.PlanningReview@sa.gov.au

Dear Expert Panel

Introduction

The Hickinbotham Group is the largest and longest-established building group within South Australia and has developed over 60 community estates, constructed more than 45,000 homes and invested in excess of $2 billion into the South Australian economy.

The Hickinbotham Group recognises the importance of an effective planning system and is supportive of processes that seek to achieve improvements and efficiencies to provide certainty of outcomes for all stakeholders.

With the system in place for more than 18 months, it is an opportune time to address anticipated and unforeseen issues arising. As the largest home builder in the State, we are well-placed to make observations with respect to the key impediments within the current planning system.

Rather than just identifying the issues, we also provide constructive suggestions on how the system can be further improved.

We, therefore, appreciate the opportunity to contribute to the review of South Australia's planning system and the implementation of recent reforms made to it.

The key issue facing our State is the housing affordability crisis, i.e., homes that families can afford. We are concerned that the terms of reference of the Planning Review did not make reference to housing affordability and note that the planning system has a crucial role in reducing the impediments and facilitating the delivery of housing South Australian families can afford.

While there is broad support for the principles contained in NCC referring to energy efficiency, condensation, and accessible housing, making these changes and improvements will have a necessary and unavoidable impact on the cost of construction, which must be passed on to the consumer. While we believe the objective may be laudable, careful consideration must be given to inclusions, exclusions, timing and staging of these proposed changes to avoid passing on unrealistic cost increases to home buyers.

Context - Housing Affordability, Adelaide's Future Urban Form and Land Supply

The cost of serviced, residential-zoned land is a critical issue for South Australia. The shortage of land is driving up the price and making housing too expensive for the average family. If the cost of buying a home or renting remains on this trajectory, our State will no longer be an attractive place to live and work. Our historic cost advantage over the eastern States is already at risk.

Demographia's International Housing Affordability Index puts Adelaide and the greater London area as the equal 14th – least affordable globally, with the median house price eight times the median gross household income in 2021. The study advises that Adelaide is more expensive than greater New York. Families can no longer afford to live near their employment. Employers can no longer rely on a local workforce. The cost of land drives everything. Workers and families can no longer afford the type of house and land package they want.

Families want to live near where they work, and employment is no longer CBD based.

COVID changed the future of work in an irreversible way. Before the pandemic, "Working from home" was 5% and went to 15% during the pandemic, but experts have predicted that it will likely stabilise around 10% by the next Census.

Australian demographer Bernard Salt explains the exodus from capital city to outer suburban lifestyle zones as "*a tectonic shift pushing the millennial mountain beyond 'youth' towards family-focused 40s is changing housing preferences. Toss in the option of working from home, and we have the makings of a new urban narrative.*

Lessened is the demand for apartments; increased is the demand for lifestyle suburban dwellings."

The latest Census reveals that families are increasingly looking outside the CBD for a place to live. This is a deliberate permanent choice, driven by changing demographics, the revolution in broadband IT and lifestyle choices, not just an effect of high CBD prices or a need to live closer to where jobs used to be.

In recent years, the planning system heavily favoured infill over greenfield and seriously limited the areas where new housing could be built. This has created a scarcity of available serviced land and driven up the price to unsustainable levels. The system has attempted to address this by allowing smaller infill lots and requiring higher-density developments. This has produced untenable outcomes in already developed areas where street parking is now overcrowded, to the consternation of existing locals, and places unreasonable pressure on existing (older) infrastructure. There has been community backlash that has been reported in the media.

Planning reforms should deliver more land in the lifestyle belt and re-balance the Greenfield v Infill equation. This will not result in urban sprawl but rather self-sustaining communities in areas where people want to live, promoting polycentric cities.

At a strategic planning level, the process of providing certainty with respect to land supply remains challenged. Consequently, there is a critical shortage of residential land in some markets, which directly impacts housing affordability.

With the above context in mind, we make the following submissions with respect to, firstly, the PDI Act and, secondly, the Planning and Design Code.

The Planning, Infrastructure and Development Act 2016

Land Supply and Infrastructure Provision

The *Planning, Development and Infrastructure Act 2016* ('Act') and associated legislation relating to reviewing and varying the environment and food production areas (EFPA) is rigid and too infrequent.

The legislation requires at least 15 years land supply within Greater Adelaide as a whole and does not make room for assessment within subregions or smaller areas. While Greater Adelaide may have at least 15 years land supply, subregions and townships may have very limited to no land supply. This is further exasperating the housing affordability crisis.

