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DPTI

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Council Comments on the Draft Accredited Professionals Scheme

Council thanks you for the opportunity to comment on the Draft Accredited Professionals Scheme. It is appreciated that the introduction of the Planning Development and Infrastructure Act 2016 (PDI Act) is complex and driven by tight time frames for implementation.

Council's detailed comments about various aspects of the Draft Accredited Professionals Scheme are provided in an attachment to this letter. While the comments are numerous the critical issues identified that need to be considered include;

- The terminology used to define the various levels of accreditation for both planning and building include actual authority names from the PDI Act. The use of names for authorities under the Act should not be used to define the levels of accreditation as this can lead to confusion;
- Concern regarding broadening the nature of planning assessment able to be undertaken by a private certifier to include performance assessed development under the Code Assessment pathway when the standards to be met are yet to be defined and the industry will be learning a new system. It would be better to keep the breakdown of assessment authorities as currently set out under the Development Act until later into the establishment of the new system when processes will be better known and built form outcomes from the new standards can be reviewed.
- Clearly defining the level of insurance required similar to that provided by Schedule 23 of the current Development Regulations; and
- Keeping a suitable number of years experience for building levels aligned to that currently required to perform as private certifier which is understood to be 8 years. The current proposal for these to be 3 years, 2 years or 6 months depending on the level of accreditation seem too low given lives are at risk if the assessment is not properly undertaken.

Should you wish to discuss this advice please contact Julie Vanco, Manager Planning and Development on [REDACTED] or by email at [REDACTED].

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Bruce Williams'.

Bruce Williams
General Manager City Services

18/280713



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Classes of Accreditation - Part 2 (1) (a-h)

The naming of the various levels of accreditation has been poorly formed with the mixing of the various levels of authority established under the Act into the level name for accreditation. These should not be combined as it leads to confusion about whether you are now an assessment manager because you have reached Accredited Professional - Planning level 1 (Assessment Manager) accreditation or are you an Accredited Professional to act as an Accredited Professional authority because you have Accredited professional at the beginning of your level of accreditation as they all currently have in the draft.

The terms set in the Act for a level of authority should not be part of the level of accreditation class. They are not interchangeable and must be kept exclusively for their intended purpose under the Act.

The regulations should be amended to set the classes of planning and building accreditation via different terminology. For example they could be Planning Level 1, Planning Level 2, Planning level 3 and Building Level 1, Building Level 2 and Building level 3 with separate regulation under Division 2 Authorised functions then specifying what level of accreditation is required to act as an Assessment Manager, sit on the CAP or be an Accredited Professional.

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This ideology should carry through the whole of the regulations to ensure there is no confusion because of the interchanging use of the terms.

It is also noted that the Competency Requirements used to determine a level of accreditation are set by the Chief Executive of DPTI and these do not require any other input or consultation because they are not contained in the regulations. Given the considerable impact these may have on the profession it would be more prudent for them to be set via Regulations to afford them the appropriate level of scrutiny.

Where there is a peer reviewed compliance applied to granting an accreditation level how will these be controlled and audited to ensure these occur in line with legal requirements?

It is not clear why Building Level 4 – building inspector has been included as the other levels already afford opportunity to undertake this work. What would be the benefit as they can only identify a breach but cannot undertake an assessment of any alternative outcome or advise on what may be adequate and would possibly result in duplication and delays as it moves up to someone who can undertake that level of work.

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<p>Part 3 General Provisions relating to accreditation Division 1 - 16 Conditions</p> <p>(1) An accreditation will be subject to the following conditions: subject to subregulation (2), that the accredited professional must hold a policy for professional indemnity insurance <i>that is reasonable and adequate taking into account the amount and nature of work undertaken by the accredited professional</i>;</p>	<p>Where are the standards setting the required level of insurance that reflect a reasonable and adequate amount like the current approach set out in Schedule 23 of the Development Act. There appears to be nothing in this information that sets minimum levels of insurance so it is all very open and could result in the general community not being properly protected under future claims for poor decision making by a person acting as an authority under the PDI Act.</p>
<p>Part 3 General Provisions relating to accreditation Division 2 – 20 Cancellation or suspension</p> <p>(a) (2)(h) the accredited professional—</p> <p>(i) is otherwise, in the opinion of the accreditation authority, no longer a fit and proper person or otherwise suitable to hold an accreditation under these regulations; or</p> <p>(ii) has otherwise acted in an unprofessional or inappropriate manner, or failed to professionally discharge a responsibility under the Act.</p>	<p>The use of the term <i>accredited professional</i> needs to change due to is also being a level of authority and this creating confusion. Perhaps it should be <i>accredited person</i>.</p> <p>Why have ‘otherwise’ in the sentences. What value does this add?</p> <p>Should the accreditation authority suspend or cancel an accreditation they must be required to notify any Council where that accredited person undertakes work as this leaves the Council at risk of not being aware the cancellation/suspension has occurred and decisions being issued illegally by that person.</p>

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<p>Part 3 General Provisions relating to accreditation Division 2 –21 notice of proposed cancellation or suspension (2) The notice must state that within a specified period after the notice is given, the accredited professional may make written representations to the accreditation authority concerning the proposal and the accreditation authority must not give effect to the proposal without considering any representations received within the specified period</p>	<p>Where are the specified periods for actions and responses actually documented? This phrase is used throughout the regulations but there is no definition of the timeframes. This leaves a person with a very important aspect of possibly no longer being able to perform as an authority potentially with very little time to respond to the issues raised because the Accreditation Authority has only afforded a short period for response.</p>
<p>Part 5 Audits</p>	<p>The regulations allow a person to engage their own auditor to undertake their audit as an accredited person. This is inappropriate as it should be centrally managed and independently reviewed not undertaken by someone employed by the person being audited.</p> <p>The timing of these audits is such that many are likely to occur in the same time frame making it less likely that a suitably qualified auditor will be available to do the audit. All of the current practitioners that are required to be audited within 5 years of becoming accredited will place a high level of demand on the services of auditors at similar times. If they are unable to engage an auditor would this place their accreditation at risk of lapse?</p> <p>The need to report a breach of performance where the breach is to a significant degree or significant respect is open to varying levels of interpretation and miss-application. Shouldn't</p>

