
South Australia's Planning Reforms: the transition to a new planning system in full swing

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South Australia's planning reforms are continuing to progress despite the change in state government to a liberal government after 16 years of labor governments. It is now just over 18 months until 1 July 2020 — the date upon which the Planning, Development and Infrastructure Act 2016 (SA) (the Act) becomes fully operative and the current, longstanding Development Act 1993 (SA) will be repealed.

This paper provides an overview of recent advances in South Australia's planning reforms, including the establishment of the State Planning Commission (SPC), the State Commission Assessment Panel (the SCAP), Regional Assessment Panels (RAPs) and Council Assessment Panels (CAPs). It also provides an overview of key reforms currently being implemented including the Accredited Professionals Scheme, the State Planning Policies (SPPs) and development assessment pathways.¹

SPC, Panels and the Accreditation Scheme

The SPC, SCAP, RAPs and CAPs have each now been operational for over 12 months. The SPC was first appointed in March 2017 and has been driving the reform process since. The inaugural chair of the SPC and former Supreme Court Justice, Tim Anderson QC has recently resigned and Mr Michael Lennon, who has 25 years' experience in planning, housing and development in Australia and overseas, has been appointed as the chair.

The SPC has released a series of discussion papers on the various State Planning Policies (discussed in detail below) which are intended to underpin the drafting of the Planning and Design Code. This Code is the comprehensive planning assessment document which will form the basis for the new planning system.

The SCAP was established on 1 August 2017 and has assumed the responsibilities previously undertaken by the Development Assessment Commission (also known as the DAC) under the Development Act — primarily the assessment of significant development applications. Once the Act is fully operational, the SCAP will be the relevant planning authority for development applications designated as "restricted" under the Code.

The establishment of RAPs and CAPs in October 2017 has seen a reduction in elected member participation with a maximum of only one elected member to be appointed to a RAP or CAP, compared to the two to four permitted under the Development Act.²

Presently, there are no formal educational or other eligibility requirements which apply to RAP and CAP members. Over the next 12–18 months, the Accredited Professionals Scheme under the Act will commence and all SCAP, RAP and CAP members (including elected members of a council) will be required to be registered as Accredited Professionals under the Scheme, in order to be eligible to be appointed to a panel.³

Accredited Professionals Scheme

Section 88 of the Act⁴ requires numerous persons involved in the administration of the Act to be registered as an "Accredited Professional" under the Act. These persons include:

- all SCAP, RAP and CAP members
- Assessment Managers who are responsible for making planning decisions on applications lodged with the SPC, joint planning boards and councils, as well as providing assessment reports and assisting the SCAP, RAPs and CAPs in their decision-making functions
- private certifiers who are able to make certain planning and building assessment decisions under the Act
- building inspectors

Under the Development Act certain building assessment, inspection and enforcement powers can be undertaken only by persons holding recognised building surveying and engineering qualifications and registration as a private certifier also requires certain qualifications. However, there is no formal accreditation "scheme" in place under that Act.

In preparation for the implementation of the new Accreditation Scheme, the SPC has recently undertaken public consultation on the proposed Planning, Development and Infrastructure (Accredited Professionals) Regulations 2018 (SA) (the Draft Regulations).

The Draft Regulations set out the class, authorised functions and accreditation requirements for accredited professionals in both the planning and building sector. Under the Accredited Professionals Scheme, it is proposed that Accredited Professionals be required to apply for and obtain accreditation before they can be appointed as an Assessment Manager or a private certifier, to the SCAP, a RAP or a CAP, or to undertake certain building assessment, inspection or enforcement responsibilities.

Accredited Professionals will be required to renew their registration on an annual basis and to undertake a minimum amount of Continuing Professional Development to be able to renew their registration. The Draft Regulations also set out grounds for the cancellation, suspension or disqualification of the accreditation of an Accredited Professional.⁵

SPPs

The SPPs are a set of 16 policy papers, developed in accordance with ss 58 to 63 of the Act. Once adopted, the SPPs will form the highest level of policy for the state and set out the “State’s overarching goals and requirements for the planning system”.⁶

The SPPs cover a range of topics including those required under the Act⁷ being:

- design quality
- integrated planning
- adaptive reuse
- climate change
- biodiversity

Consultation on the SPPs occurred between July and September 2018. Over 130 written submissions were received during the consultation period. During this time, the state Department of Planning, Transport and Infrastructure (DPTI) presented to more than 20 organisations from local government, state government, statutory boards and community organisations, for the purpose of obtaining feedback on the SPPs.⁸

An independently-facilitated Community Engagement Panel (CEP) was held in September 2018. The CEP consisted of 24 participants of mixed ages, gender, cultural diversity and from both metropolitan and regional areas.⁹ The general feedback from participants to the SPPs was, on the whole, positive, with areas of participant concerns focusing on climate change, biodiversity, natural hazards, natural resources and housing supply.¹⁰

DPTI will be releasing a report titled *What We Have Heard Report* from the feedback received during the CEP. This will be available, online, through the SA Planning Portal.

