

28 February 2019

DPTI Planning Reform Engagement Team

Department of Planning, Transport and Infrastructure
Level 5, 50 Flinders Street, Adelaide 5000
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Email: DPTI.PlanningEngagement@sa.gov.au

Dear DPTI Planning Reform Engagement Team,

RESPONSE TO DRAFT REGULATIONS AND PRACTICE DIRECTIONS

We write in response to the request for feedback on the draft *Planning, Development and Infrastructure (General) (Development Assessment) Variation Regulations 2019* (the draft Regulations) and four draft practice directions currently on public consultation until Friday, 1 March 2019.

In particular, we wish to advise of our perceived implications for PEET Pty Ltd, and development within South Australia generally, should the above documents be adopted in their current form. These implications are primarily in relation to relevant authorities, public consultation and conditions.

For context, PEET Pty Ltd (formally CIC Australia) is a publicly listed Australian development company, specialising in the creation of master planned communities, including award winning medium density housing and apartments. With over 30 projects across Australia, projects in South Australia include:

- Sunday at Aldinga (Complete)
- Lightsvue (a Joint venture with Renewal SA)
- Lightsvue Apartments
- Bluestone (Mount Barker)
- Tonsley Village

The establishment of these innovative new communities has significant benefits for the South Australian economy and contributes to job creation within our State. To facilitate such developments, we require certainty surrounding the development assessment process and timeframes whilst also having the flexibility to innovate and create new products in a variety of markets.

Relevant Authorities

In delivering its various projects throughout metropolitan Adelaide, PEET have had varying experiences in procuring development approvals, with the relevant Council or on occasions the State Commission Assessment Panel (SCAP). Overwhelmingly, the least time consuming and most effective assessment processes have been in the circumstances where the SCAP was the relevant planning authority. SCAP was the relevant authority in most of these circumstances due to Renewal SA owning the land.

We note that proposed regulation 22 and schedule 6, clause (1)(b)(iv) are likely to result in an application for apartment buildings that exceed 3 storeys in height to require the assessment of a Council Assessment Panel. This has not been the case for the majority of apartment buildings in Lightsview or Tonsley Village. Nominating the Council Assessment Panel as the authority presents, in our opinion, a higher risk to achieving the successful approval and delivery of the apartment buildings, with the independence of SCAP the preferred alternative, as per current practice.

In our experience, delegated assessments by Council staff or a Council Assessment Panel can result in more uncertainty and unnecessary complexity during the assessment process. Issues of minor detail can emerge and delay the process, with several examples of Council decisions/comments being in response to community complaint and as a risk management response.

The accredited professional program will require additional training for assessment managers and it is inferred that similar standards will be expected of staff working for the Commission. Accordingly, in addition to their experience currently assessing these forms of development, the continuing professional development requirements enforced by the accredited professionals scheme is only considered to reinforce the capabilities of an Assessment Manager or the Commission of undertaking the assessment of such developments.

Based on the above, we request that proposed regulation 22(1)(a)(ii)(C) be removed and schedule 6, clause (1)(b)(iv) be altered to enable the Commission to assess dwellings contained within residential flat buildings.

Please note that the above comments are made on the assumption that residential flat buildings will be processed as a 'performance assessed' development and in the event that they are considered 'deemed to satisfy' this would alleviate the above concerns.

We expect that most detached dwellings will fit within the 'deemed to satisfy' category and we welcome the improved assessment timeframes in this space.

Public Consultation

The new system provides increased opportunities for the public to access plans online and to be notified of a development (i.e. via a notice on the land and online). Such is considered to improve the efficiency of the public consultation process for interested persons wishing to comment on a proposed development.

In addition, the introduction of the Community Engagement Charter should enable the public to have increased participation in the development of the Planning and Design Code and influence policy that future development will be assessed against.

Notwithstanding these benefits, proposed regulation 53 will enable interested persons 15 business days to comment on a proposed 'performance assessed' development, which is greater than the 10 business days currently allowed for.

Due to the increased involvement of interested parties at the policy formulation stage, in our opinion, 10 business days continues to be an appropriate length of time for an interested person to submit a representation. Accordingly, we request that this timeframe be reduced from the 15 business days proposed.

In addition to the above, we recommend that the regulations include exceptions to notifications, rather than limit these exceptions to only being detailed within the Planning and Design Code. This would provide more certainty for the processing of future development applications.

Further clarity on the nature of an 'element' should also be provided within the Regulations to enable certainty about which 'elements' of a development may be deemed to have planning consent and which 'elements' will be subject to public consultation.

State Planning Commission Practice Direction (Conditions)

Part 2(5)(4)(a) of the State Planning Commission Practice Direction (Conditions) states:

'A condition requiring the relevant authority or some other person or body to be satisfied on a particular matter would essentially mean no decision had yet been made on the application. Where sufficient information is not available on a proposal, Section 39(2) of the Act provides that further information can be sought, and a final decision made with complete details of the proposal.'

Currently, an applicant and relevant authority can agree to attach conditions to a consent which require additional information to be provided. Examples include a landscaping plan or a stormwater management plan. The wording of the above suggests that a relevant authority cannot condition that additional information be provided to the satisfaction of that authority. This is considered to impact the overall assessment timeframes with an applicant requiring additional time to provide this information upfront.

On the contrary, the State Planning Commission Practice Direction (Deemed Planning Consent – Standard Conditions) 2019 does allow for additional information to be provided after consent, such as the conditions relating to landscaping and stormwater management.

Therefore, we request that the State Planning Commission Practice Direction (Conditions) is revised to enable a relevant authority to condition that additional information be required where appropriate.

Conclusion

In summary, we recommend that the following changes be made to the draft Regulations and the State Planning Commission Practice Direction (Conditions) to provide certainty for the future development of Lightsview, Tonsley, Bluestone and any future PEET project:

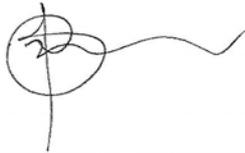
- Remove regulation 22(1)(a)(ii)(C) and alter schedule 6, clause (1)(b)(iv) to enable the Commission to assess dwellings contained within residential flat buildings;
- Amend regulation 53(1)(a)(i) to require representations in relation to a 'performance assessed' development to be submitted within 10 business days;

PEET

- Include exceptions to public notification within the regulations, rather than limit these exceptions to only being detailed within the Planning and Design Code;
- Provide clarity on the nature of an 'element' within the Regulations; and
- Revise part 2(5)(4)(a) of the State Planning Commission Practice Direction (Conditions) to enable conditions to request information where appropriate.

Thank you for the opportunity to provide input into the new planning system. Should you wish to discuss any of the matters raised in this letter please do not hesitate to contact me on [REDACTED] or [REDACTED].

Yours sincerely



Development Director SA – Peet Limited.