

16 December 2020

The Hon. Vickie Chapman MP  
Minister for Planning  
Parliament House  
ADELAIDE SA 5000

Dear Minister

## **PUBLIC CONSULTATION ON THE PLANNING AND DESIGN CODE**

I write to you on behalf of the members of the *Mitcham Plains Action Group*. At present our group comprises over 130 residents largely drawn from the suburbs of Westbourne Park, Hawthorn, Cumberland Park, Mitcham, Lower Mitcham, and Torrens Park (the "Residents"). Our quality of life and amenity of our homes will be directly impacted by the new Planning and Design Code and we wish to provide feedback on the substance of the Code, and the nature of the consultation process that has been adopted.

### **Community Engagement Charter: Ensuring Effective Consultation**

The proposed Planning and Design Code (the "Code") is the most far-reaching set of proposals with respect to planning and development in the Adelaide Metropolitan Area for a generation, and, if passed and implemented, will impact on the built-environment and green space for the foreseeable future. The State Planning Commission's Community Engagement Charter (the "Charter"), promises to ensure a genuine, inclusive, informed and transparent process for engagement with the community on the detail of the Code. **These requirements and principles of the Charter have not been fulfilled.** The Residents, who are directly impacted by these proposals, have not been provided with a clear set of proposals on which to respond, nor have they been given any adequate explanation of how they will work in practice, in order to be able to engage meaningfully on them. This must be urgently rectified before the Code is finalised and implemented.

The Charter states that performance outcomes for genuine engagement with the community would provide "faith and confidence in the engagement process". To date there have been no open public forums on the latest proposals in the Mitcham Council area facilitated by either the Mitcham Council or State planning authorities, which would have given Residents an opportunity to ask questions and voice their opinion to relevant authorities and policy-makers. Many Residents are left struggling to understand what is proposed. Planning information events such as those recently held by SA Planning in Thebarton (after numerous delays) are not "open" to the community, rather these have been pitched at planners and developers.

The draft Code is obscure and difficult to navigate, and the online feedback format used by the Planning Commission is not user-friendly. The fact that the instructions for online feedback is 20 pages long indicates the level of complexity. Overall, the method for engagement has been tilted towards those with technical 'insider' knowledge of development process. Residents most affected by the proposals have not been privy to discussions on the draft Code with local Councils and other stakeholders, and have been left out.

In order to fulfill the promises of the Charter and the Code, **a full and transparent community engagement process must be carried out** on the latest version of the draft Code. In the absence of this, community trust will be eroded, and this would be a very poor basis for a new planning process which must win the confidence and trust of all.

## Open Space Fund

The Residents have to live with the effects of tree loss and urban infill in our suburbs and object to monies being taken from the "Open Space Fund" (levied on developers for distribution to Councils for projects designed to mitigate the adverse effects of their developments) to be used to prop up the finances of the Planning Department for the new Code and E-Planning system. Last year \$13 million was siphoned-off for this purpose, which is a mis-use of the intended purpose of these funds. The money that should be used for its proper purpose, namely to restore what is lost of our tree canopy and open green spaces to development, and ameliorate losses to Residents' amenity and property values.

## Trees and Green Space

As we face climate change, maintaining and enhancing public and private green space is needed more than ever. The Government's own "Urban Tree Canopy Options Cost Benefits Analysis" report states that trees can reduce air temperatures by 4 degrees and increase house values by over 5%. In determining a monetary value of trees, Dr. Gregory Moore at the University of Melbourne argues "a conservative estimate of 5% of the total value" of a property is reasonable and that real estate agents "have recognised the value of a good tree in a front garden at about \$5,000 for a suburban property".

South Australian Urban Ecologist Dr. Chris Daniels recently profiled Hawthorn in the Adelaide Advertiser as a "template for how Adelaide can become a greener city". It is not just human residents that benefit from the urban tree canopy. Well over fifty species of birds that live in the green spaces of the Mitcham Council area, reliant on the mature tree canopy of the area. In some streets, koalas are regular visitors, hosted in a network of mature gum trees growing in suburban back yards. The Residents highly value this biodiversity, however, it is noted with regret that the numbers of birds and animals are currently in decline due to urban infill, and more needs to be done to protect remaining habitat. Once lost, mature trees cannot be replaced overnight, and often take decades to grow to their full maturity. Thus, the Residents call on the State planning authorities and local Councils to ensure this is directly addressed in the Code, enabling us to **prevent further losses of mature trees which provide essential habitat for bird and animal life.**

Developers have no interest in the long term environmental or economic benefits of trees and gardens in our suburbs, preferring instead to focus on short-term profit that maximises the footprint of new builds whilst trading on the borrowed value of tree canopies and green space in neighbouring properties.