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	all breaches be reported to the Accreditation Authority for them to determine what was significant or not.
Part 6 Complaints	The current system proposed for making a complaint is onerous where it mandates submission of a statutory declaration before submitting the issue for review. It may be more appropriate to allow a system where an initial complaint is made in writing outlining the concern and if there is thought to be some merit for further consideration a statutory declaration is then requested before progressing to more detailed review.
Part 8 Miscellaneous Section 29(2) - Circumstances in which an accredited professional may not act	The draft regulations contain clause 29(2) that prohibits an accredited professional acting in a situation where they are employed by a person or body associated with any aspect of a development. An officer or employee of the crown is exempt when acting in their capacity of an officer or employee, but this is not extended to council employees. It is considered appropriate to extend this exemption to council officers / employees otherwise simple and routine council developments that are currently assessed by staff under delegation will be subject to assessment by CAP
Part 8 Miscellaneous Section 33 – identity card –	This should mandate the issue of an identity card so that it can be used to undertake any necessary inspection and assessment work and be appropriately displayed to the public. It should not be discretionary as currently written. It will also afford employers with a means of confirming accreditation still applies to the

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	person.
Schedule 1 – CPD points	The amount of ongoing CPD required per level of accreditation seems reasonable but there are some queries around how this translates to part time employees or those on extended leave without pay. Would they still be required to accrue the full points for that 12 month period or would this be determined on a pro rata basis.
Accreditation levels– Planning Levels	<p>It is unclear what documentation would be required to demonstrate evidence of achieving the required technical skills for each level of accreditation.</p> <p>Level 3 planners will be able to assess performance assessed applications that have not met the deemed to satisfy standards provided they have not required a public notification under this scheme. This should sit with a Council Assessment Panel or Assessment Manager. Current experience has indicated that planning private certifiers are prepared to endorse significant variation from the complying standard as a minor variation which is just not the case and thus the new system should ensure that this sits at a higher level. Recent examples include varying setbacks for upper levels by 2m and reducing street setbacks by 2m. When challenged that this wasn't minor they indicated they thought that would be our position and the development was lodged for a merit assessment.</p> <p>Level 4 planners only require 1</p>

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	<p>year experience and will have discretion to sign off on deemed to satisfy applications including where minor variations from the relevant criteria are involved. The level should be removed and combined with level 3 and restricted to only approving deemed to satisfy development where all the standards have been met.</p> <p>Based on the Fact Sheet released for accredited professionals in the private sector or allied professional it would appear that an Assessment Manager could perform as an authority in the private realm and not just via a Council where one is appointed to support the CAP. This needs to be clarified and should not occur as it is likely that the more complex applications will sit at this level and these should still be managed at a local council level rather than undertaken by a private operator.</p> <p>The likely costs incurred by practitioners seeking accreditation to sit on a CAP are a concern as this, along with achieving ongoing CPD points will possibly deter people from taking on this type of role. For those that do it is likely that Council will need to pay more per person on the CAP to attract people to the role. Perhaps there needs to be a reduced fee for accreditation for those only seeking to sit on a CAP.</p>
<p>Relevant planning qualifications University of South Australia Courses:</p> <ul style="list-style-type: none"> • Bachelor of Urban and Regional Planning IBPG – until it is archived in 2019 	<p>There is concern that this wording means the current University of SA Bachelor and Master in Urban and Regional Planning will no</p>

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<ul style="list-style-type: none"> • Master of Urban and Regional Planning IMUB - continuing until December 2020 Previous Course with Accreditation <p>Note: Membership applicants holding a UniSA Graduate Diploma of Urban and Regional Planning (IGUR) with a final enrolment year of 2009, will be recognised as having completed a course accredited by PIA.</p>	<p>longer be recognised after it is archived.</p> <p>It is also unclear what members of PIA and that organisations recognition of the UniSA Graduate Diploma in Urban and Regional Planning (IGUR) has to do with this being a recognised qualification for accreditation under the PDI Act.</p> <p>Will there be any recognition of accreditation achieved overseas in this system?</p> <p>Would a planning law qualification be recognised for the purposes of accreditation at Planning Level 1, 2 or 3?</p>
<p>Accredited Professionals – Building levels</p>	<p>There is considerable concern that the number of years assessment experience required to be accredited under each of the building levels 1, 2 and 3 are inadequate and fall well short of the current standard which requires 8 years experience to be a building certifier. The current proposal lists 3 years for Level 1, 2 Years for level 2 and 6 months for level 3. This would mean that a person with only 6 months work experience could approve new dwellings and outbuildings with next to no experience as a private entity. This should be revisited to require a greater number of years experience to undertake a building rules assessment as a private certifier as this is placing lives at risk should they fail in their assessment due to inexperience.</p> <p>Again it is not clear why Building Level 4 – building inspector has</p>

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	<p>been included as the other levels already afford opportunity to undertake this work. What would be the benefit as they can only identify a breach but cannot undertake an assessment of any alternative outcome or advise on what may be adequate and would possibly result in duplication and delays as it moves up to someone who can undertake that level of work.</p>
Relevant Building Qualifications	<p>There appears to be no recognition of the Graduate Certificate in Building Surveying and Urban Planning</p>