It is difficult to see why the 15-year land supply target was adopted and what the cost and benefits of it are. When considering where development should occur in the future, it may be more appropriate for the planning system to adopt a more fluid approach rather than an arbitrary figure of 15 years.

There is a role for regulation to play in limiting or prohibiting development in certain areas like the Character Preservation Zones in the Barossa and McLaren Vale or the Hills Face Zone, to give two obvious examples. Better outcomes for economic growth and affordability may flow from the land supply target being driven more by consumer demand and market forces.

Furthermore, the legislation does not provide an efficient solution to respond to sharp changes in markets due to unforeseen events (such as a global pandemic). Instead, we rely on rapidly outdated data and assumptions about land supply and are unable to effectively respond to the changes that must occur to avoid continued affordability issues.

We suggest that one solution could be to establish subregions, which the Act already provides a mechanism for (refer to Section 6), and reference to these subregions should be made in Section 7(3). This will ensure that there is adequate land supply equitably across Greater Adelaide and relieve the pressure on certain parts of Greater Adelaide to provide the bulk of the growth.

While there is a mandatory trigger for land supply to be reviewed every five years, there is scope within the Act for EFPAs to be varied on an as needs basis. The Government should be more proactive in this space. The introduction of the online planning portal has provided an opportunity for dynamic, real-time land supply and affordability monitoring. This technology must be utilised, and action should be taken quickly to respond to emerging issues before a crisis point hits.

Planning for subregions, including better infrastructure planning, can be used to target areas for further land supply. If infrastructure planning is prioritised within strategic planning documents, the barriers encountered by developers can be somewhat alleviated, and housing can be brought to market sooner.

The old model in which the Government provided all the necessary infrastructure in new developments and applied a high amount of tax and charges that were levied on housing is no longer applicable. Changes to the arrangements over time have meant that developers are responsible for the majority of infrastructure. Still, the tax charges have remained at existing levels, and according to the 2019 CIE report for SA, the cost of house and land packages includes 29% of statutory taxes and regulatory costs across all levels of Government. Taxes include: Land Tax, stamp duty, payroll tax, water and sewerage extensions, etc. Greenfield housing also brings significant regional economic benefits and adds significantly to the local rate-based taxes available to local Government now in excess of the cost of local infrastructure. For example, a house and land package of $550,000 equates to almost $160,000 in government revenue.

Reform is urgently needed in the infrastructure planning space. Improved planning at a subregion and growth area level is required, followed through with the use of infrastructure schemes and a scheme coordinator. A clear, upfront understanding of infrastructure obligations for all growth areas through a subregional plan will lead to greater understanding, confidence and certainty for all stakeholders.

Code Amendments

Due to the new obligations under the Act, Councils have largely been inactive in detailed strategic planning, which has required the private sector to lead rezoning processes. Whilst proponent-led Code Amendments are logical in most instances; there is a benefit in more detailed strategic planning and associated infrastructure investment frameworks to be prepared by the State Planning Commission or Joint Planning Board, which have the general awareness and support of the community and unlock suitable development opportunities for the private sector to respond to.

The requirement for a proponent to demonstrate a legal interest in the land should be reviewed. A letter of support from land owners or the Council should be sufficient to pursue a rezoning over a more strategic, logical area of land.

Assessment Processes and Timeframes

Overall, from a development application perspective, the new planning system has provided a reasonable base for a well-performing and effective system. Noting the inevitable teething problems with the introduction of any new system, it is generally functioning well. However, there are several key areas for improvement which are important to minimise delays and therefore costs to the end home buyer.

Land division process and timeframes

The process of obtaining all necessary approvals and clearances for land division is presently a protracted process that delays the delivery of land to the market.

Once planning consent and land division consent have been issued, an applicant needs to gain civil design approval from the relevant Council prior to commencing construction (applicants also need to gain approvals from infrastructure providers such as SA Water and SA Power Network).

There are no defined timeframes associated with the whole process other than the initial planning consent. At present, Councils vary substantially from a few weeks to months in terms of reviewing the initial set of plans and specifications, and then once amended plans are submitted, the timeframes can again vary substantially.

The Hickinbotham Group considers that a 2-week period for initial comment with respect to the civil design approval process is more than adequate, and a two-week period is ample for final approval. We submit that there needs to be a regulated timeframe for this part of the land division process.

Bonding

Commonly Councils and developers will enter into infrastructure agreements or bonding arrangements to ensure infrastructure works required as part of a proposed development and ultimately vest with the Council, are constructed to appropriate standards with suitable maintenance periods.

The need to bond works is due to limitations in the relevant legislation, being the Act and Regulations. The limitation relates to conditions that can be imposed on land division to require certain works to be carried out.

