22 October 2018

Department of Planning, Transport and Infrastructure

By email: DPTI.PlanningEngagement@sa.gov.au

Dear Sir / Madam

Re: Submission on the Accredited Professionals Scheme Draft Regulations

Thank you for the opportunity to make a submission on the Accredited Professionals Scheme Draft Regulations.

Council is currently in caretaker period for the Local Government Elections and has not formally considered the draft regulations. The draft regulations will be provided to Council for consideration at the first available meeting of the new Council, following which an endorsed submission will be provided to the Department.

Council staff have considered the paper and provide the following comments.

- Council considered the discussion paper in April 2018 that informed the draft regulations. Council indicated that it supported the introduction of a scheme to improve decision making but suggested further consideration be given to specific matters. Council’s submission on the discussion paper and response in the draft regulations is summarised in the table below.

<table>
<thead>
<tr>
<th>Council comments</th>
<th>Response in draft regulations</th>
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<tr>
<td>Questioned the proposed Land Division Accredited Professionals ability to undertake full and proper assessment</td>
<td>Addressed. This level of accreditation is not included in the draft regulations.</td>
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<td>Questioned the minimum experience (6 months) for an accredited professional to become a private certifier, given current requirement is 8 years</td>
<td>Not addressed. The minimum of 6 months experience is retained in the draft regulations with no clear justification for such a reduction in experience for a building professional to practice as a private certifier. There is a concern that this might result in a situation where people with very little experience may seek to provide low cost service that undermines industry standards.</td>
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<td>Recommended an effective process for monitoring and enforcement of professional conduct, particularly given</td>
<td>Partially Addressed. The draft regulations include an audit process for accredited professionals, but the periodic audit period is 5 years which</td>
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increased private certification is not expected to have any real influence on professional behaviour or build confidence in the wider community, particularly given only significant breaches will be reported to accreditation authority. The draft regulations include a complaint process that is likely to deter some complaints due to the process, including the making of a statutory declaration. An effective, timely, audit and sanction system is required to maintain professional standards, consumer protection, and community confidence in the system.

The outstanding issues described above are considered important matters that require further consideration for the community to be able to see and have confidence that the new system is improving decision making.

- The draft regulations have introduced some significant changes that were not identified in the discussion paper. These include:
  - The legislative framework appears to enable an Assessment Manager to be appointed by an applicant, as suggested in the fact sheet publications that were released with the draft regulations for a private sector planner or allied professionals. More recent advice from DPTI suggests it is not the intention or envisaged that an Assessment Manager should be making development assessment decisions unless they are employed or contracted to do so by a Council. This is an important clarification given the powers that are available to an Assessment Manager in the new legislative framework that should be documented in the regulations.
  - The scheme will allow private sector planner that is accredited under the scheme to assess deemed to satisfy (quantitative standards) development as well as 'simple' performance based (qualitative standards) developments. It is understood that these circumstances will be prescribed in the future regulations. This increase function for private sector planners is of a concern given the subjective judgement that is made in an accredited professional-client relationship. This is already an area of concern where private certifiers make subjective judgements on minor variation for qualitative standards under the current Rescode criteria. This element of the reforms will lead to greater inconsistency and uncertainty for communities. Council does not support private sector planners assessing any performance based (qualitative standards) developments, given the inherent challenges involved in balancing consideration of levels of non-compliance with policy where there may be a trade-off between private development benefit and public / external benefit.

- 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 from this clause 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 same 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 a Panel.

- Clarification is sought if the relevant planning qualifications are intended to restrict the UniSA Graduate Diploma of Urban & Regional Planning with the final enrolment year of 2009.
Accredited Professional – Building level 2 to 4 should not be able to approve structural works, calculations or performance-based solutions given the level of inherent complexity in these considerations.

Given the significant role of the auditor in the new scheme, clarification is sought on the experience and clarifications that will be required under the Act, particularly given the diverse technical considerations that are necessary to assess technical competencies.

It is not clear if the professional accreditation scheme will apply to those officer / employees of government departments that provide advice on development application through statutory referrals. Given these authorities will have the power of direction, it would appear appropriate to extend this scheme to apply to these officers / employees.