The final version of the SPPs have not been released, but in their draft form appear to be written in broader

aspirational terms.¹¹ Ministerial approval of the SPPs is anticipated to occur anytime from December 2018.

ePlanning

Of fundamental importance to the implementation of the Act is the establishment of the state’s ePlanning system, which is a system that is required by the Act.¹² The proposed ePlanning system is intended to provide an online planning portal for the lodgment and processing of all development applications in the state. It will also be a centralised location for all planning information, data and mapping for applicants.¹³

The ePlanning system is partially operational and can be accessed through the SA Planning Portal. Planning and development information can be accessed, details for development applications lodged with the SCAP and land division applications viewed, as well as zoning, spatial and development constraint information through Location SA Map Viewer and Property Location Browser. In addition, public submissions on Development Plan Amendments (being the mechanism by which zoning changes are achieved presently under the Development Act) and discussion papers released by the SPC can be submitted through the ePlanning system.

Presently, the SPC is working with councils to ensure that the development application lodgment system (which system is funded by levies imposed on councils under the Act) is developed and ready for implementation ahead of 1 July 2020.

Upcoming advancements

Over the next few months, the SPC and DPTI will be undertaking comprehensive public consultation to inform the continued progress of the planning reforms and implementation of the Act. From October to December DPTI is holding a number of “open house sessions” in Adelaide with councils, planning and building professionals, industry and community groups and members of the public.¹⁴ In November, a number of similar sessions will be held in regional areas of South Australia.¹⁵

Recently, the state government announced funding for the SPC to prepare a bushfire overlay for online mapping data. The intent is to create a new improved mapping system with expanded coverage for bushfire risk areas to inform future development applications lodged under the ePlanning system.¹⁶

Public consultation on the Code is scheduled to commence in January 2019. Given the importance of the Code to the new planning system under the Act and to future development applications in South Australia, this round of public consultation is highly anticipated and will, no doubt, generate significant debate and discussion.

Local Government

Reporter

We will continue to follow progress on the planning reforms and implementation of the Act and will report on key implementation milestones in the lead-up to the full commencement of the Act on 1 July 2020.



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Footnotes

1. Previous articles concerning South Australia's planning reform process and the Planning, Development and Infrastructure Act include: V Shute "Planning law reform builds momentum in South Australia" (2013) 11(8) *LGovR* 126; P Metljak and C Lucas "A look into the future — the Planning, Development and Infrastructure Bill 2015 outlines South Australia's new planning system" (2016) 15(1) *LGovR* 204; V Shute "Planning, Development and Infrastructure Act 2016 — South Australia's new planning system has passed into law. What does the new Act contain and what will happen next?" (2016) 15(4) *LGovR* 264; and V Shute "(Planning) systems are go! South Australia's transition to a new planning system is underway" (2017) 16(5) *LGovR* 91.
2. The numbers of elected members were determined by the size of the Panel under the Development Act. Five-member Panels could have no more than two elected members. Seven-member Panels could have no more than three elected members. The City of Adelaide Panel which had nine members, could have no more than four elected members.
3. Planning, Development and Infrastructure Act, s 83(1)(c); refer also to Department of Planning, Transport and Infrastructure (DPTI) *Accredited Professionals Scheme (draft)* (August 2018) www.saplanningportal.sa.gov.au/__data/assets/pdf_file/0010/488773/Accredited_Professionals_Scheme_Draft.pdf.
4. Yet to be proclaimed.
5. DPTI, above n 3; Planning, Development and Infrastructure (Accredited Professionals) Draft Regulations, regs 3 and 20.
6. Planning, Development and Infrastructure Act, s 58(2).
7. Planning, Development and Infrastructure Act, ss 59-62A.
8. DPTI, Planning ahead, October 2018, <http://createsend.com/t/r-F3D18263E0679C9D2540EF23F30FEDED>.
9. Above; see also DPTI, Community Engagement Panel on the Draft State Planning Policies: Workshop Summary, 8 September 2018, www.saplanningportal.sa.gov.au/__data/assets/pdf_file/0008/498833/Community_Engagement_Panel_on_the_Draft_SPPs_-_Workshop_Summary.pdf.
10. DPTI, above.
11. DPTI *Consultation: Draft State Planning Policies for South Australia* (July–September 2018) www.saplanningportal.sa.gov.au/__data/assets/pdf_file/0007/478654/Draft_State_Planning_Policies_for_South_Australia_for_Consultation.pdf; see also DPTI *Summary of the Draft State Planning Policies for South Australia* (July 2018) www.saplanningportal.sa.gov.au/__data/assets/pdf_file/0010/478657/Summary_of_the_Draft_State_Planning_Policies_for_South_Australia.pdf.
12. Planning, Development and Infrastructure Act, ss 48–56.
13. DPTI *Assessment Pathways: how will they work? — Technical Discussion Paper* (August–October 2018) www.saplanningportal.sa.gov.au/__data/assets/pdf_file/0004/487003/Assessment_Pathways_-_How_Will_They_Work_-_Technical_Discussion_Paper.pdf at 9.
14. More information regarding the open house sessions and how to register can be found online through the SA Planning Portal at www.saplanningportal.sa.gov.au.
15. The sessions are open to anyone and further information about the sessions can be found online on the SA Planning Portal at www.saplanningportal.sa.gov.au.
16. Above n 8.