That being said, it is not always necessary for certain works to be bonded or be the subject of a separate agreement. Typically, not one solution fits each land division application. Some reasonably require bonding, while others do not.

Works that will typically require bonding are roads and other infrastructure upgrades that are to occur outside of a development site. As these matters cannot be lawfully conditioned as part of a planning or land division consent.

However, other works, including:

- the construction of new roads within a development site (refer to regulation 81, 83, 84(1) and 85 of the Regulations);
- road widening (refer to regulation 82 and 85 or the Regulations); and

- bridges, drains and services (refer to regulation 84(2)-(5) and 85 of the Regulations), are matters that can be lawfully conditioned as part of the land division consent pursuant to section 102(c)(i) to (v) and (d)(i) to (v) of the Act and regulations 81 to 85 of the Regulations.

It is also relevant to note that where development includes the vesting of land with the Council, the Council has the authority to agree or disagree to the vesting of the land pursuant to section 102(1)(c)(iv) or (d)(iv) of the Act, with the vesting of land usually being resolved during the assessment of the land division application.

In addition to the ability to impose conditions on the land division consent, the Council can also make the fulfilment of certain conditions a requirement of clearance under section 138 of the Act.

Importantly, the Council can refuse to grant clearance pursuant to section 138 of the Act where the prescribed requirements in regulations 81 to 85 of the Regulations have not been met unless the Council has entered into a binding agreement supported by appropriate security pursuant to regulation 87(1)(a) of the Regulations.

In other words, it is not necessary to bond matters that can be conditioned on a land division consent and are subject to clearance unless or until the applicant seeks clearance and these requirements have not yet been met.

In our experience, there has been a general misunderstanding of when it is appropriate to adopt bonding and suggest that there could be a benefit if a Practice Direction is issued by the State Planning Commission to seek a consistent approach for the purposes of streamlining all elements of the land division and title creation process.

Alternatively, and to make it clear, when conditions need to be completed or bonded prior to clearance, this should be noted on the relevant condition on the DNF.

Building Envelope Plans

The Hickinbotham Group also strongly supports the introduction of Building Envelope Plans (BEPs) to assist in fast-tracking the development of land in Master Planned Zones. However, since the introduction of BEPs, it is the Hickinbotham Group's experience that this process has not been used as efficiently or effectively as it could be. We have identified the following problems with the process:

- Councils, when they are the designated authority to assess and approve a BEP, take a long time to issue approvals or otherwise request significant amounts of changes and additional information, despite the outcomes in the BEPs generally achieving the Accepted Development criteria for the relevant Master Planned Zone.

- Length of time for BEPs to be approved, published and operational. A BEP cannot be approved until such time as planning consent has been granted for a land division. It is not until this point that the BEP is assessed by the Council and, if approved, must go to the Department of Investment and Trade (DTI) for sign-off and publication. In the Hickinbotham Group's experience, the time it takes to finalise a BEP has significant implications for land development, such that by the time a BEP is approved and operational; land has already been released with development ready to commence, making the BEP obsolete.

- No statutory timeframes exist for the assessment and determination of BEPs, meaning that a designated authority can take as long as it likes to determine a BEP, with the applicant having little to no legislative power to require a decision to be made.

To ensure that BEPs are utilised to their full potential, the Hickinbotham Group makes the following recommendations:

- Update Practice Direction 15 to include:

- a process for assessment of a BEP;
- guidelines for the extent of information that can be requested for assessment of BEPs;
- a BEP template; and
- standard notations/conditions that can be imposed on a BEP.

- Inclusion of a statutory timeframe in the *Planning, Development and Infrastructure (General) Regulations 2017* with penalty, such as deemed approval, where designated authorities do not determine a BEP within the legislated timeframe.

A copy of Practice Direction 15 with recommended amendments, a BEP template and notations/conditions is **enclosed** for consideration.

Accepted Development Pathway in Master Planned Zones

The Hickinbotham Group strongly supports an Accepted pathway in Master Planned Zones. However, since its introduction, it has rarely been used effectively.

We are finding that Councils are not issuing Development Approval for dwellings, although the proposed dwelling complies with Accepted Development criteria and Building Consent has been issued.

Councils are particularly concerned with incomplete infrastructure in association with the land division and withholding issuing Development Approval until substantial completion of the infrastructure. This prevents the ability to fast-track approvals in that Council area where civil construction of the land is mid-stream. This reflects an unnecessary and unforeseen delay.

Provision of Information

The information requirements in Schedule 8 (particularly clauses 1 and 2) of the PDI Regulations are overly onerous (or redundant in some cases) and contribute to the overall costs of development because of increased consultant fees (time spent preparing documentation), and delays caused by requests for further information.

