



**Prospect Residents  
Association Inc.**

ABN 18600859844.  
Registered No. 12864M

██████████ Prospect,  
South Australia 5082



22/2/2020

**SUBMISSION FROM THE PROSPECT RESIDENTS ASSOCIATION REGARDING THE DRAFT  
PLANNING AND DESIGN CODE DUE 28<sup>TH</sup> FEBRUARY 2020**

Thank you for the opportunity to comment on the draft Code.

**THE CONSULTATION PROCESS**

Along with many other organisation and individuals we too have found the draft Code almost impossible to navigate and are concerned that we are unsure which are errors, what are changes to policy and how to get a proper overview of the overall impact on the Prospect Council area.

We are concerned when the code is finalised how accurate it will be and how as residents we will get more information than merely what applies to our block of land and the 50 metres surrounding it. The current council development plan is much easier to navigate and get this information than the new system.

We have also struggled with the technical nature of the Code and how the Government thinks that consulting on a highly technical document with residents who do not have the technical expertise to understand many aspects of the Code constitutes a fair and equitable consultation process for the community. To take the general community out of being able to comment on what is to be built next to them and in their neighbourhood and to substitute commenting on highly technical policy some of which is incomprehensible to the untrained person is unethical and unfair.

Given the system is based on intention (and consultation should never occur on intention but rather on fact) and the eplanning aspect is not functional then we insist that there be a second round of consultation once the system is ready. This is so that we can hopefully get a better understanding about how it will work and then give **informed** feedback rather than ill informed feedback.

**Submission from the Community Alliance re Phase three Code Consultation**

Prospect Resident Association is an active member of the Community Alliance and as such this submission is supplementary to that of the Community Alliance. To overcome the problem of having to comment on many of the technical aspects of the current consultation we have been party to engaging a professional person to give us some guidance on this aspect.

The Submission from the Community Alliance is fully supported by the Prospect Residents Association. This submission has the support of a large number of residents associations and so covers views from many people from all over Adelaide.



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**HERITAGE CONSERVATION AREAS AND CONTRIBUTORY ITEMS**

**Submission from McDougall and Vines Conservation & Heritage Consultants re draft Planning and Design Code: Phase two (Rural Areas)**

Our heritage is very important to us. That is why we like living in the Prospect Council area.

The Prospect Residents Association fully supports the submission from McDougall and Vines regarding preserving our heritage areas including contributory items and tightening demolition control for State and local heritage and contributory items. This is a submission written by heritage experts and we could not write a better submission/explanation on this topic. Thus we repeat everything that they have said and ask for their expert advice to be incorporated into the Code. We attach a copy of their submission as Appendix A.

We believe that the historic area statements to be in the Code for Prospect Council area are inadequate and need to fully incorporate the work already undertaken by Prospect Council and supplied to DPTI. Much work has been done by many councils and this should all be retained and included. Prospect Council's detailed Historic Area and Character statements provided to DPTI need to be included in the Code.

In NSW contributory items exist and are not in legislation so they can be managed in policy as they currently are here. In Prospect as in other councils these buildings have already been through rigorous processes following the most current SA Government policy along with significant consultation with the community, so they must be translated into and retained in the new system. We are already losing too many character homes and we do not want to lose our contributory items as well.

**PROSPECT COUNCIL AREA.**

**Submission from the Prospect Council**

The Prospect Residents Association supports the Prospect Council submission with the following additional comments.

**Residential 350 zones to be Suburban Neighbourhood Zones**

The new draft Code transfers this into a 300 General neighbourhood zone allowing greater intensity of development than what currently exists. City of Prospect's 92 narrow streets will struggle to cope with row developments of 200 sqm which it also allows. The current 350 zone focuses on preserving character. It does not envisage a greater range and intensity development than the 300 block size. With Prospect Council's three major roads as Urban Transport Corridors with high rise infill development, we



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understood from DPTI that Prospect council area would not be required to have matching infill in our residential streets.

