

Legislative Council—No 129

As introduced and read a first time, 30 October 2019

South Australia

**Planning, Development and Infrastructure
(Transparency) Amendment Bill 2019**

A BILL FOR

An Act to amend the *Planning, Development and Infrastructure Act 2016*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Planning, Development and Infrastructure (Transparency) Amendment Act 2019*.

2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Planning, Development and Infrastructure Act 2016*

3—Amendment of section 29—Committees

- (1) Section 29—after subsection (1) insert:
 - (1a) A person may only be a member of a Commission assessment panel if the person is an accredited professional.
- 15 (2) Section 29(3)—delete "The" and substitute:
Subject to subsection (4), the
- (3) Section 29—after subsection (3) insert:
 - (4) Subject to subsection (5), a Commission assessment panel established under subsection (1)(a) must ensure that—
 - 20 (a) members of the public are entitled to attend a meeting of the panel; and
 - (b) accurate minutes are kept of its proceedings; and
 - (c) the agenda for each meeting is published on the SA planning portal at least 5 days before the meeting.

- (5) A Commission assessment panel may exclude the public from attendance at a meeting—
- (a) during so much of the meeting as is necessary to receive, discuss or consider in confidence any of the following matters:
 - (i) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
 - (ii) information the disclosure of which—
 - (A) could unreasonably be expected to confer a commercial advantage on a person, or to prejudice the commercial position of a person; and
 - (B) would, on balance, be contrary to the public interest;
 - (iii) information the disclosure of which would reveal a trade secret;
 - (iv) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
 - (A) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (B) would, on balance, be contrary to the public interest;
 - (v) matters affecting the safety or security of any person or property;
 - (vi) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
 - (vii) matters that should be considered in confidence in order to ensure that the assessment panel, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
 - (viii) legal advice;
 - (ix) information relating to actual litigation, or litigation that the assessment panel believes on reasonable grounds will take place;

(x) information the disclosure of which—

(A) would divulge information provided on a confidential basis by or to a Minister of the Crown, the Commission, or another public authority or official; and

(B) would, on balance, be contrary to the public interest; and

(b) during so much of the meeting that consists of its discussion or determination of any application or other matter that falls to be determined by the assessment panel.

4—Insertion of section 119A

After section 119 insert:

119A—Publication of applications, information and reports

(1) Despite any other provision of this Act, a relevant authority must ensure that—

(a) copies of an application for the purposes of this Part and any material provided to the relevant authority under section 119 supporting the application are published on the SA planning portal within 2 business days after the application is made in accordance with this Act; and

(b) a copy of—

(i) any report required to be prepared in relation to an application for the purposes of this Part; and

(ii) any report, document or information provided to the relevant authority by the applicant after lodgement of the application,

is published on SA planning portal within 2 business days after receipt of the report, document or information.

(2) Nothing in this section requires a document to be included on the SA planning portal if to do so would require the publication of—

(a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);

(b) information the disclosure of which—

(i) could unreasonably be expected to confer a commercial advantage on a person, or to prejudice the commercial position of a person; and

(ii) would, on balance, be contrary to the public interest;

(c) information the disclosure of which would reveal a trade secret;

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- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
- (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
- (ii) would, on balance, be contrary to the public interest;
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- (e) matters affecting the safety or security of any person or property;
- (f) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
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- (g) matters that should be considered in confidence in order to ensure that the assessment panel, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
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- (h) legal advice;
- (i) information relating to actual litigation, or litigation that the assessment panel believes on reasonable grounds will take place;
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- (j) information the disclosure of which—
- (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, the Commission, or another public authority or official; and
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- (ii) would, on balance, be contrary to the public interest.

5—Amendment of section 130—Essential infrastructure—alternative assessment process

Section 130—after subsection (7) insert:

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- (7a) The Commission must ensure that—
- (a) an application and any accompanying documents or information are published on the SA planning portal within 2 business days after the application is lodged with the Commission under this section; and
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- (b) a copy of—
- (i) any report required to be prepared in relation to an application under this section is published; and

- (ii) any report, document or information provided to the relevant authority by the applicant after lodgement of the application,

is published on SA planning portal within 2 business days after receipt of the report, document or information.

(7b) Nothing in this section requires a document to be included on the SA planning portal if to do so would require the publication of—

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
- (b) information the disclosure of which—
 - (i) could unreasonably be expected to confer a commercial advantage on a person, or to prejudice the commercial position of a person; and
 - (ii) would, on balance, be contrary to the public interest;
- (c) information the disclosure of which would reveal a trade secret;
- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest;
- (e) matters affecting the safety or security of any person or property;
- (f) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- (g) matters that should be considered in confidence in order to ensure that the assessment panel, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- (h) legal advice;
- (i) information relating to actual litigation, or litigation that the assessment panel believes on reasonable grounds will take place;
- (j) information the disclosure of which—

(i) would divulge information provided on a confidential basis by or to a Minister of the Crown, the Commission, or another public authority or official; and

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(ii) would, on balance, be contrary to the public interest.

6—Amendment of section 131—Development assessment—Crown development

Section 131—after subsection (8) insert:

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(8a) The Commission must ensure that—

(a) an application and any accompanying documents or information are published on the SA planning portal within 2 business days after the application is lodged with the Commission under this section; and

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(b) a copy of—

(i) any report required to be prepared in relation to an application under this section is published; and

(ii) any report, document or information provided to the relevant authority by the applicant after lodgement of the application,

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is published on SA planning portal within 2 business days after receipt of the report, document or information.

(8b) Nothing in this section requires a document to be included on the SA planning portal if to do so would require the publication of—

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(a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);

(b) information the disclosure of which—

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(i) could unreasonably be expected to confer a commercial advantage on a person, or to prejudice the commercial position of a person; and

(ii) would, on balance, be contrary to the public interest;

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(c) information the disclosure of which would reveal a trade secret;

(d) commercial information of a confidential nature (not being a trade secret) the disclosure of which—

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(i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and

(ii) would, on balance, be contrary to the public interest;

(e) matters affecting the safety or security of any person or property;

5 (f) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;

10 (g) matters that should be considered in confidence in order to ensure that the assessment panel, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;

15 (h) legal advice;

(i) information relating to actual litigation, or litigation that the assessment panel believes on reasonable grounds will take place;

(j) information the disclosure of which—

20 (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, the Commission, or another public authority or official; and

25 (ii) would, on balance, be contrary to the public interest.