It has been the experience of Hickinbotham that relevant authorities (particularly Councils) are highly inconsistent with their application of the information requirements in Schedule 8. This feeds further uncertainty on this issue.

With the new electronic planning system, relevant authorities use specific software applications for the measuring of plans and elevations when doing development assessments. In addition, the South Australian Planning Atlas provides up-to-date aerial imagery to further understand site features and local context.

We strongly suggest a substantial 'pairing back' of the level of detail prescribed in Schedule 8 with a logical reference point being the DTS provisions in the Code (i.e., only matters critical to the assessment of a DTS development are included).

Verification

We suggest there should be accountability and consequences for the relevant authority should they not verify in the timeframe prescribed. This is currently a major concern and results in one of the greatest delays in the current development assessment process.

If a planning authority has not completed the Verification process in 5 days, we strongly suggest that the 'Assessment Clock' should commence.

A mechanism to encourage planning authorities to comply with the 5-day verification limit would be that assessment fees do not need to be paid if they don't complete the verification process within the 5-day period.

Coupled with the above, we suggest consideration is given to changing the wording in Section 119(1) of the Act and Regulations 30 and 53(2) of the *Planning, Development and Infrastructure (General) Regulations 2017* ('Regulations') regarding payment of the 'appropriate fee'. At present, the 'appropriate fee' is not paid until the application has been verified and the subsequent invoice containing the 'appropriate fee' has been paid.

This creates uncertainty as the Code is often amended (it has been amended to date 22 times in 2022), and the version of the Code that will apply to the assessment of the application is the version of the Code at 'lodgement'.

Having considered the above matters, if the 'appropriate fee' was paid when the application was submitted by the applicant, it would provide certainty about the version of the Code that the application would be assessed against, as well as facilitate the ability for the system to automatically commence the 'Assessment Clock' if the five days Verification period is not met by the relevant authority.

Deemed Consents

The Hickinbotham Group has welcomed the introduction of Deemed Consents, and in large part, they are reasonably effective. However, we believe this mechanism could be taken further. Deemed Consents are not currently available for land divisions. This may be supported through a Practice Direction and standard conditions that are related to land divisions only, i.e. respect to bonding and legislated timeframes for Council to assess engineering design/title clearance. This would provide certainty and clarity to developers and comfort to Council engineers and planners. There is also an opportunity to introduce Design Standards via mandatory conditions, such as local road design, crossovers etc.

Deemed Approvals

The current requirement for Councils to issue the final Development Approval adds unnecessary time and delays for applicants that ultimately contribute to increased costs. This procedural step also places a considerable administrative burden on local Councils, especially when an Accredited Professional (not under the employ of the Council) has acted as the relevant authority for planning and/or building consents.

The Accredited Professional Scheme is a foundational element of the new planning system that improves the quality of decision-making and facilitates assessment efficiencies by establishing a competitive marketplace of accredited decision-makers.

Accredited professionals are obligated to undertake continued professional development training, are subject to programmed auditing cycles, and may be subjected to strict penalties for breaching the code of conduct and legislative obligations.

Further to the above, we also point to the legislative requirements in Section 91(5) of the Act, which obligates Accredited Professionals to ensure that any development authorisation they grant must be consistent with any other development authorisation that has already been given in respect of the same proposal.

With all the above being considered, we suggest that once planning and building consents have been granted, the development should automatically be deemed to have full Development Approval (i.e., a Deemed Development Approval), thereby creating time, administrative and cost efficiencies. This would require a change to the Act.

If deemed Development Approval is not supported, we suggest reducing the statutory timeframe afforded to Councils to issue the final Development Approval and/or the ability for an accredited professional to issue final Development Approval in lieu of the Council.

Compliance

Inspections

There are cost implications arising from the current compliance inspection approach of various Councils. The current Practice Direction refers to a minimum 66% inspection requirement; however, it is understood that some Councils have higher targets.

Some Councils are also charging multiple inspection fees for varying classes of development within the same development application, e.g., charging a compliance fee for the dwelling and the garage. We believe that this is unnecessary and is resulting in unexpected fees, which further impacts housing affordability.

It is suggested that the Practice Direction be amended to introduce a maximum percentage of inspections that can be undertaken by Councils and more guidance for how compliance fees can be charged.

For example, it should clarify that where a garage is incorporated into a dwelling, a separate compliance fee for the garage is not required, which is as per the system under the previous Planning Act.