The Prospect Council has now informed us that the General Neighbourhood for the 350 zone has been said to be an error and that DPTI have informed them in writing that the Residential 350 zone will be transferred into the Suburban Neighbourhood Zone with a character overlay. We agree with this. We would like the Technical and Numeric Variations to match existing conditions. We also ask that you include the previously prepared character statements submitted by Prospect Council in the Code as they give better direction to landowners, residents, developers regarding residential character than what is currently in the Code. The character statements in the Code need to be more rigorous.

**Prospect Residential 200 zones to retain 200 sqm minimum block size**

Prospects 200 zones are located along very busy main roads eg Regency Road, Hampstead road, North East Road near the Nottage Tce North East Road intersection. These are not good locations to cram in housing that is 143 sqm minimum block size. Increasing the number of cars at these locations attached to this housing car will create traffic hazards. This is especially concerning given the problems that have been created in Campbelltown with allowing dwellings of 150 sq metres to be crammed onto blocks. For this reason Minister Knoll changed the minimum block sizes in Campbelltown to 250 sqm. Why would you recreate this problem in Prospect Council area?

Not only would this create traffic hazards on the main roads but there is also potential for a negative effect on the North Park Activity Centre and the Urban Corridor zoning with zoning contemplating shop, office and consulting rooms to 100sqm with frontage to higher order roads or adjacent Main Street or Activity Centre Zone. We do not support the proposed density at 70 du/ha or 143 sqm/per dwelling and it does not make sense to propose density in these zones that is well above Urban Corridor Living Zone which is at 45 du/ha.

The Residents Association recommends that these zones retain a minimum block size of 200 sq metres and a density the same as Urban Corridors namely 45 du/ha.

**Suburban Neighbourhood zones**

We do not support any type of development that impacts on the public realm e.g. new dwellings, dwelling additions to the side or front of an existing dwelling, carports or garages visible from the street as being deemed to satisfy development within the Suburban Neighbourhood Zone.

Under the proposed Code, building setbacks from both side and rear boundaries will noticeably decrease, particularly at the second storey. This will severely impact amenity and privacy and is not



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supported. We ask that existing site cover, set back and floor area criteria should be maintained throughout all Prospect Council's residential areas. It is important that our current minimum allotment sizes, heights and frontages widths match what currently exists in each zone.

Currently shops, offices and educational establishments are non-complying in Prospect Council's residential streets. The draft code will allow this development in all residential streets and negatively impact on traffic, parking, neighbours amenity, noise and liveability. It will completely change our suburbs' character which we want to protect. With the multi storey buildings emerging on our Urban Corridor and Business zones residents are already noticing increased traffic and parking in many of our 92 narrow streets. Having traffic chaos in narrow streets is very concerning. This can result in cars losing mirrors and being side swiped. This is not acceptable and these developments should be restricted developments in residential streets i.e. not allowed.

We do not support reduced privacy screenings requirements for upper level windows from 1.7 metre high screening to 1.5 metre high screening. Already with much of Prospect's infill development there have been many problems with second storey balconies allowing new owners to look directly into other resident's back yards which is a violation of peoples basic right to privacy in their back yard. Most people can see over 1.5 metres but less so 1.7 metres.

**Design**

Many developments in the Prospect Council area over the past 10 years have been of poor quality and ugly design that do not fit in with the character of the suburbs. It is of concern that our weak planning laws are attracting interstate and overseas developers who have little interest and commitment to design or the impact of their developments on the neighbourhoods. They are more interested in pushing the envelope and making a quick buck and leaving. We do not want this type of development destroying our neighbourhoods.

Despite being named a Planning and Design Code there is little evidence of the importance of design in the draft Code. There needs to be a much increased focus on design as per the design work undertaken by the Government Architect several years ago.

Design is an issue that the Prospect Council has raised on a number of occasions in their dealings with DPTI and which is being raised again. We are concerned that the draft Code has low expectations of design in the deemed to satisfy criteria which will lead to outcomes that will not result in quality builds which blend in with character neighbourhoods. The draft Code does not have strong guidelines and policy that focuses on quality outcomes and designs that adequately recognises and protects existing character and amenity.



