



The Presiding Officer
The Expert Panel
GPO Box 1815
Adelaide 5001

Dear Mr John Stimson

South East City Residents Association (SECRA) is an organisation that provides the residents of the southeast precinct of the City of Adelaide with a voice to achieve the following objectives:

- To promote the interests of the residents of the southeast precinct of the City of Adelaide and adjoining areas.
- To preserve and enhance the inherent character and heritage of the neighbourhood, including the adjacent area of the Park Lands, and in particular, Victoria Park.
- To support the provision of local retail and service facilities whilst retaining the "village atmosphere" of Hutt Street.
- To determine the policy of the Association on matters affecting the South East Precinct.

SECRA is a committee member of the Community Alliance of South Australia.

SECRA has been involved in many consultation processes developing and implementing the *Planning and Design Code* (the *Code*) and providing feedback to the State Planning Commission and the Legislative Council. We again offer feedback on the Code, hopeful of changes to improve residential amenity in the south east of Adelaide.

HIGH-LEVEL COMMENTS

SECRA believes that the *Code* lacks balance between development expediency and residential amenity and seeks significant reforms to re-establish a fairer, equitable and workable planning system. Specifically:

- SECRA seeks immediate changes to the *Code* to change the existing third-party appeal rights, allowable variations to failed development applications and removal of catalyst sites from this area.
- SECRA seeks the development and implementation of an Adelaide City Plan to coordinate the activities of SCAP and CAP and address the specific issues relating to a capital city.

- SECRA seeks funding and support for residents interacting with the *Act* and *Code*, including establishing a Planning Ombudsman. The new *Code* is a long and complex document and, together with its interaction with the *Act* and *Regulations*, is generally beyond the understanding of many residents.
- SECRA supports the World Heritage listing of Adelaide Park Lands.
- SECRA is concerned that the lack of effective governance and demolition constraints in the *Code* is removing the historic character of the southeast of Adelaide.
- SECRA notes the growing recognition of the need to recognise Aboriginal culture and heritage in our planning processes and the *Code*.
- SECRA seeks the redesign of Council Assessment Panels (CAP) in the *Act* as CAP's claim independence while Council's have resource and appointment powers.
- SECRA seeks the development of compensation packages for residents affected by the loss of neighbourhood amenities brought about by the implementation of the *Act* and *Code*.
- SECRA seeks a more comprehensive approach to the impact of climate change at the local level.

CASE STUDY APPROACH

SECRA's submission to the Expert Panel is based on case studies. Each of these highlights the difficulties residents are having negotiating the *Code*, which seems to be primarily designed for use by developers.

The issues arising from these case studies are discussed in appendix 1, commencing on page four. Following the case studies, a consolidated list of recommendations and suggestions on the way forward starts on page fifteen in appendix 2

ADDRESS	SECRA's ROLE	PLANNING ISSUES RAISED BY THE DEVELOPMENT
17 Hutt Street	SECRA was a representor and made a presentation at SCAP	Unprotected heritage house and contributory items. Loss of residential amenity. Process for the demolition of buildings.
200 East Terrace	SECRA was a representor and made a presentation at SCAP	Catalyst site. Loss of residential amenity. Status of overlays. Third-party appeal rights in SCAP decision-making.

5 Albert Lane	SECRA gave a letter of support Two presentations at CAP (under new and old acts)	Certainty for residents and developers in applying the <i>Code</i> . Loss of residential amenity. Local traffic control. Preservation of listed heritage buildings. Third-party appeal rights in CAP decision-making.
193 Angas Street	CAP SECRA gave a letter of support Attended meeting	Lack of coordination between the decision-making of CAP and SCAP. Loss of residential amenity – car parking.
134 Hutt Street	CAP SECRA letter. The matter has not been heard.	Incomplete application. Loss of residential amenity – noise. Local traffic control.
Adelaide Park Lands	SECRA submission to State Planning Commission 18 December 2020.	World Heritage Listing, growing importance with urban infill. Accelerating climate change response.

SECRA wishes to thank the residents who contributed to this submission. SECRA notes that individual submissions on many of these developments will be made.

