



Submission to:

Planning System Implementation Review

Dear Panel members,

Friends of Willunga Basin (FOWB) makes its submission on this Planning Review as a community group working for good planning outcomes across the Willunga Basin.

Our comments cover:

- Community Engagement
- Representation & Appeal Rights
- Legibility of the Design Code
- Character Preservation
- Protection of Significant & Regulated Trees

Community Engagement

The new Planning System is predicated on a structure whereby, in theory, community is able to have input at the strategic and structure planning level, beyond which its right to participate in the planning process is quite curtailed. This trade-off is at the heart of the new system.

FOWB was involved in making submissions to the structure planning and re-zoning processes for the Renewal SA land at Aldinga in 2021. The land will accommodate about 1,000 dwellings so it is a significant development.

The engagement process was protracted, so we and others expended a good deal of time and energy in attempting to ensure a good planning policy framework for the land. Beyond agreement to introduce a Concept Plan for key infrastructure (which was missing in action, despite having already been developed via previous consultation processes), the only response given in the Planning Commission's 16-page Summary of Public Submissions and its 7-page Summary of the City of Onkaparinga's submission was "No Action".

We attempted to have the more appropriate Township zone used in lieu of the Neighbourhood zone that was adopted, but this was rejected out of hand. As it was, the existence of this alternate zone only revealed itself half way through the rezoning process.

In the end, the engagement process was opaque, fractured and ultimately, in the writer's view, an almost complete waste of the community's time. The only positive outcome from the whole exercise was the 'Aldinga Prospectus' developed by the City of Onkaparinga. But this is a separate initiative and, from within the planning system itself, we still have little to no idea of how the land is going to be developed, or of whether the community will have opportunity for further involvement when an apparently single development application is eventually lodged for the whole of the land, and Council starts considering BEP's and TNV's.

Based on this experience, the Community Engagement Charter offers little more than lip service.

Representation & Appeal Rights

As a community group, FOWB has always reviewed the ongoing flow of Development Applications and, where it saw fit, has made representations. We are not adversarial in our approach, rarely if ever

opposing a development outright – except where, for example and as happened recently, inappropriate development is proposed in the Hills Face Zone. Our objective is simply to seek better development outcomes.

On occasion we have also appealed planning decisions as a tactic to force a proponent to consider our case. We have never engaged a planning lawyer – we don't have the funds to do so.

A prime example of our approach is the OTR service station at Aldinga. We opposed the original application, not on the grounds of the proposed land use, which was not in dispute, but because the building was oriented such that the Hungry Jacks' take-out window and all of the site's waste bin storage and pick-up areas were going to be on the Port Road frontage, right at the entrance to the Aldinga local heritage precinct. When the application was refused, we offered OTR our support if it would rotate the design by 90 degrees to fix the Port Road problem. They agreed, we wrote a letter of support for the new design, and it ended well for everybody.

This outcome is virtually precluded by the new system. Opportunities for community to make representations have been significantly curtailed and, in the event that a representation is able to be made, representor appeals against planning decisions appear to be largely a thing of the past.

Underlying these new settings appears to be the notion that developers always know best and possess some higher right to have their views and plans prevail over all else, which would be to mix the condescending with the offensive. Developers, for the most part, are motivated by self-interest, which may or may not align with community wishes and desires. They also often work to short horizons, with their interest extending only as far as the completion date, whereas communities live with development outcomes for decades.

In other words, FOWB is of the view that the relative weightings between developer certainty and community say are wrong and need to be reset, including through improved opportunity to be involved at the assessment stage.

Alongside this new operating model, the lack of public notifications is reducing the visibility of and transparency around the planning process. More things happen in-house so there is less accountability. In this way, the system risks becoming somewhat unchecked, with the community left to be continually surprised at what's happening around it.

In FOWB's view, opportunity for community to be involved in the planning process needs to be restored in some degree, preferably through the restoration of third-party appeal rights through the ERD court (and the concomitant right to have been a representor in the first place). The pendulum has swung too far.

Legibility of the Design Code

Only professional planners spend their days fully immersed in the Design Code. The rest of us consult it as we need to.

In our experience, not only is the community having to learn a new language – try asking a man on the street to define a Technical Numerical Variation – but it is also being required to navigate a system that appears to focus more on the planning metrics of individual allotments than on delivering any real comprehension of the context within which development of said allotments is occurring. Context is everything in planning. Nothing happens in isolation from everything else. In terms of providing this kind of legibility to users – including community users – the Design Code has failed to deliver.

This is compounded by the fact that, far from providing a 'like for like' replacement of previous policy settings in a new format, the slashing of the number of zones means that it is actually a completely new planning scheme. Not only this, but the detail is buried within a voluminous electronic file, without proper

navigation aids, and it is difficult to interrogate in a meaningful way. Learning the new language clearly takes time and requires repetitive practice.

