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# SUBMISSION ON THE ASSESSMENT PATHWAYS TECHNICAL PAPER

Drafted on behalf of the Norwood Residents Association Inc.

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16 October 2018

Mr Michael Lennon  
Chair, State Planning Commission  
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By e-mail: [DPTI.PlanningEngagement@sa.gov.au](mailto:DPTI.PlanningEngagement@sa.gov.au)

**RE: Submission on the Assessment Pathways Technical Paper**

Dear Mr Lennon,

Our Norwood Residents Association is greatly concerned about massive changes to our Planning and Development system, such that the purpose of this submission is to highlight areas in the Assessment Pathways Technical Paper, which our group believes require further consideration and/or action.

**1. The Consultation Process**

The revised planning system in South Australia has been introduced as a method of making planning more transparent, but the outcome is increasingly opaque. By releasing the Assessment Pathways Technical Paper as a non-statutory document, Parliament has effectively sidestepped its Community Engagement Charter requirements at the expense of public understanding and input into the new planning system. Another glaring transparency issue relates to the State Planning Commission itself. Meetings of both the State Planning Commission and its State Commission Assessment Panel to determine high impact planning matters for the State, are held in camera (by what authority?). The resulting minutes, as loaded onto the website, are regularly 2-3 meetings behind, while the Decision Register, as required under the SPC Governance Charter, is only updated quarterly.

With the speed of planning reforms and decision making being urgently progressed, one can only surmise that people are being deliberately kept in the dark so that state bodies can 'get the job done' with minimum interference. It is either that or corporate interests are being put ahead the interests of individual land holders.

The PDI Act, was passed in April of 2016 with limited prior public consultation. This Act replaces current assessment pathways with Accepted development, Code Assessed development and Impact Assessed development. The most damning change here is the large scale removal of any right of appeal by a third party, except in the Impact Assessed – Restricted category, which will be decided by the SCAP in camera (with council losing its input into concurring with any non-complying developments). Community confidence will not be inspired by a system that creates uncertainty in relation to new development approvals which may impact the needs/amenity/investment of existing (and hitherto 'unengaged') residents.

Under a quantitative tick-the-box system utilising either Council or a Private Certifier, planning consent must follow if all criteria are deemed to be met. How will this in turn affect the qualitative needs of nearby built heritage or character zones, which Norwood residents especially are passionate about? The Assessment Pathways cannot be understood or supported without first knowing what zones will replace the current Council Development Plans. The State Planning Policies, which were the subject of an extensive submission by the Norwood Residents Association, were silent on how important Historic Conservation Zone and heritage/character protections will be carried over into the new Planning Design Code.

It is also difficult to respond to any documentation in a meaningful way when content is either too theoretical or if critical elements of this new system (like the Planning & Design Code) are still not defined/drafted. Lack of Code detail suggests major changes in so far as all single storey (and possible two storey) buildings will be 'Deemed to Satisfy' and multi-storey structures 'Performance Assessed', with potentially no public notification and certainly no proposed appeal rights if the decision to approve is wrong.

## **2. The Change Process**

Radical, rapid and numerous changes to legislation, policy, relevant assessment authorities and electronic delivery, do not combine well with the state's current steam-roller approach and limited response time-frames to such important issues. A steady, risk averse methodology is needed, with sufficient allowance for extensive research, active community engagement (with residents/resident associations/Councils), feedback, evaluation of process interdependencies, demonstration of sound data/ monitoring/analysis and pilot testing etc to produce a positive, workable outcome. This should not just be for applicants, but for communities, professionals and those affected by such widespread and simultaneous changes to the planning system.

Unfortunately stakeholders most directly affected by these initiatives are severely disadvantaged, because not only do they lack the time and resources to dedicate exclusively to these matters, but they are also poorly informed (if at all) by the drivers of same. The release of the Assessment Pathways Discussion Paper was not the subject of widespread engagement and those not in the system, found it difficult to access and understand the technical material produced. It is obvious that local Councils are far more mindful of the needs/interests of their communities than any remote state authority, since it is they who endeavour to keep people abreast of what is happening.

## **3. Councils Reduced Role not consistent with Community Expectations**

Under the Act Councils will manage fewer applications and exercise much less control over development. While they are still responsible for granting development approval in their areas, Councils will in fact have no control or say regarding components which make up the final approval. Where a Private Certifier has approved planning or building (or both), the Council is ultimately responsible for consistency checking and is primarily the 'public face' of the planning system for compliance, complaints, investigations and public infrastructure damage. This completely ignores community expectations of local government's ability to directly influence the local environment and to manage or resource development compliance and/or enforcement.

Moreover, when it comes to accessing important information for development assessment held by Councils (e.g. local knowledge, property information and local assets and risks), how will Councils recoup the costs of providing this without charging additional fees? The downside too in the privatisation of application assessment, will be Council's inevitable loss of local knowledge and input which ensures development appropriately considers heritage context, local car-parking and traffic conditions, flood areas etc.