Should you have any queries on the matters raised in this submission and wish to accept appearances before the Expert Panel, please get in touch with Elizabeth Rushbrook at [REDACTED]

Yours sincerely

[REDACTED]

Doug McEvoy
President
SECRA

Date 14 December 2022

APPENDIX 1

17 HUTT STREET ADELAIDE (22005421)

OVERVIEW

The development was described as the construction of a mixed-use building (8 levels) comprising dwellings (floors 1 to 7) and a shop (ground floor level)

The building on 17 Hutt Street is an Italianate villa, one of many along the northern end of Hutt Street. Similar villas have been demolished, and those sites remain undeveloped. All the villas, including the remaining ones, contribute to the early residential character of the northern end of Hutt Street.

The development met the affordable housing requirements and is located in the City Living Zone.

RESIDENTS COMMENTS

There were two strong objections to this development.

- The first reflected the **loss of neighbourhood amenity** when large buildings are developed, such as the inappropriate use of laneways for waste collection and other services to the building, and the increased car parking generated by the development, overshadowing and a loss of the desirable characteristics of the development's location.
- The second submission highlighted **the building's historical role, which was lost to the community**. Previously known as Saltash College, a secondary school and an innovative educational institution established by a feminist, Esther Mary Messent. Despite its attractive heritage features, the villa was not listed, nor did the developer choose to readapt the building to preserve the existing façade and contribution to the streetscape. Instead, a priority in the design of the building was to benefit those passing in cars.

In addition, the developer undertook not to demolish the building, which had no state or local heritage protection, until building approval was given.

SECRA RECOMMENDATIONS arising from this development application

- *SECRA does not support the unnecessary destruction of historic buildings. This matter has not been successfully resolved despite being highlighted in SECRA's submission in December 2020.*
- *SECRA supports CASA's call for the 'demolition controls to be extended beyond having all permissions in place to undertake the replacement development and tied to the planning approval and authority given when work commences'.*

- *SECRA supports reengineering the relationship between the Heritage Places Act 1993 and the Act and Code to streamline the state and local listings of historical buildings and other built forms. In addition, the role of the relevant Minister must be reconsidered as the SE of the city has had some 40 buildings removed from consideration by Ministerial discretion in 2013.*

200 EAST TERRACE (DA 21041204).

OVERVIEW

This development application sought to use the introduction of the new *Code* to increase the height and change the configuration of the towers of an existing eight-story development approval granted in 2014. Moreover, when timelines were not met, the original approval was extended many times by the SCAP.

Initially, this revised development application had eleven (11) level residential apartment buildings and associated car parking.

While the development is located in the City Living Zone, it was a catalyst site, excluding existing height and some overlays relevant to the zone, such as affordable housing.

RESIDENTS COMMENTS

Over 107 representors made submissions to the development, and some 15 of these addressed SCAP.

- Most representors indicated a lack of consideration for **two important heritage buildings** on or near the development's boundaries. These were the State Heritage-listed former Bragg Residence (207- 210 East Terrace) and Springhill Lodge (416-420 Carrington Street).
- Other concerns were the **access** by service vehicles, including waste collection, **overshadowing** and **overlooking** an early childhood education and care facility.
- The water table, **damage to surrounding buildings**, the questionable claims around the efficiency of the building and its linkages with the Adelaide Park Lands, which were across the road, were also mentioned.
- The **mandatory role of overlays was challenged** as the development did not adopt the affordable housing requirements.

Rachel Sanderson, the then MP member for Adelaide and Lucy Hood, the then-candidate for the seat of Adelaide, wrote in support of residents.

SECRA, over many years, has opposed **catalyst sites** (i.e. sites greater than 1500 square metres, which may include one or more allotments) in the SE of the City. Catalyst sites are seen to 'provide opportunities for integrated developments on large sites and provide opportunities to increase the residential population of the city'. SECRA believes that this objective can now be met without the need for catalyst sites. Further, the increased height, densities and site coverage make this policy inappropriate in the SE of the city.

Most recently, in December 2020, we participated in a final consultation process on the Code with the following comments on catalyst sites:

(a)ny need for increased height, densities and site coverage makes these inappropriate in the southeast quadrant of the city or other City areas zoned City Living.

