



# SUBMISSION ON THE DRAFT DEVELOPMENT ASSESSMENT REGULATIONS & PRACTICE DIRECTIONS

Drafted on behalf of the Norwood Residents Association Inc.  
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12 March 2019

Mr Michael Lennon  
Chair, State Planning Commission  
Department of Planning, Transport and Infrastructure  
Email: DPTI.PlanningEngagement@sa.gov.au

## **GUIDE TO THE DRAFT DEVELOPMENT ASSESSMENT REGULATIONS & PRACTICE DIRECTIONS**

Dear Mr Lennon,

This submission prepared by the Norwood Residents' Association is in response to the draft Planning, Development and Infrastructure (General) (Development Assessment) Variation Regulations 2019 and draft Practice Directions.

It is important to mention at the outset that while the State Government continues to inexorably roll out significant changes to our Planning and Development system, it is our local *Norwood Payneham and St Peters Council* that has endeavoured to brief residents and their associations regarding the detail and implications of same. In fact, the 'consultative' approach adopted by government bodies thus far is primarily aimed at planning/building professionals much more au fait with associated technical language and complex regulations than ordinary citizens. Such barriers coupled with a limited response timeframe, severely inhibit public consultation/transparency on decisions which will so dramatically affect the quality of people's lives and their freedom to interact with the planning system. Furthermore, the drastic reduction of residents' rights to have a voice in their community is an infringement upon their civil liberty.

In its bid to boost investment and economic development, proposed government reform has focussed on streamlining processes and removing perceived barriers/inefficiencies in the current planning system in such areas as:

### **Regulated and Significant Trees (Regulation 3F)**

Pruning 30% of any tree is potentially hazardous to its health, so why condone this for regulated/significant trees? Furthermore, the maximum number of times/frequency a tree can be pruned is not specified, so technically someone could regularly prune 30% of a tree until it no longer exists. One would assume this is hardly the intent of the regulation, but the lack of clarity/detail could create an unacceptable loophole.

### **Relevant Authorities (Regulation 22)**

These include:

- Minister for Planning – Impact Assessed Development
- State Planning Commission – Restricted Development (now without Council concurrence)
- Assessment Panels (Council, Regional or Local)
- Assessment Manager (appointed by Council)
- Council
- Accredited Professional (private)

This list of relevant authorities established under the PDI Act 2016 is non-negotiable, only the decisions each will ultimately make.

Under new proposals the existing role and authority of Council are considerably diluted. Council will no longer be responsible for planning consent and deciding which applications will be delegated to the Council Assessment Panel (CAP) and which to its Assessment Manager. Surely such a move is counterproductive, since Council (especially NPSP) is not only far more immediately accessible to residents, but also better researched, connected to and more mindful of the uniqueness of its local environment and community needs/interests. While we embrace the government's goal to speed up planning and development state-wide, we question its over-riding and re-direction of competent Councils already exhibiting best practice.

The likely management of buildings exceeding 4 storeys in Urban Corridor and District Centre (Norwood) Zones exclusively by the State Planning Commission (SPC) without Council comment, raises alarm bells. In recent years, the negative impact of development in relation to scale and built form in the rezoned 'uplift' areas in Kent Town is testimony to poor SPC judgement and the priority given to developer interests above all others....no wonder community confidence in the planning system is low. One would reasonably expect too that buildings of this scale would require assessors to be accredited in order to make sound judgements, but evidently this is NOT a requirement for SPC members.

Certainly private sector accredited professionals processing "tick the box" quantitative applications is a far more acceptable option than allowing them to make any qualitative decisions, though (as stated by numerous respondents in earlier submissions) there is still an obvious risk of system abuse without careful monitoring. Granting land division consent with all its associated risks/complexities is another matter entirely. Despite DPTI's awareness of the OVERWHELMING criticism of this earlier proposal, land surveyors are once again included as part of the accredited professional scheme. The responsibility of land division should most definitely remain with Council, with its acquired wealth of local knowledge and existing infrastructure, non-profit orientation and focus on the public interest.

### **Assessment Timeframes**

Timeframes are an important consideration in improving development efficiencies. These must not only speed up the process, but also be adequate/realistic for the kind of approval being sought and the level of work involved.