The Planning and Design Code

Urban Tree Canopy

The Urban Tree Canopy requirements are often unable to be satisfied, particularly on smaller allotments. Tree planting requirements will often lead to increased footing design to cater for the impacts of trees that may affect a home's structural integrity. This has affordability implications due to the requirement to either pay into the Urban Tree Canopy Offset Scheme or increased footing requirements. There needs to be better transparency between the Offset Scheme fee and the actual cost of Council delivering and maintaining a tree. However, we do not support increasing this fee as it increases the costs associated with building a home. The public realm should remain the primary mechanism to achieve desired tree canopy outcomes.

Master planned/greenfield developments provide an optimum opportunity to maximise the tree canopy through street plantings and open space. We do not believe there should be a requirement for the tree canopy requirements on individual allotments.

The planting of a tree, or the removal of a tree (not being a significant or regulated tree), is not 'development'. Further, it appears to Hickinbotham that the requirement to plant a tree is incompatible with Section 12(2)(d) of the Act, which speaks specifically to the built environment. We believe tree planting requirements represent an overreach of the planning system that contributes to construction costs and are ultimately difficult (or impossible) to achieve on modern-sized urban allotments. There are subsequent issues for Councils in compliance and enforcement of these requirements.

Infill Design Guidelines

A great deal of time and effort has gone into the Infill Design Guidelines, and these have provided developers with good examples of acceptable design standards. We believe these are now sufficient, and further refinement of the guidelines is not supported. This will inevitably lead to more complexity and potential expense resulting in uncertainty, frustration and affordability issues.

We do, however, support the concept of identifying additional forms of infill development and the potential for guidelines on those.

Conclusion

We appreciate the opportunity to contribute to the Planning Review process.

Our list of recommended actions is summarised as follows:

Issue	**Recommended Action**
EFPA Review to Rigid and Infrequent	Address 15-year land supply methodology – consider adoption of sub-regions to better understand localised land requirements
Land supply constraints	Improved infrastructure planning and responsibility to reduce impediments to rezoning
Lack of strategic planning	Mandate Joint Planning Boards or similar
Delays in processing land division	Mandate maximum processing timeframes for all elements of the land division process. Expand Deemed Consent for land division, supported by standard conditions
Lack of understanding of the purpose of bonding	State Planning Commission establish a Practise Direction in order to guide the use of bonding mechanisms and to encourage a consistent use across Councils
Building Envelope Plans (BEP'S) not understood	Councils require greater education with respect to the process for BEP's – refinements to the Practise Direction are recommended in order to address
Verification - delay	Commence Assessment Clock if the verification period exceeded
Development Approval - delay	Change Act so Development Approval is automatic once planning and building consents are granted
Inspections – Cost and Frequency	Establish a Practise Direction with respect to frequency and fee structure
Urban Tree Canopy	Public realm should be the focus of tree planting and retention. Increase in fees is not supported as it would further impact affordability
Infill Design Guidelines	Existing guidelines are sufficient. More complexity will further impact costs and affordability

Yours sincerely,
Hickinbotham Group

Michael Hickinbotham
Managing Director

EXAMPLE BUILDING ENVELOPE PLAN

LEGEND

SINGLE STOREY SETBACK
(3m WALL HEIGHT)
MAX. BUILDING ENVELOPE & SETBACK DISTANCES FROM BOUNDARY.