The accreditation scheme should have regard to the pool of expertise currently employed on Council Assessment Panels and the risk that this scheme may deter those who are otherwise able to make valuable contributions. The additional costs will ultimately flow to applicants and the community, and therefore should be minimal. Matters for consideration include:

- The fees payable to the scheme should have regard to the moderate sitting fees for members on Assessment Panels. The Department has suggested the fee for all evaluations and registrations will be between $600 - $800, plus an annual (undisclosed) fee for administration costs. The evaluation fee is approximately 25% of the total annual payment for current Salisbury CAP members, excluding training requirements. (Ave 10 meeting per year @ $320 per meeting).

- The accreditation scheme should recognise a person with an extensive level of experience and who may not necessarily have a prescribed planning qualification.

- The accreditation scheme should recognise that a person with less experience will inherently require more training as opposed to a person who has demonstrated core competencies through an extensive career. The scheme does not appear to link the level of training required with a person’s experience.

Yours sincerely

Terry Sutcliffe
General Manager, City Development
Phone: 
Email: 

22 October 2018

Department of Planning, Transport and Infrastructure

By email: DPTI.PlanningEngagement@sa.gov.au

Dear Sir / Madam

Re: Submission on the Accredited Professionals Scheme Draft Regulations

Thank you for the opportunity to make a submission on the Accredited Professionals Scheme Draft Regulations.

The Salisbury Council Assessment Panel Submission on the discussion paper and response in the draft regulations is summarised in the table below. The Panel is pleased that the draft regulations have addressed some of the comments that were raised but there appear to be some outstanding matters that are considered to require further consideration.

The Panel seeks the Department’s further consideration of these matters and would appreciate understanding how the scheme will address these matters.

<table>
<thead>
<tr>
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<tr>
<td>Consideration should be given to simplifying this process, perhaps a single registration for both the relevant industry schemes and government scheme</td>
<td>Addressed, but with clarification. A person that is accredited with a recognised industry body can have their application submitted by that body for accreditation under this scheme. It appears however that fees will still be payable to DPTI, potentially requiring duplicate registration &amp; renewal fees.</td>
</tr>
<tr>
<td>The accreditation scheme should consider that a person with less experience will inherently require more training as opposed to a person who has demonstrated core competencies through an extensive career</td>
<td>Not Addressed. The scheme does not appear to link the level of training required with a person's experience. The training for accredited professionals is based on the accumulation of prescribed CPD units for the relative level of accreditation.</td>
</tr>
<tr>
<td>The fees payable to the scheme should have regard to the moderate sitting fees for members on Assessment Panels.</td>
<td>Not Addressed. The Department has suggested the fee for all evaluations and registrations will be between $600 - $8000, plus an annual (undisclosed) fee for administration costs. The evaluation fee is approximately 25% of this total annual payment for current Salisbury CAP members, excluding training requirements. (Ave 10 meeting per year</td>
</tr>
<tr>
<td>Clarifying that Local Government Mutual Liability Scheme will cover the professional indemnity insurance for an Assessment Panel Member</td>
<td>Addressed. The Mutual Liability Scheme will cover all decisions made by accredited professionals employed by a council or appointed to an Assessment Panel within a council.</td>
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<tr>
<td>The accreditation scheme should recognise a person with an extensive level of experience and who may not necessarily have a prescribed planning qualification.</td>
<td>Not addressed. The scheme requires a person to hold a recognised qualification.</td>
</tr>
<tr>
<td>Furthermore, training should develop the capabilities of a person in making qualitative judgements and distinguishing the key planning issues from other considerations in their role as an Assessment Panel Member</td>
<td>Addressed. Training includes competencies in <em>decision making in development assessment</em>.</td>
</tr>
</tbody>
</table>

@ $320 per meeting).

It is noted that Panel Members will not however be required to undergo the audit process.

Yours sincerely

Chris Zafiropoulos
Assessment Manager
Salisbury Council Assessment Panel
Phone: 
Email: 

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