As a community **we reject the 'offset' scheme** included in the new Code that will enable developers to bypass the requirement to include trees in their infill developments by allowing them to pay a fee instead of planting or retaining a tree. A \$300 fee per razed block is an insult to the value of the many mature trees in the Mitcham Council area, and our beautiful leafy suburbs. This insignificant penalty does nothing to prevent the ongoing destruction of our gardens and green spaces. We ask you as Minister for Planning: how was this \$300 offset fee decided upon? A \$300 fee to clear a block is a pittance to developers and is offensive both environmentally and economically to the Residents.

We call on the Government **to devise a comprehensive tree retention and replacement strategy, backed up with meaningful penalties.** To compliment these efforts, we would also call on planning authorities to ensure listed significant trees are incorporated into the Overlay mapping.

## **Preliminary Comments on the Revised Draft Planning and Design Code, Pending a Full Consultation in line with the Charter**

The Residents have not been consulted on the Code adequately or at all. We do not understand how the zonings for the Mitcham Council area were arrived at and **we are surprised and concerned**

**that large parts of the Mitcham Plains Area have been left with no special overlay of protection**, and will be designated as part of the “General Neighbourhood Zone” by default. This is very concerning for some of Adelaide’s established, green and leafy suburbs in the Mitcham area.

The following preliminary comments are made on behalf of Residents:

1. The Residents **support the establishment of the Special Residential Character Zone** for Hawthorn, Cumberland Park and Westbourne Park, however it is considered the protections in this zone are not sufficient. We need additional measures to protect heritage and character homes such as demolition controls, and assurance that guidelines for development will be fully complied with and honored.
2. The revised draft Code places much of the Mitcham Plains area in the General Neighbourhood Zone which does nothing to protect green space and character homes in these areas. The Residents of these areas have not been consulted on this proposed zoning, and consider that **Mitcham, Lower Mitcham and Torrens Park should be given the status of Special Residential Character Zones**, as areas with significant original housing stock, consistent set-backs, significant green spaces, and character streetscapes.
3. Likewise, Residents consider **all parts of the Mitcham Plains area should be given the status of Established Neighbourhood Zone**, including Torrens Park, Mitcham and Lower Mitcham, reflecting the established pattern of housing in these neighbourhoods.
4. The Residents **object to the proposals to use “accredited professionals” (builders and planners) as “relevant authorities”** to outsource and fast track certain development applications. This will enable developers to pay accredited professionals to assess applications, at a cost to a fair and transparent planning process, and will be ripe for corruption and misfeasance. Nobody in these processes will represent the interests of Residents. Their only protection is the Code which is at best a guide and not enforceable. We understand that similar schemes operate elsewhere in Australia, and this has caused poor planning outcomes in many parts of Australia’s eastern seaboard. We should learn from these mistakes. The Code should not private assessors to make judgement calls where proposed development deviates from the Deemed to Satisfy criteria or where it involves interpretation of the requirements of the Code.
5. The **current provisions of the Development Plan with respect to notification of neighbours and the public should be retained**, particularly where development intensity will be increased, or include additional dwellings on a single site, will involve two story development, earthworks, or where the dwelling is located about one metre above ground level, or involves any change in use.
6. The revised draft Code allows for development on the boundary up to 11.5 m in length. This is a substantial increase from the current eight metres and will result in overshadowing and loss of amenity of homes and gardens. **The eight metre limit should be retained.**
7. The draft Code facilitates infill and easier removal of trees on public and private land. As outlined above, this will result in significant reduction of canopy cover, habitat loss and loss of climate resilience. **Requirements for minimum tree retention and planting size and maintenance should be written into the Code and conditions of approval.** This will avoid tokenistic landscaping plans, which do not substantially add to the tree canopy.

In summary the Residents consider that the changes foreseen in the Planning and Development Code are for the benefit and ease of developers and a betrayal of the interests of Residents. We call on you, as Minister for Planning and Infrastructure, to ensure a full and fair consultation on the Code, and to halt implementation of the Code in the Adelaide Metropolitan Area until these concerns have been addressed.

We trust that these comments will be given your urgent consideration.

Yours sincerely,

Alicia Siegel  
Convenor, Mitcham Plains Action Group

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Links:

[https://plan.sa.gov.au/data/assets/pdf\\_file/0009/449496/Community\\_Engagement\\_Charter - April 2018.pdf](https://plan.sa.gov.au/data/assets/pdf_file/0009/449496/Community_Engagement_Charter_-_April_2018.pdf)

<https://www.sqaonline.org.au/economic-value-of-trees/>

<https://thenewdaily.com.au/finance/property/2019/09/11/how-much-value-trees-add-to-property/>

Professor Chris Daniels' plan to make Adelaide green again, Adelaide Advertiser. Nov 14, 2020