#### **4. Relevant Authorities for Planning Assessment**

The role of private certifiers paid by applicants, raises very real concerns around transparency of process, vested interest, accountability and potential misuse of aspects of the new system, because unlike local government officers, private accredited professionals have a code of conduct but not a statutory responsibility to the public interest. They should certainly NOT be the relevant authority for any 'Performance Assessed' development, which is judgement based, relies upon knowledge about local conditions and is very much a function of the public interest. Furthermore, any departures from agreed numeric standards should not be opened up for discretionary decision making by private certifiers.

The introduction of increased availability for paid planning assessment by individuals not accountable to any level of government, should only occur following demonstration that this is warranted and that the current level of privatised planning decisions is working well without complaint or issues. Interestingly there are no prescribed standards for the auditing of Private Certifiers – will it be a bare minimum? Who will audit the auditors?

#### **5. New Categories of Development**

As stated previously, without Planning and Design Code detail, it is too difficult to judge the effect of the 'Deemed to Satisfy' category. Certainly developments which are over 2 storeys, in a Historic Conservation or Character Zone or involve commercial/mixed use, should not fall into this pathway.

How will the system ensure that private assessment authorities are fully accountable for the accuracy of their own assessments/documentation? It would seem wise to introduce heavy penalties or to incorporate local Council involvement/checking as an essential part of the assessment process rather than just as a follow-up, when they are possibly wearing someone else's problems/fall-out.

Restricted Development: Citizens should have/maintain the right to protect the largest investment most of them will make in their lives – their home. Many (as per the public demonstrations against LifeCare proposals for Norwood, Joslin etc) are concerned about inappropriate scale of development in residential areas and what that means in terms of compromised privacy, overshadowing, congestion and inadequate infrastructure. So, will development exceeding the height and scale set out in the zone be designated Restricted Development under the P&D Code, thus giving residents a right of appeal?

## **6. New Flexibility in Planning Assessment**

It is very difficult for members of the public to understand the technical concepts in the Discussion Paper. These appear to give even greater flexibility to the assessment of applications, which can now be partially deferred, reserved for later consideration or assessed by different planning authorities. This will make it extremely hard for the public to understand and comment on a proposal as a whole (as currently happens).

When public notification happens **only** on individual aspects of a development, this will cause confusion for surrounding residents, who may become frustrated by the fact that certain information about a single development proposal is publically available and other information is withheld.

## **7. e-Planning**

Electronic planning requires a large investment in ensuring all the correct checks and balances are in this system to verify the accuracy/integrity of data input and to reflect all known local circumstances so that a proper assessment can be undertaken. A system which simply relies upon self-regulation and honesty is too open to abuse.

Greater clarity is needed as to how the e-Planning system will process information and reflect diverse local circumstances, incorporating such important considerations as significant trees, easements, site contamination, drainage, historical issues, the push for rights to sunlight (Advertiser, October 8, p7) and perhaps even solar panels (not yet protected). The community also needs access to this material.

## **8. Notification**

As mentioned earlier, public notification will only be required for certain Performance Assessed (as prescribed by the P&D Code) and all Impact Assessed - Restricted development types. It will definitely not occur for the 'Deemed to Satisfy' category, which is intended to broaden the range of land uses. According to DPTI's publication entitled Our New Assessment System (2018), better/clearer Public Notification for major developments will take the form of prominent signs on the land rather than newspaper notices/classifieds. Developments with state-wide significance will require greater consultation as well as Environmental Impact Statements.

While signs (which should be prominent and well maintained) will make notification of some applications more visible, once a written representation is made, there is absolutely no right to appear before an Assessment Panel (or SCAP) as currently exists and there is no right of appeal for representors on Performance Assessed applications (as currently exists for Category 3 developments). Without P&D Code details it is difficult to gauge the impact of change, but any loss of residential rights without consensus is an outright attack on democracy and a grave threat to people's quality of life and property values.

## **Conclusion**

While proposed changes to standardise/simplify planning and development processes across the state have a laudable intention, it is the manner of their delivery and the subsequent loss of resident rights to have a say in their communities, which do not sit at all well. Too much to digest and

respond to in too little time, with scant public consultation and missing detail, creates fear and uncertainty. People will not embrace change unless they understand what is involved, the repercussions of it all and how it will add value to their lives.

Sincerely,



Christine Francis  
President  
Norwood Residents Association Incorporated



Tom Smith  
Secretary  
Norwood Residents Association Incorporated

CC The Premier, Mr Steven Marshall  
Deputy Premier, Ms Vickie Chapman  
Minister for Planning, Mr Stephan Knoll  
City of Norwood, Payneham & St Peters  
Community Alliance South Australia  
National Trust of South Australia  
History Trust of South Australia  
South Australian Heritage Council  
Australian Civic Trust