

LG Alert – Accredited Professionals Scheme Code of Conduct, Guide to the Accredited Professionals Scheme and Continuing Professional Development have been released

On 28 March 2019 the Minister for Planning, Transport and Infrastructure adopted the [Accredited Professional Scheme Code of Conduct April 2019](#) (“the Code”). The Code took effect from 1 April 2019 and must be observed by all professionals that are accredited under the *Planning, Development and Infrastructure Act 2016* (“the PDI Act”).

The release of the Code coincides with the commencement of the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019* (“the Regulations”). The Accreditation Scheme operates together with the Planning and Design Code. The program for accreditation occurs over the next fourteen (14) months as follows:

- professionals practicing outside of council areas, to be accredited by July 2019;
- professionals practicing in regional areas, to be accredited by 1 November 2019; and
- professionals practicing within Greater Adelaide, to be accredited by 1 July 2020.

In addition to the Code, the Department of Planning, Transport and Infrastructure (“DPTI”) has also released the [Guide to the Accredited Professional Scheme April 2019](#) (“the Guide”), the [Accreditation Authority’s Qualifications, Skills & Expertise for Accredited Professionals April 2019](#) (“Qualification Guide”) and application template documents.

The Code of Conduct

Accredited professionals will be required to perform their functions and duties in accordance with the *Planning, Development and Infrastructure Act 2016* (“the PDI Act”) and the Code. Section 15 of the PDI Act sets out the general duties for accredited professionals which include, but are not limited to:

- acting cooperatively and constructively;
- being honest and open in interaction with other entities under the Act;
- exercising care and diligence;
- acting honestly and in an impartial manner;
- being reasonable and accountable; and
- complying with the Code, service benchmarks and other requirements.

Importantly, where accredited professionals are bound by other codes of conduct or professional standards of respective professional associations and a conflict exists between the requirements in the Code and the other professional codes of conduct or standards, the Code will prevail for the purposes of the PDI Act.

The Code comprises 26 clauses. Clauses 1 to 20 are to be observed by **all** accredited professionals. Clauses 21 to 26 specifically apply to accredited professionals that undertake building rules assessment.

Of note (*paraphrased*):

- clauses 5 to 7 place an emphasis on accredited professionals having regard to honesty and include a self-reporting mechanism, including that they must:
 - not misinform or mislead regulatory, government or professional bodies in the performance of their work;
 - act with honesty, integrity, good faith, equity and must not discriminate; and
 - advise the Accreditation Authority if:
 - (a) they are subject to a formal investigation or have been found in breach of any other code of conduct, ethical standard or similar, including breaches in other States and Territories;
 - (b) they have been found guilty of a breach of legislation related to a planning, building or development related matter; or
 - (c) are subject to a claim against their professional indemnity insurance;
- clause 16 provides for conflicts of interest – accredited professionals must not perform their statutory functions if they have a real or perceived conflict of interest between their professional duties and their personal or business interests;
- clauses 18 and 19 relate to gifts and benefits – accredited professionals must not seek or accept gifts or benefits that are intended or could be perceived as likely to cause them to act, in an unfair or biased manner in the course of their duties. They must also take all reasonable steps to ensure that persons related to them (being a spouse, de-facto, sibling, parent or child) does not receive gifts or benefits that could appear to be an attempt to influence favour from the accredited professional (this is not dissimilar to the code of conduct for council employees and elected members);
- clause 20 requires accredited professionals to have regard to their affiliations and interests (both pecuniary and other) that would lead to a reasonable apprehension that they might be biased in carrying out the functions and duties of their professional role; and
- clauses 21 and 26 relate, specifically, to accredited professionals who undertake building rules assessment with the additional requirements including standard of documentation, risk assessment, performance solutions (alternative solutions) and reliance on certification from others.

In accordance with section 91 of the PDI Act, where an accredited professional breach their duties, including contravening or failing to comply with the Code, the accredited professional will be guilty of a criminal offence, punishable by a fine of up to \$50,000. For this reason, it is important that accredited professionals understand their requirements under the Code.

Guide to the Accredited Professionals Scheme

The Guide is a tool to assist current planning, building and surveyor professionals in becoming accredited and in meeting their ongoing requirements for accreditation.

The Guide sets out the following:

- the Accreditation Authority is the Chief Executive of DPTI;
- the required qualifications for accredited professionals are contained within the Qualification Guide. However, the Accreditation Authority can approve alternative qualifications, experience and technical skills on a case-by-case basis and can grant conditional accreditation;
- the recognised equivalent schemes – which provide ‘quicker’, cheaper and guaranteed pathways to accreditation - being:
 - planning – membership with the Planning Institute of Australia (“PIA”) (dependent on level of accreditation and level of membership);
 - land surveyor – licensed surveyor with the Surveying and Spatial Sciences Institute (“ISSS”); and
 - building – membership with the Australian Institute of Building Surveyors (“AIBS”) or the Royal Institution of Chartered Surveyors (“RICS”) (dependent on level of accreditation and level of membership);
- the transitional arrangement for registered private certifiers, who automatically became accredited under the Scheme on 1 April 2019 and will remain accredited until the anniversary of their current registration (as per regulation 93A of the *Development Regulations 2008*), after which time they must become accredited under the PDI Act; and
- the process for complaints against accredited professionals, being to the Accreditation Authority, the investigation procedure and cancellation or suspension of accreditation.

Continuing Professional Development

The Guide also provides the requirements of mandatory continuing professional development (“CPD”) for accredited professionals.

To maintain accreditation, accredited planning and land surveyor professionals will be required to complete CPD every year within the following practice areas:

- performance based planning;
- decision making in development assessment;
- legislative compliance; and
- ethics in planning.

Accredited building professionals will be required to complete CPD every year from each of the following practice areas:

- construction practices and principles;
- application of performance-based building code matters;

- decision making in development assessment;
- legislative compliance; and
- ethics in development.

Accredited professionals will be required to complete (annually) either 20 CPD units (for planning levels 1, 3 and 4, surveyor and building levels 1, 2 and 3) or 10 CPD units (for planning level 2 and building level 4). CPD will be counted from a range of activities including:

- attendance at conferences, seminars, lectures, workshops and study tours which will receive 1 unit per hour of attendance (capped at 8 units per calendar year);
- self-guided learning which will receive 1 unit per hour (capped at 8 units per calendar year);
- professional and community service which will receive 1 unit per hour (capped at 8 units per calendar year);
- formal education and training which will receive 2 units per hour (no cap); and
- presentations, papers, publications and instructions will receive 2 units per hour (no cap).

The Guide acknowledges that, in some instances, members of professional bodies (such as PIA, AIBS and RICS) will be required to undertake CDP to maintain their membership with these bodies. As the CPD requirements of the Accreditation Scheme are mandated by the *PDI (Accredited Professionals) Regulations* the CPD requirements may not align with the CPD requirements of professional bodies. However, it is likely that CPD earned under the Accreditation Scheme will also count towards the requirements of these professional bodies.

For auditing purposes, accredited professionals are required to keep a record of their CPD and must maintain these records for at least five (5) years after the end of the membership year that the CDP applies to. This is important because accredited professionals can be audited and all accredited professionals will be audited with the exception of assessment panel members and employees of the State or a council.

The Code, the Guide, the Qualification Guide and other relevant forms can be accessed via the SA Planning Portal at www.saplanningportal.sa.gov.au.

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