The problem here is that casual users, such as community groups, only come to the Design Code periodically and are then confronted with a language and with system protocols that are not easily understood. To this extent, groups like FOWB have been disenfranchised.

We are not alone in our views. We note the judgement of Commissioner Rumsby in *Evanston South Pty Ltd v Town of Gawler Assessment Panel* [2022] SAERDC 14 and, in particular, his remarks on “Exploring the Code” at pages 14 & 15. We concur with the Commissioner’s comments under this heading, including his summary of the situation where he says:

Exploring the Code itself is also something of a task, not the least because of the sheer size of the policy library and the very limited ‘way finding’ tools. The index of Code provisions is very limited and there are no hyperlinks which take the reader to the relevant parts of the Code. Further, when ‘browsing’ the voluminous document (of almost 5,000 pages for the metropolitan Adelaide region alone) there are no identifiers, footers, or markers on each of the pages so that the reader can establish where they are at in the body of the Code.

In order to properly understand and apply the Code it is also essential that the reader has a working knowledge of an array of tools attached to the portal, including the ‘Guide to the Code’ and, as above, SAPPA. In some circumstances it is highly likely that the user of the system would also need to refer to Ministerial practice directions and, when produced, guidelines.

Quite clearly, the authors of the digital planning system had not understood there would, on occasions, be a need to browse the Code and that the portal cannot be relied upon, in all circumstances, to call up the only provisions to which regard must be had.

Contrary to the Objects of the Act, the digital planning system is not simple and easily understood.

This summary certainly reflects our experience to date. We think it all needs to be made simpler and more easily understood.

We are also told anecdotally that planning expertise in local government is being hollowed out as private firms poach staff to enable them to meet increased demand from clients to help them navigate and explain how to work with the Code – which in turn is making the system more expensive to use than used to be the case. The fact that planning professionals, up to and including a Commissioner of the ERD Court, and people working in the development industry struggle to understand the application of the Design Code simply underlines its complexity and the difficulty faced by lay-people and community members.

In FOWB’s view, the system needs to be made legible to lay people. As it is, its illegibility is effectively disqualifying community from participating in the planning process and hiding the system from clear view.

Desired Future Character

The Design Code threw the baby out with the bath water when it came to desired future character.

We understand that there are moves afoot to reinstate some level of reference to local character and whole-heartedly support such change.

With there now being so few zones applied across such a wide and, in character terms, varied geography means that some means must be provided to enable regional variations to be recognised, and for the often-distinctive character of many Adelaide suburbs to be given their due in the planning process.

The one-size-fits-all approach of the Design Code is anathema to the preservation of character that, apart from directly affecting how people live, also creates real value where it is achieved – and vice versa.

Nothing stays the same forever, but the original Design Code settings around character preservation are akin to burning the family photo albums.

Significant & Regulated Trees

FOWB has consistently worked for the preservation of Significant & Regulated Trees in the townships of the Willunga Basin.

Too often, the first step in the development process is to remove all vegetation from a site (often notwithstanding the destruction of value that can accompany such action, such as in the 'Southern Transport' case in Willunga a couple of years ago). In a warming world, this is paleolithic thinking. There is now much evidence of the rate at which Adelaide's existing tree canopy continues to be destroyed and of the adverse effects that flow from this. We also understand from media reporting that Adelaide's controls on removal of such trees are significantly weaker than in interstate jurisdictions.

The quickest way to build tree canopy is to stop cutting down existing trees. The hurdle for removal of Significant & Regulated Trees must be set higher. This is something of a cultural shift, but desperate times call for desperate actions. Business as usual won't cut it, so to speak.

The practice of arborists making sweeping statements about the need to remove trees on planning grounds (of which we have seen plenty) also needs to be outlawed. Arborists should stick to their area of expertise, which would have the added benefit of stopping planners from outsourcing these decisions to the bloke who owns the chain saw.

Further, planning provisions which allow saplings to be planted, or a contribution to a fund, to replace sometimes 100-year-old trees are little more than a joke. We don't have 2-year-olds playing AFL. We should stop pretending that saplings provide ecological and community value that goes anywhere near to replacing what's lost.

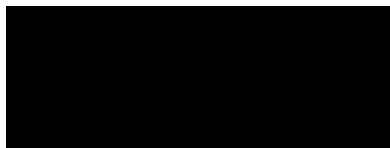
Conclusion

FOWB is pleased that the Planning Review is taking place because change in the current system is sorely needed.

We seek a system that recognizes the right of community to participate meaningfully in the development planning process, operating in a way that is legible and therefore accessible to lay users.

We look forward to hearing news that the matters addressed in this letter have been given serious consideration by the panel and that change will come.

Yours faithfully



Geoff Hayter

Chair Friends of Willunga Basin

15 December 2022