SECRA based its concerns about catalyst sites on the high density of dwellings already existing in the city's SE sector. This part of the city currently has one of the highest densities of people in Adelaide, showing that high densities can be attained in medium-rise areas. In addition, SECRA notes that catalyst sites do not allow residents to make decisions about their neighbourhoods with any degree of certainty.

Transparency and accountability for the representors disappeared. It appears that SCAP met with the developer in confidence on at least two occasions despite attempts by residents to learn of the proposed changes. Subsequently, a compromise decision was formalised in the ERD Court in or around September again without resident input or knowledge. Residents found a letter in their post-boxes from the developer's agent about an inspection of their properties before the commencement of building works. This is the first many have learned about the development application's outcome.

SECRA RECOMMENDATIONS arising from 200 East Terrace

- *SECRA supports a code amendment to remove catalyst sites from the SE of the city.*
- *SECRA makes comments on the operation of SCAP and CAP in later case studies.*
- *SECRA seeks compensation for residents for the loss of neighbourhood amenity resulting from implementing the Act and Code.*

5 ALBERT LANE (21037088)

OVERVIEW

The development application sought to construct residential flats over a car park on the basement, ground and level one and apartments on levels two and three, bringing the development over the allowable height.

The confined site is located in the City Living Zone, with access by a narrow laneway which supports some 160 car parks for businesses and residents along Hutt Street and Wakefield Streets. Car parking is not an allowable use in this zone.

At no time were the three existing mature trees (not significant) given consideration in planning decisions as suggested in the recent publications by Plan SA.

RESIDENTS COMMENTS

- The **first application** drew eight responders who demonstrated that the overshadowing, plot ratio and landscaping fell well short of that required by the South East Policy Area 31 in the *Act*. Further, the development exceeded the height limits.
- The **second application** under the new *Act* had no significant changes to the development, drawing six responders. In addition to the previous concerns, a traffic consultant was commissioned to provide independent advice on the safety of the Albert Lane system because of the residents' grave concerns about the increased use of the narrow laneways currently serving 160 car parks.
- The **third application** was held in confidence as CAP considered a variation to the second application before moving to the ERD Court conciliation process. The representors were not given access to the Assessment Managers report, the revised plans or the written outcome of the CAP meeting. It is noted that the meeting occurred before the hearing in the ERD Court.
- In response to the **lack of transparency** in the administration of the *Code*, the residents wrote to the Minister of Planning, met with Lucy Hood, MP Member for Adelaide, and requested a meeting with the incoming Lord Mayor, Jane Lomax-Smith. Further, an FOI application was lodged with the Adelaide City Council to obtain the outcome of the recent CAP meeting.

The **third-party appeal rights** are of great concern to SECRA, where in December 2020, it sought changes to third-party *appeal rights to allow responders to become joinders to ERD Court appeals* which enables them to

retain involvement in the outcome of the development application through to its approval.

Since the *Code's* implementation in 2012, appeals have been made in the ERD Court. These proceedings are expensive for both representors and developers and promote an adversarial approach to local issues. CAP processes do not allow a conciliation meeting to resolve matters between the respondents, developer, and CAP before moving to the ERD Court.

While **variations to rejected development applications** are not explicitly mentioned in the CAP guidelines or the *Act* or *Regulations*, they are still used to further these development applications in confidence.

The *Code* **separates planning and building matters, and this interaction is essential in small sites with limited access**. The impact of the physical building process, which requires the closing of laneways, storage of materials and equipment and carrying out dangerous activities near residential properties over several years, severely impacts neighbourhood amenities.

SECRA RECOMMENDATIONS emerging from 5 Albert Lane

- *SECRA recommends that both CAP and SCAP should be given the authority to require mediation between all parties to the development application before going forward to the ERD Court.*
- *SECRA does not support variations on rejected developments by CAP or SCAP, which require a new development application to be made.*
- *SECRA strongly believes that the deliberations of CAP and SCAP should operate openly and transparently at all times, including conciliation or mediation conferences.*

193 ANGUS STREET, ADELAIDE (DA 21041709)

OVERVIEW

The development sought to retain the external walls of the existing factory and construct a nine-storey mixed development with office, car parking and ancillary services at ground level and 37 dwellings at upper levels.