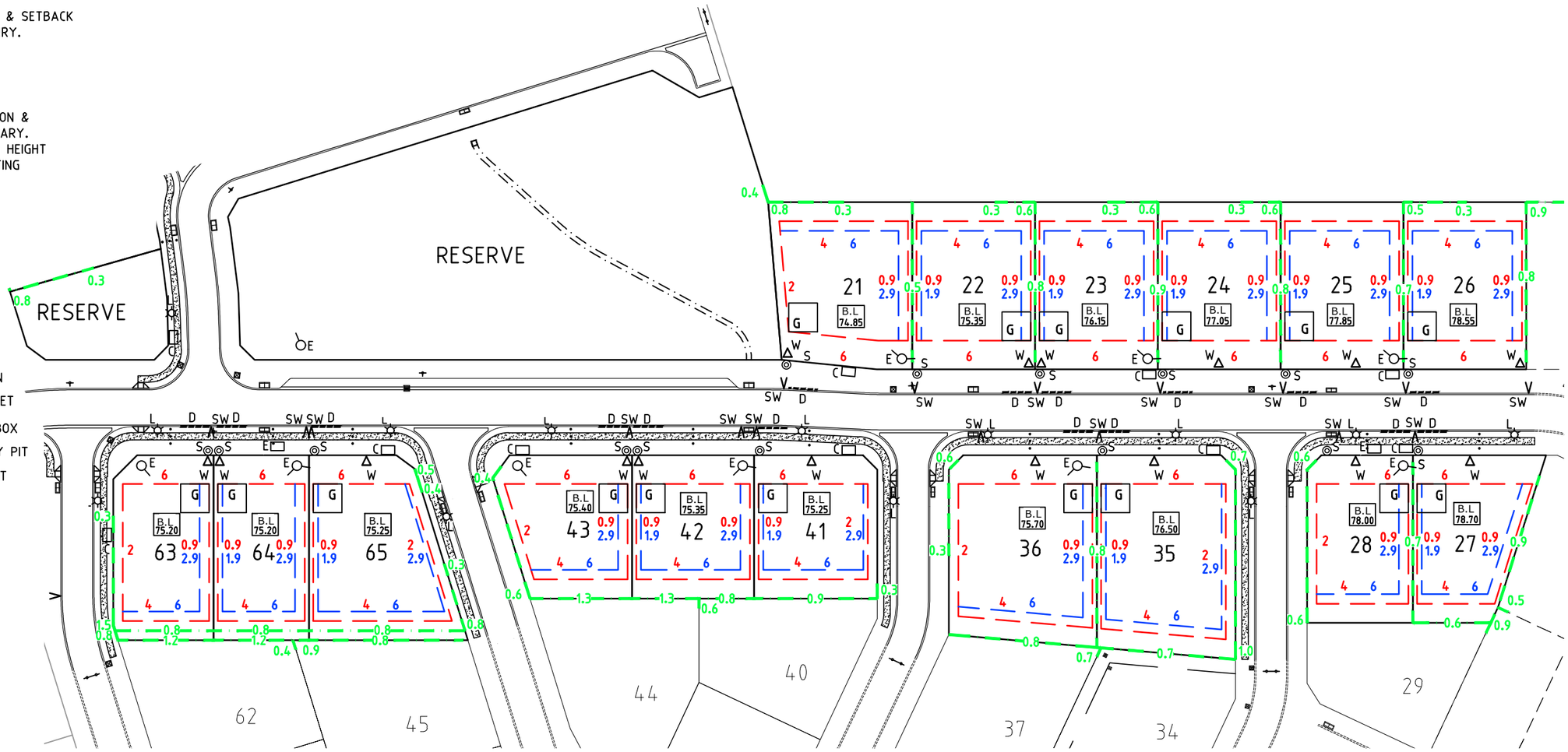
TWO STOREY SETBACK
(>3m WALL HEIGHT)
MAX. BUILDING ENVELOPE & SETBACK DISTANCES FROM BOUNDARY.

DRIVEWAY LOCATION.
MAX. WIDTH OF 6m

DENOTES GARAGE LOCATION & MAY BE BUILT ON BOUNDARY.
MAX. 11.5m LENGTH & 3m HEIGHT ABOVE THE TOP OF FOOTING

- SEWER CONNECTION
- WATER CONNECTION
- SAPN PILLAR / ELECTRICAL CONNECTION
- SAPN LIGHT POLE
- SAPN TRANSFORMER
- COMMUNICATIONS PIT
- REAR OF ALLOTMENT STORMWATER CONNECTION
- STORMWATER KERB OUTLET
- STORMWATER JUNCTION BOX
- STORMWATER SIDE ENTRY PIT
- RETAINING WALL & HEIGHT
- PRAM RAMP
- FOOTPATH
- IRRIGATION CONDUIT UNDER FOOTPATH
- ALLOTMENT MINIMUM BENCH LEVEL (AHD)
- EASEMENT
- FENCING SUPPLIED
- STREET SIGN
- DRIVEWAY CROSSOVER

NOTE: extent of information required to be provided on the BEP is limited to those items listed in the BEP. However, an applicant may include additional information on the BEP as required.



NOTES

- MINIMUM PRIVATE OPEN SPACE:
  FOR SITE AREA <301m² : 24m² LOCATED BEHIND BUILDING LINE
  FOR SITE AREA >301m² : 60m² LOCATED BEHIND BUILDING LINE
  MINIMUM DIRECTLY ACCESSIBLE FROM A LIVING ROOM = 16m² (WITH A MIN. DIMENSION OF 3m)
- MAXIMUM BUILDING HEIGHT: 2 BUILDING LEVELS WITH A MAXIMUM HEIGHT OF 9m WHEN THE LOT NOMINATES A TWO-STOREY SETBACK
- MAXIMUM SITE COVERAGE PER PLANNING AND DESIGN CODE REQUIREMENTS AND DESIGN GUIDELINES APPLY.
- THE BUILDING ENVELOPES DEMONSTRATED ON THIS BUILDING ENVELOPE PLAN HAVE REGARD TO THE RELEVANT STANDARDS FOR SETBACKS, PRIVATE OPEN SPACE IN THE PLANNING AND DESIGN CODE. HOWEVER, THE BUILDING ENVELOPES DO NOT TAKE INTO CONSIDERATION FUTURE ANCILLARY DEVELOPMENT SUCH AS OUTBUILDINGS, SWIMMING POOLS WHICH MAY BE IMPACTED BY THE SIZE AND LOCATION OF A DWELLING. REGARD SHOULD BE HAD TO FUTURE ANTICIPATED ANCILLARY DEVELOPMENT IN SELECTING THE DWELLING DESIGN.