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Our community expects existing character to be maintained with sensitive infill being acceptable where suitable design and streetscape integrations are demonstrated and that the Code must address the retention of local residential character balanced with sensitive and appropriate infill development. The simplistic nature of the Character statements currently in the Code, that do not contain contextual information to support the basic numerical based planning policy in the zones and overlays, is of significant concern. And remember we were told during the Corridor zoning changes on three main roads in the Prospect Council area that this concession would mean that there would be little or no infill to occur in our residential streets.

### Public Notification

The Code should include notification for all development that increases development intensity, including additional dwellings on the site, two storey developments, earthworks where the new dwelling is located 600mm above ground level and change of use from residential to non-residential. We are concerned about the reduction in the number of development proposals where the neighbour can lodge an appeal against a planning decision

### Plastic lawns, greening and climate change concerns

It is really alarming how many new homes have plastic lawns instead of vegetation or porous paving or gravel. This is very bad for biodiversity and the ecology of our city. It heats up the earth, kills insects, is dangerous for children and dogs in hot weather and contributes to the heat bank affect and plastic pollution that is taking over the world. These businesses need to diversify and plastic lawns need to be banned. (C.f submission by Prospect Local Environment Group on **Urban green cover and water sensitive urban design policies**)

The SA Government 30 Year Plan calls for increasing tree canopy cover. However, the draft Code's larger developments and easier tree removal on private and public land will lead to significant reduction in tree cover and habitat loss. The draft Code's increased infill development, reduction in minimum site areas, site coverage setbacks and increased number of street crossovers will all contribute to heat bank effect. This is an unacceptable loss of local greening and amenity in our neighbourhoods.

Dual garages must have only one entrance point to mitigate against significant loss of parking on our streets and loss of mature street trees which often need to be removed to make way for double driveways. By reducing the allowance to one cross over a tree might not need to be removed and less parking will be lost in the street. We support this policy direction.

The requirement for a deep-rooted tree and some plantings for new development increasing density is supported. Boundary to boundary developments with no set backs from front or side and minimal



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setbacks from the rear boundary removes too much greenery which is of serious concern with climate change and heat bank affects.

**Commercial centres**

The Code places large scale centres and small local shops in the same zone, allowing large scale development and more intensive land uses in all these small areas. This would create complex problems with narrow streets leading into small groups of local shops suddenly replaced by large developments where the street would not cope with the increased traffic and overlooking problems for residents. A hierarchy of centres should be kept with additional zones needed to cater for lower intensity local shops in older established areas. Local shops should not be allowed to have large developments.

In the suburban activity centre Zone at North Park no retail hierarchy has been provided and it is given a similar status to small centres on North East Road. This is not supported. The concept plan in the current development plan for the suburban activity centre Zone at North Park needs to be carried over. There needs to be a design overlay for areas with large scale development and the interface with residential zoning.

**Trees and Biodiversity**

**Submission from the Conservation Council SA on the Draft Planning and Design Code (primarily focused on Phase 2 councils (Rural Areas))**

The Prospect Residents Association fully supports the Submission from the Conservation Council SA on Phase two and in particular the recommendations on Biodiversity and Conservation zones. (See Appendix B)

This needs to be expanded to include the importance or retaining biodiversity in our residential areas in relation to parks, gardens, reserves and backyards.

We support the current policy on significant trees and regulated trees being translated into the code and do not support the government being able to cut down significant trees willy-nilly on road verges especially when not required for whatever activity is taking place. This has occurred on the Golden Grove road up grade where significant trees that were not required to be removed for the upgrade have been cut down without any consultation or communication with the community. Very poor work



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[Redacted]  
[Redacted]

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occurred on how this could be better managed. More work needs to occur to retain our significant and regulated trees due to climate change and for our bird and native wild life. See the Community Alliance submission for more recommendation on this subject.

Prospect currently has significant multi storey development between Churchill Road and Davenport Terrace. At the same time the government is going to electrify the rail line that runs along Davenport Terrace which has significant greenery and trees much of which in the Prospect section has been planted and cared for by the local residents. This is an important example of where, given the loss of open space and greenery with each multi storey development, it is crucial as little as possible greenery and trees are removed when the upgrade occurs to the railway line.

**Flood Mapping**

Flood Mapping data held by the State Government needs to be incorporated into the planning and design Code prior to commencement. This is a fault in the Prospect Development plan as it is not currently included. This is important for management of risk into the future.