The development is in the Capital City Zone and exceeds the maximum building height for the zone.

RESIDENTS COMMENTS

Some 10 (1 withdrawn) responders commented, two of whom wished to address the panel (1 withdrawal).

This development is located in a low-rise mixed-use area with some social housing. It is bounded by local heritage-listed cottages and a state-listed hotel, Seven Stars. The single-story factory in a modernist style will be retained as a podium for the tower.

- The SECRA member wished to raise specific concerns about limited existing **on-street parking in the surrounding streets**, the ability to service the apartments and shops with waste management, bin washing, deliveries and contractors, and the effect on the neighbourhood during the construction period based on previous experiences, such as the North Terrace developments.

Successive development approvals made by SCAP and CAP without an overall plan can lead to unintended consequences such as these significant traffic difficulties for the SE area. Therefore, we urge the development of the Adelaide City Plan, which contains a traffic management plan as a matter of urgency. SECRA is also supportive of developments which take a holistic approach to active transport integrated into the design of the building.

SECRA RECOMMENDATIONS arising from 193 Angus Street, Adelaide

- *SECRA believes when appropriate a development application is required to provide adequate parking spaces and not transfer additional costs to the public realm*
- *SECRA supports the calls for the development of an Adelaide City Plan to ensure that CAP and SCAP development approvals are coordinated and consistent with this Plan.*
- *The Adelaide City Plan includes a traffic management plan with active transport options.*

134 HUTT ST ADELAIDE (DA 22027403)

OVERVIEW

This development proposal which has not yet been considered by CAP, seeks to turn a failed, dilapidated petrol station into a location for food trucks, market stalls, a cafe and a wine bar. The site will also house a cycling facility on the ground floor of the former NAB Bank. Physically the placement of one and two levels of black containers will define the development. It is to be located in the Capital City Zone.

RESIDENTS COMMENTS

The development application did not comprehensively address the planning issues associated with the concept. One of the planning matters explored was the noise from the new use of the garage with its 'background music', requiring ameliorating features. No monitoring system was proposed.

The location is bound on the eastern side by a row of workers' cottages and, behind them, a dense settlement of one and two-level residences, which will be impacted by the proposal.

- To some, the **design and nature of the development** may not be appropriate for the street, which may be balanced against the condition of the existing site and the desire to 'reactivate' Hutt Street. If this is a temporary change of use, then this should be stated.
- Residents' **ongoing concerns** include the inappropriate use of laneways and narrow roads by delivery trucks, cycles and residents' cars, as the primary entrance is in Allen Lane. Users' and pedestrians' safety may be in danger, particularly at night when the lighting may be poorer.
- It was unclear from the material how the developers would ensure that the number of patrons does not exceed 150 and so that public safety can be maintained.

SECRA supports the revitalisation of Hutt Street, but such initiatives must operate within the *Code* and residential amenity.

SECRA RECOMMENDATIONS arising from 134 Hutt St Adelaide

- *SECRA recommends that Hutt Street requires a code amendment to the City Living Zone along its length to facilitate a cohesive development pattern consistent with its character and use.*

ADELAIDE PARK LANDS

OVERVIEW

The Parklands are a very precious cultural resource of beauty and environmental value that makes Adelaide a remarkable and unique city. SECRA supports the call for World Heritage listing for the Park Lands, which reflects the role and value our community places upon this open space. SECRA notes that the current federal government heritage listing applies only to the plan made by Colonel William Light.

VICTORIA PARK AND CLIMATE CHANGE

Furthermore, SECRA presented to the City of Adelaide Council meeting in October 2021 on the reimagining of Victoria Park. Council recognised that *Pakapakanthi* experiences considerable heat load from the lack of tree canopy and, in its northern section, the growing amount of cement and bitumen surfaces.