0 20m 40m 60m 80m

SCALE 1:1000 @ A3

Application Number
Address/Location
BEP Reference Number
Date

PRACTICE DIRECTION 15

Building Envelope Plans 2021

STATE PLANNING COMMISSION

This practice direction is issued by the State Planning Commission under section 42 of the *Planning, Development and Infrastructure Act 2016.*

Introduction

Section 42 of the *Planning, Development and Infrastructure Act 2016* (the Act) allows the State Planning Commission (the Commission) to issue practice directions for the purposes of the Act. Generally, practice directions specify procedural requirements or steps in connection with a matter arising under the Act. In certain cases, the Act requires a particular matter to be addressed or dealt with by a practice direction.

This practice direction is being made by the Commission to support the operation of section 71(b), 102(1)(a), 102(1)(c) and 102(1)(d) of the Act and Regulation 19A of the *Planning, Development and Infrastructure (General) Regulations 2017* (the Regulations) with respect to the assessment, approval and publication of building envelope plans referred to in the Planning and Design Code.

Practice direction

Part 1 – Preliminary

1 – Citation

This practice direction may be cited as the *State Planning Commission Practice Direction 15 (Building Envelope Plans) 2021*.

2 – Commencement of operation

This practice direction will come into operation on the day on which it is published on the SA Planning Portal.

3 – Object of practice direction

The object of this practice direction is to specify the criteria for assessment, approval and publication of a building envelope plan in accordance with the Act and the Regulations, and as referred to in the Planning and Design Code.

4 – Interpretation

In this practice direction, unless the contrary intention appears –

Act means the *Planning, Development and Infrastructure Act 2016.*

building envelope plan means a building envelope plan as that term is defined in the Regulations.

Commission means the State Planning Commission.

master planned zone means the Master Planned Neighbourhood Zone, Master Planned Township Zone or the Master Planned Renewal Zone in the Planning and Design Code.

proposed allotment means an allotment shown on a building envelope plan and which has been granted consent under section 102(1)(a) of the Act or section 33(1)(a) of the *Development Act 1993*, and which is intended to be either a torrens titled allotment approved under section 102(1)(c) of the Act or section 33(1)(c) of the *Development Act 1993* or a community titled or strata titled allotment approved under section 102(1)(d) of the Act or section 33(1)(d) of the *Development Act 1993*.

Regulations means the *Planning, Development and Infrastructure (General) Regulations 2017.*

Note: Section 14 of the *Acts Interpretation Act 1915* provides that an expression used in an instrument made under an Act has, unless the contrary intention appears, the same meaning as in the Act under which the instrument was made.

Part 2 – Approval and publication of building envelope plans

5 – Timing for application for assessment of building envelope plans

Prior to an application for assessment of a building envelope plan being made, all proposed allotments shown on a building envelope plan:

(1) must have been granted consent under section 102(1)(a) of the Act or section 33(1)(a) of the *Development Act 1993*;

(2) may (or may not) have been granted land division consent under section 102(1)(c) or section 102(1)(d) of the Act or section 33(1)(c) or section 33(1)(d) of the *Development Act 1993*; and

(3) may (or may not) have been created as allotments by means of deposit of a plan of division.

6 – Form of building envelope plans

(1) A building envelope plan **must** include or show the following particulars:

a. details of consent for all proposed allotments, granted under section 102(1)(a) of the Act or section 33(1)(a) of the *Development Act 1993* (as relevant);

b. distance of setback of any proposed building on a proposed allotment, from the primary and secondary street boundaries, side boundaries, and the rear boundary of the proposed allotment (shown in metres to at least one decimal place);

c. height and length of any boundary walls for any proposed building on a proposed allotment (shown in metres to at least one decimal place);

d. the north point;

e. the scale of the plan;

f. the position of any existing buildings intended to be retained on a proposed allotment;

g. the location of any regulated tree which is either wholly or partially within a proposed allotment (including any tree protection zone applicable to such tree);

h. existing trees and vegetation to be retained; and

i. all existing registered easements.

