

Assessment Panels – What do Councils need to do?

Update #2 – commencement date for new panels

The first stages of transition from the existing *Development Act 1993* (Development Act) to the new *Planning Development and Infrastructure Act 2016* (the “PDI Act”) commenced operation on 1 April 2017 following proclamation of the PDI Act and the *Statutes Amendment (Planning, Development and Infrastructure) Act 2017* (the transitional Act) on 28 March 2017. Some components of the Acts have come into force immediately and others have been suspended to commence later in the staged implementation process.

The Initial provisions provide for planning tools and governance frameworks to be introduced in stages as parts of the Development Act are phased out.

The transitional Act makes specific provision for the transition to the new **Council and Regional Assessment Panels** as one of the early governance arrangements to be implemented under the new system.

The New Assessment Panels

The PDI Act provides for a range of Assessment Panels to make decisions on more complex developments and on those matters which may be prescribed by regulations.

The following kinds of panels are proposed:

- Council Assessment Panel – replaces Council’s current Development Assessment Panel (DAP) function.
- Joint Planning Board Assessment Panel – appointed by a Joint Planning Board.
- Combined Assessment Panel – established by the Minister to be involved in applications across different legislation (eg planning and mining or liquor licensing).

- Regional Assessment Panel – established by the Minister and comprises parts or all of the areas of two or more Councils.
- Local Assessment Panel – constituted by the Minister upon recommendation of the Commission following an inquiry into an existing Council Assessment Panel.

When does Council need to establish an Assessment Panel?

The transition arrangements have enabled existing Council and Regional assessment panels to continue to operate as Assessment Panels under the PDI Act from 1 April 2017.

The initial implementation program identified July 2017 as the target date for commencement of the new Panel arrangements. It is now proposed to commence operation of sections 82-87 and clauses 12-16 of Schedule 8 of the PDI Act (new panel requirements) on **1 August 2017**, and designate **1 October 2017** as the date from which the new panels must be constituted and operating.

This provides approximately 5 months from now for councils to appoint their new Council Assessment Panel (CAP) under section 83 of the PDI Act, in order to make development assessment decisions from 1 October 2017.

In respect to Regional Development Assessment Panels (RDAPs) the transition provisions enable the Minister to appoint a new Regional Assessment Panel (RAP) as successor to the current RDAPs, or a new RAP. It will therefore be necessary for Councils currently represented by a RDAP to consider how they wish to proceed in the future. Affected Councils are requested to advise the Minister of their preferred approach as soon as possible and by no later than **1 September 2017** in order for the Minister to consider and make the necessary appointments.

It is therefore important for Councils to begin giving consideration to the process for amending the membership of their current DAPs/RDAPs. This could be a matter of retaining a core membership of existing Panel members and reducing the number and composition to meet the new requirements.

The new Assessment Panels could also initially adopt the operating procedures of the current Panels to simplify the transition process.

Arrangements for transitioning to Assessment Panels will be a matter for each Council or group of Councils to determine based upon their individual circumstances.

Membership of Assessment Panels

The membership of Assessment Panels established by Councils, or in the future a Joint Planning Board, should be comprised of no more than five members, only one of which may be a member of a Council.

A Panel will need at least three members to be legally constituted.

The establishment and membership of a Regional Assessment Panel will be determined by the Minister on request from a group of councils. One member of these Panels may be a member of a Council.

Members of Parliament are not eligible to be appointed to panels. Panel members will be subject to similar disclosure of financial interests and conflict of interest provisions as exist currently.

The procedures of an Assessment Panel must comply with any requirements prescribed by the regulations. Draft regulations, a draft Code of Conduct, and draft procedures for Regional Assessment panels have been prepared and can be accessed on the SA Planning Portal. See the end of this fact sheet for detail.

These instruments reflect similar procedures to that currently operating. Panels may adopt any other procedures it determines necessary, providing they are consistent with those prescribed by regulation.

Do Assessment Panel members need to be 'accredited professionals'?

All independent members of an Assessment Panel will need to be accredited professionals.

However, a Council member (or former Council member) on an Assessment Panel will not need to be an accredited professional if the designated authority (being the Council or the Joint Planning Board as the case may be) is satisfied that the person is appropriately qualified to act as a member of the assessment panel on account of the person's experience in local government.

For transitional purposes, the requirements for other members of panels to be accredited are suspended. An accreditation scheme is currently being prepared (further separate information will follow) and is expected to be in place by the end of this year.

The implementation plan for the new planning system identifies July 2018 as the anticipated date for commencement of the accreditation requirements, giving a six month window within which members can be accredited in the first instance. The actual date for commencement will be proclaimed in due course closer to the anticipated date.

When do Assessment Panels need to have an Assessment Manager appointed?

An Assessment Panel must have an Assessment Manager who is appointed by the Chief Executive Officer of a Council (in the case of a Council Assessment Panel) or a Joint Planning Board (in the case of a Joint Planning Board Assessment Panel) or the Minister (in the case of a Regional Assessment Panel).

Assessment Managers will either need to be accredited professionals, or may be a person prescribed by regulation.

Under the transitional arrangements, the accreditation requirement for Assessment Managers is also suspended until a future date, likely to be the same date as Panel members will be required to be accredited – July 2018.

Further Information

The draft regulations, draft Code of Conduct, and draft procedures for Regional Assessment panels can be viewed at

www.saplanningportal.sa.gov.au/our_new_system/dev_elpment_assessment.