

Sally Smith  
General Manager, Planning and Development  
Department for Planning Transport and Infrastructure

1<sup>st</sup> March 2019

## **RE: Draft Development Assessment Regulations and Practice Directions**

Dear Sally,

Thank you for providing the UDIA (SA) with the opportunity to comment on the draft Development Assessment Regulations and Practice Directions ('the Regulations').

While we understand the need to progress the reforms quickly, we are concerned with the incredibly short consultation timeframe that we have been given to respond. We acknowledge the Government's ongoing attempt to engage with industry throughout the planning reform process, however given the complexity and severity of the Regulations (black-letter law as opposed to broad themes in the Policy Papers), we feel the timeframes should have been longer.

We have provided the attached table which articulates our concerns clause by clause, but we request an urgent meeting to discuss these and we implore the Government to continue consultation before these Regulations are enacted. The purpose of the reform was to create a more efficient and transparent planning system and while there are many positive changes, unfortunately we have identified a number of serious concerns with elements of the Regulations that we believe will undermine this goal.

While the below is not an exhaustive list, some of the main issues requiring attention include:

1. The removal of the Coordinator-General \$5M SCAP pathway.
2. Land Division Deemed Consent condition
3. Excessive timeframes
4. Relevant Authority
5. Schedule 8 – Up-front information required

### **The removal of the Coordinator-General \$5M SCAP pathway**

We strongly urge the Government to reconsider the removal of the Coordinator-General pathway. This process is necessary as a way to expedite large and important developments in a streamlined manner. By removing this pathway with a new and untried system, this could limit any capacity to deal with unforeseen issues.

### **Land Division Deemed Consent condition – clearance of site before titles issued**

This condition will apply to any deemed consent for a land division where the resultant allotments will accommodate new development. In practice, it will require the site to be cleared of all buildings and materials (including any concrete, irrigation pipes or rubbish) prior to section 51 clearance (now s138 clearance). In practice, this condition is unrealistic and should be removed.

### **Excessive and stagnated timeframes**

There are many odd timeframes applied throughout the Regulations which are addressed in the table, however we would like to highlight just some examples of poor timeframes.

1. Regulation 85 states that land division is required to be undertaken in accordance with the requirements of a water industry entity (SA Water). The SA Water Statement of Requirements is valid for only 40 business days (presently 60 days). There is a risk that SA Water requirements could change part way through a project and secondly that there is a fee to pay every time an updated assessment is required. This period should be extended to be longer.
2. Regulation 82 gives the State Planning Commission ('SPC') 30 business days to provide its comments on a land division application plus *any further time* the SPC determines. This uncapped timeframe is concerning as a land division cannot be approved until the SPC comments are received. The result will be increased uncertainty that many businesses simply cannot plan around. There must be a reasonable limit applied.

### **Relevant Authority (Reg 22)**

Due to changes as to who will be deemed the 'relevant authority' under the new Regulations, it is likely that there will be a significant increase in the number of Council Assessment Panel (CAP) applications. This could result in significantly longer decision timeframes and increased costs ultimately borne by developers. The Regulations should not rely on Councils delegating this authority to make it workable.

## **Schedule 8**

The information required at the application stage is excessive. For example, the requirement to include landscaping and materials and external finishes including walls, doors and windows is unnecessary for deemed-to-satisfy applications. Timing issues may also arise regarding selections by clients (often made after the planning consent is granted) and the nomination of landscaping plants (which may not be of interest until after clients have moved in) highlight the lack of practicality with the Regulations coupled with a lack of any real benefit.

Furthermore, Clause 2 provides that a full site contamination audit must be provided up-front, which is simply unrealistic as applicants are producing a very expensive report prior to a decision being made. The request for an audit should occur only after approval is given pending the outcome of a report.

## **Certificates of occupancy (Regulation 83)**

The equivalent new regulation (Reg 108) removes the exemption for certificates of occupancy for class 1a buildings (single dwellings) i.e. a certificate of occupancy will now be required for all class 1a buildings. While statements of compliance will still be required, a building cannot be occupied until there is a certificate of occupancy issued by a council (and the statement of compliance is required for the certificate of occupancy).

In practice, this means Council does not have to issue an occupancy certificate if the builder has not completed items like paving, landscaping, septic, stormwater, rainwater tank. Our industry understands that given the housing affordability pressure on homeowners, many people arrange for items like their paving, stormwater, landscaping etc after handover. The UDIA is very concerned about the potential impact on delayed handovers.

The above is only a small snapshot of potential issues and we look forward to further consultation on behalf of our members.

Yours sincerely,

Pat Gerace  
**CHIEF EXECUTIVE**

CC: Minister Knoll - Minister for Planning  
CC: Mr Michael Lennon - Chair, State Planning Commission