



29 November 2019

Mr Michael Lennon
State Planning Commission

Sent by email to: DPTI.PlanningReformSubmissions@sa.gov.au

Dear Michael

South Australia's Planning and Design Code - Phase Two

The Planning Institute of Australia SA (PIA) would like to thank DPTI for the opportunity to provide feedback on the *South Australia's Planning and Design Code - Phase Two* within our State's new planning system under the *Planning, Development and Infrastructure Act 2016* ("the PDI Act").

PIA acknowledges the ongoing engagement by DPTI over the last two years, with both PIA and the planning profession more broadly.

We also continue to acknowledge the tremendous efforts taken within DPTI to produce the Planning & Design Code ("the code"). It is important to us that DPTI staff involved with the design of the new system are duly acknowledged for the extent of work involved with the creation of the code.

The intent of this submission is to provide feedback on Phase Two of the code, with a view to assisting DPTI to ensure that the implementation of Phase Two is both effective and best achieves the positive outcomes intended for our State by the PDI Act.

Timeframes

It is widely accepted that the creation of the code is a task of vast proportions. Again, the efforts of DPTI to prepare the code cannot be understated and must be properly recognised.

We note the significance of the code in our State's new planning system and the related statutory and legal implications should the code not be in the form that can withstand the rigour of thorough assessment.

Whilst we recognise that DPTI is presently bound by Parliament to deliver the code, in full, before 1 July 2020, we are concerned that there is limited time for the industry to test and familiarise themselves with the system.

There is no dispute that a deadline is necessary for a variety of factors, including certainty for South Australian development sector, however we are of the view that both the development sector and the South Australian community would benefit from increased time in the testing environment.

PIA is happy to explore alternate options with the Government, DPTI and the State Planning Commission, though one alternative is to increase timeframes for testing of the code and the new system by delaying 'switching on' the application of Deemed Consents until such time that the Minister is satisfied that a suitable training period has been undertaken.

Whilst this is not the only mechanism to increase the transition period, it would at a minimum allow the industry to commence assessment in this new policy environment without the pressure to determine applications.

Resourcing

As you would be aware, most rural and regional councils are generally supportive of economic development, take pride in the development of their communities and strive to ensure that economic development occurs in a sustainable manner.

The premise underpinning the PDI Act and the code – which is to better encourage economic development through a simplified and facilitative, modern planning system – is widely supported in these areas.

The request for rural and regional councils to be provided with additional time and resources to assist with transition to the PDI Act and code is not, in our view, reflective of a desire to stymie development or to prevent the implementation of the code, but rather, reflects the limited resources of rural and regional councils who do not have the same resources as their urban counterparts.

In fact, many regional councils are reliant on planning consultants to undertake much of their planning policy and assessment (either on Council's behalf or as private certifiers). PIA acknowledges that DPTI have scheduled consultation sessions aimed at planning consultants for February 2020, and continue to encourage DPTI to consider this training and education of the private sector, particularly as it relates to the e-planning portal.

Additionally, it is important to recognise the need to review the funding arrangements, on an ongoing basis, to enable the effective implementation of the code. In saying this, we acknowledge that this issue is not limited to local government and it is our understanding that current funding to DPTI for the reform work provided by treasury is limited to July 2020. We strongly advocate that given the nature of these changes to our planning system, that business as usual resources from 1 July 2020 may not be sufficient and we support DPTI in advocating for more resources post 1 July 2020.

As the introduction of the new planning system has brought many unresolved strategic planning issues to the fore, we strongly advocate the need for ongoing financial and physical resources to be made available to DPTI post 1 July 2020.

As experienced in other jurisdictions who have undertaken significant planning reform, our State's new planning system will need to continually evolve in order to reflect and address modern development trends, the ever-changing nature of the sector and testing in the Environment, Resources and Development Court.

We have, and will continue to have, a planning system in South Australia that has a high level of involvement from the legal sector. It is likely that, if the system is not resourced sufficiently, the community and the development industry will bear the financial burden of any system failure through legal challenges. This could, potentially over time, create barriers to development occurring as intended by the planning reforms, PDI Act and code.

An option to address the resourcing issue is the implementation of a testing period from 1 April 2020 to 1 July 2020. During the 'testing period', dedicated on-ground educational resources could be provided for Phase 2 councils to ensure that they are fully prepared for the implementation of the code on 1 July 2020. If considered, this has the capacity to increase confidence around the new planning system and may avoid 'lags' in the full, efficient and effective transition to it.

E-Planning

The new e-planning system will require additional educational resources in some Phase 2 councils where there is limited staffing and limited readiness for electronic assessments.

Should Phase 2 of the code commence in April as expected; rural and regional councils will need detailed information as to the content and the makeup of the e-planning portal, ahead of time, in order to properly prepare for its use and operation.

We strongly advocate for both Councils and DPTI to work in partnership to ensure that information is shared in order for Councils in particular to be business-ready to deliver assessment services from 1 July 2020.

It is vital that all councils have access to as much information on the new e-planning portal, as soon as possible, to ensure that the transition is functional. It is acknowledged that this is not a DPTI issue, but it is important to fully understand the minutia in which the new system will apply.

It is imperative that any training program is scheduled well ahead of time, particularly given the availability of staff within the development sector during December, January and February.

Errors and Anomalies

PIA is cognisant that DPTI have not had the luxury of time, nor resources so as to ensure that the versions of the code currently on public exhibition are entirely error-free. We would strongly advocate for DPTI to be able to make the appropriate amendments before the Code is live, so that any errors or anomalies in policy or mapping do not allow undesirable development outcomes to be approved.

We appreciate DPTI's efforts to communicate amendments to mapping and identified errors. We respectfully submit that if alterations to the code are required, that they are be delayed until the end of the relevant consultation dates. If alterations are made, they should be accompanied by clear information detailing the extent of the changes made, so as to avoid confusion from landowners, developers, accredited professionals and the community more broadly.

Should DPTI distribute a 'What we heard' report on the outcomes of consultation on the code, we recommended that it include a 'what we will do' response which covers amendments to the code and their purpose. We advise this in context of minimising confusion and providing clarity to the sector.

Summary

The introduction of the Planning and Design Code is a fantastic and a once-in-a-generation opportunity to introduce a contemporary and standardised planning system in South Australia – a system that will encourage greater investor confidence in our State through the clarity of planning policy.

PIA considers the framework of the code largely achieves the pursuit of good planning principles, however we are keen to see the final product in an e-Planning solution.

We commend DPTI and the State Planning Commission on the engagement efforts undertaken to date and we support any ongoing measures to communicate in more detail moving forward.

As the peak body for planning in South Australia, we would welcome the opportunity to discuss our submission further, and can be contacted at sa@planning.org.au.

Yours sincerely



Elinor Walker

President, Planning Institute of Australia, South Australia