(2) A building envelope plan **may** include or show the following particulars:

a. building height for any proposed building on a proposed allotment (nominated in building levels and metres);

b. private open space (shown in square metres) for each proposed allotment;

c. location and width of any vehicle access point intended to service a proposed allotment (shown in metres to at least one decimal place);

d. location and size (shown in square metres) of land on a proposed allotment intended to be utilised or made available for stormwater management infrastructure;

e. finished floor levels for any proposed building on a proposed allotment;

f. the contours of the present surface of the ground above some known datum level sufficient to determine the intended level or gradient of all proposed allotments (and where the land is to be filled or graded, both existing contours or levels and proposed contours or levels must be shown);

g. where land is intended to be filled or graded, the length and height (in metes) of any retaining walls located within the relevant site;

h. the location of any proposed activity centre; and

i. location, size and/or dimensions (as necessary) of any other items relevant to the assessment of a building envelope plan under the Planning and Design Code, including (but not limited to) activity centres, public open spaces, high frequency public transit services associated with, adjacent to or servicing proposed allotments.

(3) A building envelope plan **must** be drawn in accordance with the following rule of scale:

a. if the area of the smallest proposed allotment is 2,000 square metres or under, a scale of not less than 1:1,000;

b. if the area of the smallest proposed allotment is over 2,000 square metres and under 10,000 square metres, a scale of not less than 1:2,500; or

c. if the area of the smallest proposed allotment is 10,000 square metres or over, a scale so that such proposed allotment will be delineated by no less than 3cm2 on the building envelope plan.

Refer to example BEP included at the end of this Practice Direction.

7 – Criteria for assessment and approval of building envelope plans

For the purpose of an assessment under Regulation 19A, a building envelope plan must be assessed on its merits against any relevant desired outcomes or performance outcomes within any applicable zone, subzone or overlay, and any relevant general development policies, in the Planning and Design Code.

8 – Process and timeframe for designated authority to assess and determine BEP

(1) The following process and timeframes should be followed for the assessment and determination of a BEP:

a. The applicant submits the BEP to the designated authority.

b. Within two (2) business days the designated authority issues the invoice for assessment

and publication of the BEP. Details of BEP application fees can be found here [add link].

c. Within five (5) business days the designated authority can make one (1) request for further information in respect of the BEP. The designated authority is not permitted to make a further request or request information outside of the five (5) business day time period.

d. Once the applicant has paid the invoice and provided a response to a request for information the designated authority must determine the BEP within five (5) business days.

e. In determining the BEP the designated authority should use the "Approval of BEP and request for publication" form available here [add link].

(2) A BEP should be assessed as quickly as possible and in accordance with the timeframes stipulated in the Regulations.

(3) If a designated authority does not determine a BEP within the legislated timeframe the applicant can issue a deemed approval, which will enable the BEP to progress to publication. The BEP will be subject to the standard notes and conditions contained at the end of this Practice Direction.

~~8~~9 – Publication of building envelope plans

(1) The Chief Executive may publish a building envelope plan on the SA planning portal in accordance with the Act and the Regulations.

(2) Where a varied or amended building envelope plan is published by the Chief Executive in accordance with the Regulations, the latest published version of the building envelope plan will apply for the purposes of the Planning and Design Code, the Regulations and the Act.

(3) For the purpose of the Regulations and this Practice Direction, the SA planning portal is taken to refer to the website at the address https://plan.sa.gov.au.

Practice Direction 15 *Building Envelope Plans* issued by the Commission on 19 March 2021 is revoked.

Issued by the State Planning Commission on 27 May 2021

Versions

Version 2: Commenced operation on 27 May 2021
Version 1: Commenced operation on 19 March 2021

Example BEP

[INSERT HERE]

Standard Notes/Conditions

(1) Minimum Private Open Space:
For site area <301m2: 24m2 located behind the building line
For site area >301m2: 60m2 located behind the building line
Minimum directly accessible from living room = 16m2 (with a minimum dimension of 3m)

(2) Maximum building height: 2 building levels with a maximum height of 9m when the Lot nominates a two-storey setback.

(3) The building envelopes demonstrated on this building envelope plan have regard to the relevant standards for setbacks and private open space in the Planning and Design Code. However, the building envelopes do not take into consideration future ancillary development such as outbuildings and swimming pools which may be impacted by the size and location of a dwelling. Regard should be had to future anticipated ancillary development in selecting the dwelling design.