**Role of councils**

Local government is best placed to represent local communities and capture the specific local character in planning policy in consultation with their communities. The new planning system must include sufficient opportunities for local government and local communities to develop planning policy for local areas. As outlined in this report, there is a loss of local policy and local content in the draft Planning and Design Code in the interests of standardization of planning policy.

Elizabeth Crisp  
President  
Prospect Resident's Association

[Redacted]  
Prospect  
SA 5082  
[Redacted]  
[Redacted]  
MOB: [Redacted]



**Prospect Residents  
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Registered No. 12864M

[REDACTED] Prospect,  
South Australia 5082

[REDACTED]  
[REDACTED]

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# APPENDIX A

**SUBMISSION BY MCDOUGAL AND VINES FOR PHASE TWO**

29 November 2019

Department of Planning, Transport and Infrastructure  
GPO Box 1815  
Adelaide SA 5001

Email: [DPTI.PlanningReformSubmissions@sa.gov.au](mailto:DPTI.PlanningReformSubmissions@sa.gov.au)

Dear Sir / Madam

**DRAFT PLANNING AND DESIGN CODE: PHASE TWO (RURAL AREAS)**

We provide this submission to the Department of Planning, Transport and Infrastructure in response to the Phase Two of the Draft Planning and Design Code for Rural Areas. Our feedback relates to two specific areas as follows:

**1. REMOVAL OF SCHEDULES OF CONTRIBUTORY ITEMS**

Since 2001, many councils have undertaken Heritage DPAs, seeking and ultimately obtaining approval for the inclusion of Local Heritage Places, Historic Conservation Zones and Contributory Items, based on the State Government's recommended model policy for the retention of these buildings within conservation areas. Sign-off on various Councils' listing and mapping of Contributory Items has been authorised by successive Planning Ministers in accordance with the Governments *Heritage Planning Bulletin* (2001) and the Planning Department's *South Australian Planning Policy Library*. Many historic suburbs within our city are among the most desirable places to live in Adelaide, evidenced by high property values and significant investment in renovations and extensions to these buildings. The property owners that live in these suburbs value the historic conservation rules that have preserved these heritage outcomes.

The draft Code proposes to remove the schedules and maps of the current contributory items and weaken associated policy controls. This will affect places in the Phase 2 Rural Areas and will negate the significant investment made by those Councils who currently use these policy provisions for the sake of a one-size-fits-all planning system. The State Planning Commission's judgement that the listing process for Contributory Items has lacked rigour is misinformed. Councils concerned have all prepared Heritage Plan Amendment Reports generally with a high standard of rigour. It is agreed that some are inconsistent and some vary in standard but this does not justify the proposed action to remove the contributory item category and throw out a system that has provided protection.

The State Governments *Heritage Bulletin* 2001 defined a Contributory Item as:

**Contributory Item** – Identified through policy formulation and amendment and deemed to have historic value by contributing to the heritage values of a Historic (Conservation) Zone or Policy Area.

This definition of Contributory Items provided by government shows that Contributory Items are protected from demolition in Councils where policy wording advocates their retention and model Principle of Development Control 1 (a) for Historic Conservation Zones stating:

*Existing significant and contributory buildings identified in Table X and Map Y, which contribute to the historic character of the zone should not be demolished.*

KATRINA MCDUGALL BA (MELB) HISTORIAN ELIZABETH VINES OAM B.Arch (HONS) MELB, FRAIA ARCHITECT

St Peters, South Australia 5069  
Mobile [REDACTED] Email [REDACTED]  
ABN 1664 2902 141

This makes it clear that Contributory Items as defined and written into policy protections by the State Government should not be demolished. Contributory Items have a lower threshold retention test than that which applies for Local Heritage Places. It is the **COLLECTIVE CONTRIBUTION** of contributory items that is important, and Councils accept that some can be demolished where circumstances warrant such demolition as the assessment tests for this are not as stringent as they are for Local Heritage or State Heritage Places. The proposal by the Minister for Councils now to assess all contributory items across the state and elevate some to Local Heritage Place status where appropriate is a total misunderstanding of the existing heritage framework that has worked well for two decades. This existing framework includes a clear differentiation of status and development constraints and opportunities for Local Heritage Places and Contributory Items.

