



*A Community Legal Centre specialising
in public interest environmental law.*

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The Manager

Systems Improvement Branch

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SUBMISSION - PROPOSED PLANNING REFORMS

The Environmental Defender's Office (SA) Inc ("EDO") welcomes the opportunity to provide comment on the Planning SA Discussion Paper entitled "Better Planning Better Future". The EDO is a community legal centre specialising in public interest environmental law. This organisation has over 10 years experience in litigating environmental matters and participating in environmental law reform processes. EDO functions include legal advice and representation, law reform and policy work and community legal education.

Planning reform should be based on the principle of achieving ecologically sustainable development with comprehensive public participation in the planning process.

The EDO is extremely concerned that the proposals outlined will further erode public participation, transparent decision-making and rigorous environmental assessment in our planning processes. These are essential elements of a good planning system. Good process leads to good outcomes, whereas a rushed and discretionary process does not guarantee good outcomes for the environment and thus the community's interests are also compromised.

Expansion of exempt and complying development

The EDO is strongly opposed to the Discussion Paper's recommendations which will considerably expand exempt and complying development in South Australia. Certain complying development will now be subject only to a 10 point check list quantitative approach to assessment under the proposed new Residential Development Code (" the Code "). Important qualitative assessment will be sidelined.

The reforms are based on the mistaken premise that developments which are 'minor' or of 'low value' have minimal or no impacts on the community and the environment. We submit that categories of exempt and complying development should be determined at the local level, after the environmental character and social fabric of the local government area is considered. In dense urban communities a higher rate of complying development approvals is likely to cause neighbourhood conflict as owners try to maximise their land utilisation.

Moreover the Code fails to cover significant issues such as use of stormwater and rainwater, reuse of waste water and energy conservation. In an era where the impacts of climate change should be considered in all aspects of planning and development this is a serious omission and is likely to result in negative environmental and social impacts.

As a result, the EDO is concerned that many more "minor" developments which potentially have environmental and social impacts will not be subject to any assessment. The community's voice will be effectively shut out of the majority of residential developments as no merits assessment will be conducted. Councils will be able to quickly approve many developments without having to engage in any public notification whatsoever.

Given the absence of merits assessment and community consultation, the EDO submits that complying development should be limited to truly "minor" development. Major alterations and additions to existing homes and new dwellings do not constitute "minor" development.

Exemptions

The EDO agrees with the notion that complying development should not be extended to environmentally sensitive and heritage conservation areas. We therefore welcome the exclusion of these areas from the Code.

However, we still have significant concerns about the long-term protection of these areas as a provision in a code can be changed easily, without the need to go through a formalised parliamentary process and therefore without any community consultation. This could result in environmentally sensitive and heritage listed conservation areas being wiped out simply by a Ministerial decision.

The long term conservation of these areas can only occur through a legislative prohibition on complying development in these areas. Given their sensitivity, development in these areas must be subject to development consent, comprehensive merits review and environmental assessment.

Trial and Monitoring

If a Code were to be adopted, then it should be trialled prior to implementation. It is fundamental to ensure that a new system which will have far-reaching consequences across the state is adequately trialled to determine its applicability and workability prior to its commencement.

Moreover, the EDO submits that there should also be a short term assessment/audit of the Code once it is adopted across the state, preferably within two years of implementation. If, as is proposed, community consultation rights will no longer exist for most residential developments, and we assert that this is inappropriate, it is essential that concerns such as privacy, amenity and environmental sustainability are intrinsically protected in the Code. As a result, there should be a short term review of the Code. This review should not just simply be an economic and administrative analysis but instead should thoroughly examine the real impact of the Code on the character and amenity of communities and the integrity of the environment.

Further reforms aimed at streamlining merit assessment process

The EDO is most concerned with the proposal to reduce referrals and opposes any attempts to erode thorough decision making in this area. It appears that referrals on major home improvements will be eliminated. However, the consultation documents do not provide any detailed information as to what this may entail.

The EDO opposes any change to the system which curtails full and proper assessment of the environmental impacts of development proposals. Various agencies provide critical advice on these matters. Their input should continue to be sought where relevant and appropriate.

Overhaul of land supply management

The discussion paper proposes "*an overhaul of land supply management to provide certainty of land supply for residential and commercial-industrial land...[including] an improved approach to native vegetation through better upfront strategic planning and removing multiple referrals.*" (page 2). The discussion paper lacks detail on the precise changes envisaged. As indicated above, the EDO opposes any attempt to erode thorough decision making by the reduction of referrals which protect the environment in order to fast track land availability and therefore development.

If you have any questions in relation to this submission please contact Melissa Ballantyne or Ruth Beach at the EDO on 8410 3833

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