Applications requiring Public Notification, External Referrals and Assessment Panel decisions, are allotted a mere 30 (we advocate 40) business days with up to (this should read 'at least') 5 additional business days to verify documentation before the 'clock' starts. Other applications not requiring such decisions are allowed only 20 (we suggest 30) days for processing, even though they may still require further input from engineers, arborists, traffic/storm water management etc. Extending timeframes to reasonably inform people and process (sometimes highly complex) applications properly in the first place, is more likely to avoid problems resulting from too little time.

Under the new system adhering to timeframes will be critical, since applicants will be able to issue a 'deemed consent' if stipulated timeframes are not met by the relevant assessment authority. Following this, the assessment authority then has 10 days to issue its own (superseding) consent, or else the 'deemed consent' remains valid unless the authority (within a month) applies for a court order to overturn it. This potentially costly/adversarial situation is more likely if realistic processing times are not integrated into the assessment system.

Moreover, as pointed out in a previous submission, 'failure' to meet timeframes could well be the outcome of misconduct, especially if private certifiers are not carefully/systematically scrutinised.

### **Exempt Development**

Schedule 4 of the draft regulations lists types of development which will not require any form of development approval. The only two which cause any real concern are:

- (1) Combined retaining wall/fence structures up to 3.1 metres in height
- (2) Demolition of single storey buildings (except heritage/specified areas)

What are the likely impacts here?

Where a wall/fence structure is built to a combined 3.1 metres, especially if no minimum difference in ground levels is specified, not only could its placement/length compromise the view/amenity of adjoining neighbours, but it also raises safety/wind issues and the need to review relevant building code(s).

Of particular concern is the right to destroy single storey buildings, especially given 'specified areas' are yet to be designated by the Planning and Design Code. In order to preserve the integrity of our state's built heritage, Historic (Conservation) Zones should be carefully protected from 'as of right' demolitions and Council is better positioned to prevent unlawful demolitions if it directly manages the application process. While it is easier to detect the **unlawful** demolition of a building as opposed to a tree, the fact remains that the building is still lost forever.

### **Public Notification**

Under the PDI Act, existing Category 1,2 and 3 notifications at the local Council level are no longer valid. Any application will simply require public notification or not. For those that do, certain rules apply, some of which are:

- (3) Visible, weatherproof land/site signage (at least A2 in size) must be installed (either by the applicant or relevant (paid) authority) and appropriately maintained for 15 days, with prescribed penalties for anyone found tampering with same during that period. (The sign initiatives are a positive step, but any deterrents need policing to be effective)
- (4) Two time-stamped photos showing signage at the beginning and end of the notification period are to be uploaded to the application record. (However, this is 'proof' for 2 of the 15 days only)
- (5) Any representation by a third party is at the discretion of the relevant authority. (The massive reduction of citizens' rights to protect their homes/community is a major and widespread criticism of proposed government planning/development 'reform')
- (6) Deemed-to-satisfy elements not subject to public notification, as well as standard text reminding representors that these elements are excluded from comment, are to be included in any letter sent to adjacent properties or site signage. (For community understanding such information should be clear, succinct and devoid of legalese. Font style, size and colour are also important considerations for site signage)

### **Who is responsible for compliance?**

We totally endorse the view expressed by Community Alliance that those approving developments should be responsible for compliance.

If Council has nothing to do with planning assessment and approvals for certain types of developments, it should not be forced into policing, explaining or managing any fall-out re same for its residents. Nor should its ratepayers shoulder any costs for developments they no longer have a say in.

## **Conclusion**

Overhauling our current planning/development system is a massive, highly complex task. Change can be intensely threatening for people, especially when the impact on their lives can be so visible, costly and long-term.

To embrace change all stakeholders need to be part of the process via consultation and negotiation within a reasonable (not rushed) timeframe. If citizens are given the opportunity to fully comprehend, explore and provide constructive feedback on policy proposals, their valuable input is more likely to produce an outcome which will be supported and actually improve (not worsen) their situation.

Sincerely,



Christine Francis  
President  
Norwood Residents Association  
Incorporated



Tom Smith  
Secretary  
Norwood Residents  
Association Incorporated

CC

Premier, Hon Steven Marshall, MP  
Deputy Premier, Hon Vickie Chapman, MP  
City of Norwood, Payneham & St Peters