In a densely populated area, the southeast community relies upon Adelaide Park Lands, notably the *Pakapakanthi*, to modify the impact of climate change and for welcome recreational activities. SECRA has sought the support of the City of Adelaide and the Grass Roots grant program to assist in reforestation.

NEW PARADIGM FOR THE MANAGEMENT OF *PAKAPAKANTHI* AND *TUTHANGGA*

SECRA maintains that a new paradigm is required to successfully plan and manage Parks 16 (Kurna name *Pakapakanthi* and Park 17 (Kurna name *Tuthangga*), given the failure of current legislation to protect the alienation of the Adelaide Park Lands.

Developed in the 1970s, **environmental personhood** grants natural entities a similar legal status to corporations, with three primary rights: to sue and be sued (legal standing), to enter into contracts and to take legal action to protect themselves. This level of protection is required by the Adelaide Park Lands.

Examples have occurred in

- In New Zealand one of its parks was given its own *Te Urewera Act*, and its purpose was: "to establish and preserve in perpetuity a legal identity and protected status for Te Urewera for its intrinsic worth, its distinctive natural and cultural values, the integrity of those values, and for its national importance."

- In Victoria, the Yarra River became the first in Australia to be legally recognised as a living entity in 2017. However, it does not have legal personhood.

This paradigm allows indigenous and local residents to change their focus from what they want *from* the park and begin to ask what they want *for* the park and how we get there *with* the park.

SECRA RECOMMENDATIONS arising from the consideration of the Adelaide Park Lands

- *SECRA suggests that a new paradigm to the management of Adelaide Park Lands, which is similar to the identified examples, is adopted.*
- *SECRA recommends that by 2023 the Act and Code require state and local government to mandate all new buildings, facilities and major events within the Adelaide Park Lands submit a five-year greenhouse target reduction plan reflecting the current legislation as part of their development application, lease arrangements or funding applications. This Plan should preserve or enhance the current biodiversity in the Adelaide Park Lands.*
- *In the interim, SECRA will contribute to the development of the Master Plan for Victoria Park following these objectives climate proof Victoria Park, emphasise and enhance biodiversity, increase access to recreation and appreciation of nature, with a focus on families, reduce the negative impacts of the Supercars Adelaide 500 car race and other major events and encourage community participation in maintaining and managing Victoria Park as a People's Park.*



A view of the Victoria Park Wetland developed by the Brown Hill-Keswick Creek Stormwater Project which opened in 2022.

APPENDIX 2

OVERVIEW OF SPECIFIC RECOMMENDATIONS MADE BY SECRA

Based upon the experience of the participation of residents in the new planning process SECRA makes the following recommendations. In doing so SECRA notes that the principles of planning outlined in the Act require

That the 'policy frameworks should be able to respond to emerging challenges and cumulative impacts identified by monitoring, benchmarking and evaluation programs'.

RESPONSE TO CLIMATE CHANGE IN THE SOUTHEAST OF ADELAIDE

As the climate continues to change, governments and developers and residents need to plan how they will adapt. Creating an effective roadmap over five years to resilience is increasingly urgent to ensure a safe, prosperous future. SECRA believes that current planning policies require consideration of the net impact on emissions and the impact of climate change. Therefore, SECRA would like to see a strengthening of the *Code* to require all development applications to demonstrate a greater response to climate change.

BRING RESIDENTS BACK INTO THE PLANNING SYSTEM

SECRA believes that the Code lacks balance between development and residential amenities and seeks significant reforms to re-establish a fairer, equitable and workable planning system.	Amendment to S12(2)(c) of the Act presumption for development and planning is found in the following to 'promote certainty for people and bodies proposing to undertake development while at the same time providing scope for innovation'. An amendment is required to <i>include residents and those adjacent to the development</i> .
SECRA notes the growing recognition of the need to recognise Aboriginal culture and heritage in our planning processes and the <i>Code</i> .	Amendment to S12(1) of the Act requires the reflection of diversity and does not explicitly recognise the first nation people within the planning system. The primary object of this Act is to support and enhance the State's liveability and prosperity in ways that are ecologically sustainable and meet the needs and expectations, and <i>reflect the diversity, of the State's communities</i> requires amendment.
SECRA seeks funding and support for residents interacting with the <i>Act</i> and <i>Code</i> . This includes the establishment of a Planning Ombudsman, new opportunities to assist residents in understanding, implementing and using the <i>Code</i> .	Amendment. S12 (2)(a) and (b) require the planning system to be easily understood and accessible. Given it is not designed to support residents, other options to meet this legislative requirement are needed. (a) based on policies, processes and practices that are designed to be simple and easily understood

