

# Planning, Development and Infrastructure Act 2016

## Update for practitioners

The *Planning, Development and Infrastructure Act 2016* (the Act) was granted Royal Assent by the Governor on 21 April 2016 after passage through the Parliament of South Australia. The Act will be brought into operation in stages over the next five years. A **transitional bill**, the *Statutes Amendment (Planning, Development and Infrastructure) Bill 2016* (the Bill) has been prepared to facilitate the operation of the Act.

This information guide seeks to outline some of the transitional arrangements provided for by the Bill designed to support a **business as usual** approach for practitioners.

**The dates provided in the discussion below are included to assist practitioners in preparing for the implementation phase of the new legislation and are indicative only.**

### A New Governance Framework

#### Statutory Advisory Committees

(proposed April 2017)

The Act requires the establishment of committees to provide advice on the implementation of the Act. The committees must include the following:

- Local Government Advisory Committee,
- Development Industry Advisory Committee, and
- Community Participation and Sustainability Advisory Committee.

The membership of each committee and their function is currently being developed. It is anticipated that the committees will become operational in April 2017.

#### The New State Planning Commission

(proposed April 2017)

The Act creates a new State Planning Commission (the Commission) that will report to the Minister for Planning (the Minister) and be responsible for providing independent advice and guidance to local and state government and industry professionals on planning and development matters. The Commission will also be responsible for establishing and maintaining the Community Engagement Charter as its first order of business.

The Bill provides for the establishment and implementation of the new Commission on 1 April 2017 (although it can commence earlier or later than this date if required). The Commission may then establish sub-committees to assist in its functions, one of which must be an assessment panel.

Councils will need to be aware of the responsibilities of the Commission in helping to develop the new planning system but for most matters it is still business as usual.

#### Current Assessment and Policy Committees

(proposed 1 April 2017)

To provide for a seamless transition, the Development Assessment Commission (DAC), Building Rules Assessment Commission (BRAC), and Development Policy Advisory Committee (DPAC) will continue to operate under the current arrangements. On a 'designated day', yet to be determined, the responsibilities of the committees will be assumed by the State Planning Commission. The Commission must then establish new assessment panels and may establish other committees as it sees fit.

## **Development Assessment Panels & Regional Assessment Panels**

(1 July 2017)

During transition, the Bill provides for existing council assessment panels to continue to operate as council-appointed assessment panels under the new Act. Once the scheme commences operation (around July 2017), the new Act will require that each panel will only contain up to one elected representative of council. For transitional purposes, the Bill allows for the delay of implementation of the accreditation scheme until the relevant provisions of the new Act are proclaimed (around July 2018).

## **Assessment Managers**

The Bill allows for the early appointment of Assessment Managers in readiness for the Accreditation of Professionals under the Act. An Assessment Manager may continue to act as a delegate of the council under the Development Act in the interim.

As detailed above, this Bill provides for the delayed implementation of the accreditation scheme until the relevant provisions of the new Act are proclaimed. This will allow professionals sufficient time to gain accreditation in advance under the new accreditation scheme.

## **Planning Agreements & Joint Planning Boards**

(pilot program to commence early 2017)

The Act provides the opportunity for councils to perform certain functions as a Joint Planning Board established via a Planning Agreement entered into with the Minister. A pilot program will be commenced in early 2017 to assist in preparing an information guide for councils on this element.

## **Information Sharing & Community Engagement**

### **SA Planning Portal**

(first version by end November 2016)

By April 2016, the provisions to introduce the requirement for key components of the SA Planning Portal (the Portal) are expected to be proclaimed. Initially, the Portal will be a web site that includes all planning related information that will assist people to engage in the implementation program for our new system.

The Department for Planning, Transport and Infrastructure (DPTI) has engaged a specialist web design team to undertake this work with the first version of the Portal targeted for delivery by the end of November 2016. The Portal will not be fully operational until the Code and Assessment Pathways are introduced.

