

Assessment Panels – What do Councils need to do?

Update #3 – new panels to commence from 1 October 2017

In April 2017, the first steps in the transition to the new planning system were taken with the commencement of the:

- *Planning Development and Infrastructure Act 2016* (PDI Act)
- *Statutes Amendment (Planning, Development and Infrastructure) Act 2017* (the transitional Act).

Components of the Acts have come into force immediately and others have been suspended to commence later in the staged implementation process.

The transitional Act makes specific provision for the transition to the new **Council and Regional Assessment Panels** as one of the early governance arrangements to be implemented under the new system.

The New Assessment Panels

The PDI Act provides for a range of Assessment Panels to make decisions on more complex developments and on those matters which may be prescribed by regulations.

The following kinds of panels proposed and authorities responsible for establishing them are:

- Council Assessment Panel – appointed by a Council to replace the current Council's Development Assessment Panel.
- Joint Planning Board Assessment Panel – appointed by a Joint Planning Board.
- Combined Assessment Panel – established by the Minister to be involved in applications across different legislation (eg planning and mining or liquor licensing).

- Regional Assessment Panel – established by the Minister and comprises parts or all of the areas of two or more Councils.
- Local Assessment Panel – constituted by the Minister upon recommendation of the Commission following an inquiry into an existing Council Assessment Panel.

When does Council need to establish an Assessment Panel?

Councils are now required to establish new Council Assessment Panels and Regional Assessment Panels under the *Planning, Development and Infrastructure Act 2016*. These must be in place from **1 October 2017**. Councils that have not yet commenced the process of transitioning to the new panel arrangements should start this now.

Regional Assessment Panels that wish to transition to the new system, must submit such a request to the Minister for Planning by **1 September 2017**. The request should indicate the names (and details if the proposed members are new) of the proposed members, and the name of the proposed Assessment Manager (including details of qualifications and experience).

The *Planning, Development and Infrastructure (General) (Assessment Panels) Variation Regulations 2017* will also commence on 1 October 2017. The regulations outline the general administrative and operational procedures and associated matters relevant to the operation of panels similar to those currently existing. Panels will also be able to adopt additional procedures providing they are consistent with the procedures prescribed by the regulations.

A draft Code of Conduct for panel members previously distributed for comment is now being refined and will be published by the Minister on or before the panel commencement date.

The transition process is a matter for each Council to determine and could be as straightforward as retaining a core membership of existing Panel members and reducing the number and composition to meet the new requirements. The new Assessment Panels could also initially adopt the operating procedures of the current Panels to simplify the transition process.

Membership of Council and Regional Assessment Panels

In summary:

- No more than five members appointed by the Council (a Panel will need at least three members to be legally constituted).
- Only one member may be a current member of Council.
- Members of Parliament are not eligible to be appointed to panels.
- Panel members will be subject to disclosure of financial interests and conflict of interest provisions.

The authority establishing the Assessment Panel must determine the procedures to be followed with respect to appointing members, the terms and conditions of appointment, the appointment of deputy members, the appointment of the presiding member, and the process for appointing an acting presiding member.

The authority is also responsible for staffing and supporting the operations of the panel and any costs and other liabilities associated with its activities.

The establishment of, and appointment of members to, a Regional Assessment Panel will be determined by the Minister on request from a group of councils. The membership requirements above also apply to Regional Assessment Panels.

Procedures

The *Planning, Development and Infrastructure (General) (Assessment Panels) Variation Regulations 2017* establish the procedure for Panels.

A Panel may further adopt its own procedures, so long as they are consistent with the Act or regulations.

Draft procedures for Regional Assessment panels have been prepared by the Minister and can be accessed on the SA Planning Portal. See the end of this fact sheet for detail.

Do Assessment Panel members need to be 'accredited professionals'?

All independent members of an Assessment Panel will need to be accredited professionals. However, a Council member (or former Council member) on an Assessment Panel will not need to be an accredited professional if the designated authority (being the Council or the Joint Planning Board as the case may be) is satisfied that the person is appropriately qualified to act as a member of the assessment panel on account of the person's experience in local government.

For transitional purposes, the requirements for other members of panels to be accredited are suspended. An accreditation scheme is currently being prepared (further separate information will follow) and is expected to be in place by late 2017/early 2018.

The implementation plan for the new planning system identifies July 2018 as the anticipated date for commencement of the accreditation requirements, giving a six month window within which members can be accredited in the first instance. The actual date for commencement will be proclaimed in due course closer to the anticipated date.

When do Assessment Panels need to have an Assessment Manager appointed?

An Assessment Panel must have an Assessment Manager who is appointed by the Chief Executive Officer of a Council in the case of a Council Assessment Panel; a Joint Planning Board in the case of a Joint Planning Board Assessment Panel; or the Chief Executive DPTI in the case of a Regional Assessment Panel.

Assessment Managers will either need to be accredited professionals, or may be a person of a prescribed class.

An Assessment Manager is a separate statutory role to a Panel member and is responsible for managing the staff and operations of the panel. An Assessment Manager cannot, therefore, also be a member of the Panel. An Assessment Manager may also be a relevant authority in their own right if so prescribed under the Act or regulations.

Under the transitional arrangements, the accreditation requirement for Assessment Managers is also suspended until a future date, likely to be the same date as Panel members will be required to be accredited – July 2018.

Further Information

The regulations, draft Code of Conduct, and draft procedures for Regional Assessment panels can be viewed at

www.saplanningportal.sa.gov.au/our_new_system/development_assessment.