	<p>and that provide consistency in interpretation and application; and</p> <p>(b) enable people who use or interact with the planning system to access planning information, and to undertake processes and transactions, by digital means;</p>
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THE HISTORIC SOUTH EAST OF ADELAIDE

SECRA does not support the unnecessary destruction of historic buildings.	Amendment.
SECRA supports CASA's call for the demolition controls to be extended beyond having all permissions in place to undertake the replacement development, and it should be tied to the planning approval and authority given when work commences.	
SECRA supports reengineering the relationship between the <i>Heritage Places Act 1993</i> and the <i>Act and Code</i> in order to streamline both the state and local listings of historical buildings and other built forms.	Amendment supported by s14(g)(i) and integrated delivery principles.

CATALYST SITES

SECRA seeks an immediate code amendment to remove catalyst sites from the SE of the city.	Code amendment.
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OPERATION OF COUNCIL ASSESSMENT PANELS

SECRA seeks the redesign of Council Assessment Panels (CAP) in the Act that claim independence while being resourced and supported by the Council.	Amendment to s83 which establish the CAP.
SECRA believes that CAP and SCAP should require mediation between all parties to the development application before going forward to the ERD Court.	Amendment to s 203 to include a mediation function by CAP must be heard before an application to the Court.
SECRA seeks immediate changes to the CAP and SCAP operations on variations to failed development applications which require new applications.	Amendment to s128 to make it clear that a non-approved development application cannot be varied.
SECRA seeks immediate changes to third-party appeal rights to clarify that	Amendment to s 202-204.

responders are able to become joinders to ERD Court appeals.	
SECRA believes that the operation of CAP and SCAP should operate openly and transparently at all times throughout the process.	Amendment to s45(1) and extend the <i>Community Engagement Charter</i> to apply to the development application processes.

REJECTION OF THE 'ONE SIZE FITS ALL' POLICY

SECRA seeks a city plan to guide the ordered development and coordinate the activities of SCAP and CAP to address the specific issues relating to a capital city. The Adelaide City Plan includes a traffic management plan with consideration of both active transport and pedestrians.	Amendment to s6 to enable the development of the relevant sub-region.
SECRA believes that a development application be required to provide adequate car parking spaces for the users of the development and not transfer additional costs to the public realm	
Hutt Street have a code amendment to allow a City Living Zone along its length to facilitate a cohesive development pattern consistent with its historic and existing use.	Code amendment to retain the historic character of the street.

ADELAIDE PARK LANDS

SECRA supports the World Heritage listing of Adelaide Park Lands	Code amendment.
SECRA believes that a new paradigm is required to manage the Adelaide Park Lands	
SECRA believes all new development applications should submit a five-year greenhouse target reduction plan by 2023 as part of their development application.	Amendment to S 62 and Regulation S16 could be expanded to meet this recommendation as it requires the development application to ' <i>comply with any requirement relating to the sustainability of a building, or of the occupation or use of a building, from an environmental perspective, including so as to provide efficiencies with respect to the use of water, electricity or other resources or forms of energy, to reduce greenhouse gas emissions or the use of resources or energy, or to provide a rating system to facilitate the assessment of proposed development or to regulate the use or development of any building in accordance with prescribed standards</i> '.

In the interim, SECRA will contribute to the development of the Master Plan for Victoria Park.

CONCLUSION

SECRA notes that the principles of planning outlined in the Act in s14 require that the '*policy frameworks should be able to respond to emerging challenges and cumulative impacts identified by monitoring, benchmarking and evaluation programs.*' We acknowledge the role of the Expert Panel in undertaking a one-off review process and encourage the development of a continuous process, ensuring that the planning system becomes the best possible fit for our residents and developers alike.