## **Community Engagement Charter**

(draft early 2017)

The establishment of the Community Engagement Charter (the Charter) is a statutory requirement under the new Act. The Charter will put the state at the forefront of engagement by establishing a clear and proactive framework to facilitate appropriate, early public participation in the planning process. It is also intended that the Charter will deliver a systemic cultural change for planning in South Australia through the adoption of a performance-based approach to consultation.

The Charter will be progressed as a priority as the development of a range of other key instruments of Our New System rely on the Charter being in place.

## **Planning Instruments**

### **State Planning Policies**

(completion end of 2017)

The Bill proposes an amendment to the Act ensuring that the Minister is ultimately responsible for all of the State Planning Policies (SPPs). Consistent with SPPs on adaptive re-use and climate change, the Bill makes it the responsibility of the Minister to prepare the design quality policy and the integrated planning policy as opposed to the Commission.

Consultation on the SPPs is required to be consistent with the new Charter and will be subject to parliamentary scrutiny via the Environment Resources and Development Committee of Parliament.

### **Regional Plans**

The Commission is required, of its own volition, or in partnership with a joint planning board, to prepare a regional plan for each planning region. During the transition, existing regional plans will continue to apply with new regional plans to be developed within two years of completion of the SPPs and the Planning and Design Code.

## **The New Planning & Design Code & Development Plans**

(mid to late 2018)

The Commission will develop a comprehensive Planning and Design Code (the Code) in consultation with councils and other stakeholders, as provided for in the new Charter. Although the Bill will require the roll out of the new Code to be completed by 1 July 2020, the Bill allows for flexibility and a smooth transition should the need arise for staged implementation. The Bill enables Development Plans to be gradually amended and replaced with elements of the Code as they are finalised.

The Bill also ensures that the new assessment pathways can operate using existing Development Plans until the Code is fully implemented.

The term 'Planning Rules' will be introduced through the Bill. The definition of Planning Rules includes a reference to Development Plans that may still be in place during transition.

### **Design Standards**

The provision of physical and social infrastructure is covered by a range of standards, codes, guidelines, manuals and other documents that are often applied on an informal basis. They can apply to specific areas or projects and may differ from one planning jurisdiction to the next. The purpose of the Design Standards is to provide guidance on the planning, design and delivery of infrastructure and high quality public realm.

It is anticipated that Design Standards will comprise of technical specifications and policy responses to various elements of infrastructure and the public realm.

### **Infrastructure Schemes**

(pilot programs commencing early 2017)

The Bill enables Infrastructure Schemes to be brought forward for the purpose of a pilot program encompassing both Basic and General Infrastructure Schemes.

The aim of initiating the pilot program is to 'test' the processes outlined in the new Act and prepare any necessary documentation required for an Infrastructure Scheme.

## **Assessment Pathways**

### **Current Development Applications**

The Bill allows for applications already lodged under the Development Act to continue to be processed in the existing system with the final outcome able to be recognised under the new Act.

### **Land Division Applications**

The Bill will protect existing approvals and enable them to be finalised within a reasonable timeframe. A two year transitional period will apply to existing Development Authorisations and Planning Consents for land divisions for residential purposes within an Environment and Food Production Area.

### **Decision Notices & Appeals**

The definition of Development Authorisation in the Bill includes reference to Development Authorisations issued under the Development Act.

The Bill also guarantees that any conditions previously applied under the Development Act are still applicable under the new Act.

The Bill will also ensure that appeals lodged under the Development Act will continue to be processed within that framework and that the final determination will be recognised under the new Act.

## **Other Matters**

Land Management Agreements, Car-parking Funds and Urban Tree Funds entered into under the Development Act will continue. Significant Tree lists, under current Development Plans will be carried over under the new system without alteration. Currently listed local heritage places will be carried over without alteration, noting the state government's current consultation on a possible review of local heritage provisions.

## **Next Steps**

The state government is committed to working in partnership with councils and practitioners. As the program is implemented, councils and practitioners will be kept up to date through a series of information sheets, forums and the SA Planning Portal.