The Commission has argued that the removal of Contributory Items will provide property owners and developers with greater certainty. This is considered a false assumption. The current schedule of places provides certainty as to which places are recommended for retention. This schedule is replaced with poorly worded unclear policies with an *ad hoc*, costly and delayed assessment process which will lead to poor development outcomes. Any person wanting to demolish a property or make changes will have no clear guidance as to its significance or recommendation for retention or otherwise. Consultants will need to be employed to assess and argue the case on a case by case basis, adding cost and time to the whole process.

The proposed wholesale removal of the Contributory Items simply because there are no legislative criteria for their listing and because of reported isolated examples of owners of Contributory Items having a negative experience with the development assessment process relating to their respective Councils, is also considered a poor argument. It would be just as easy to grandfather across existing Contributory Items and develop legislative criteria for the listing of new Contributory Items as part of the new planning system, to reinforce their importance, as recognised by previous State planning departments and State Governments.

We therefore recommend:

- **Contributory Items should be retained and transitioned** over to the Planning and Design Code in a clearly identified database (e.g. spatially identified on a map showing the newly termed Historic Areas boundaries or by address) and the existing demolition protections under the current system be transitioned across to the new planning system.

- The intent of consistent policy across the State is supported, but this must be well considered, with **clear language and intent**. **No effective or consistent policy to provide protection for the built heritage of the proposed Historic Area Overlays is outlined in the draft Code**. The practical implications of the proposed policy framework have not been properly considered or tested in practice by the Commission. The collective and considerable opposition to the proposed Code “reforms” by councils, community groups and owners of Contributory Items should not be dismissed but seriously addressed given what is at stake if these changes proceed. The current policy makers and legislators must ensure the quality of life enjoyed by owners of Contributory Items continues to be preserved and shared across the community.

## 2. HISTORIC AREA STATEMENTS

*“In the new planning system all historic conservation zones (over 140 are currently in development plans) and the like, plus the 11,810 contributory items, will transition into the new Planning and Design Code under a new Historic Area Overlay.” .....*

*“Historic area statements are proposed to be introduced into the Code to help clearly identify and articulate the key elements of historic importance in a particular area.”*

**Extracts from Draft Planning and Design Code - Historic Area Statement, Proposals to Amend Phase 2 (Rural Areas) Planning and Design Code Amendment – Historic Area Statements [p2]**

**KATRINA MCDUGALL** BA (MELB) HISTORIAN **ELIZABETH VINES** OAM B.ARCH (HONS) MELB, FRAIA ARCHITECT

St Peters, South Australia 5069  
Mobile [REDACTED] Email [REDACTED]  
ABN 1664 2902 141

Generic guidelines for Historic Areas Overlays have been prepared and in the draft Code for Phase 2, example Historic Area Statements have been prepared.

Draft Historic Area Statements have now been issued for Phase 2 Council areas. These provide a prototype and template for these statements across South Australia within the new Code. Refer

These draft statements are found to be **completely deficient and unusable for the following reasons:**

- The generic introduction makes no reference to the specific Historic Area Overlay being described, so that no context is set about historic background, development pattern or heritage values of the particular Historic Area.
- The Maps provided are too basic without any detail including street layouts/ subdivision patterns, already listed local and state heritage places. There is inconsistency in mapping style of the proposed Historic Areas and no keys provided to interpret the maps (eg 5 colours with no key to indicate what the colours mean). The current Development Plan maps are far better, and should and could be adapted to replace the minimal, inadequate new mapping provided.
- The table has no title and no headings, and it is not clear what the function of the table is. This needs to be clarified for it to make sense.
- Information provided in the tables is confused, inadequate and would provide no basis against which to measure development application. Some of the information comes from existing Development Plan provisions, but is selective and *ad hoc*. These tables as outlined do not *"identify and articulate the key elements of historic importance in a particular area"*.
- The statements in their current forms would provide no assistance for the development assessment process. The information provided is totally inadequate and does not in the current form assist with assessing the relative merits of any proposed development.
- An example is the Robe Historic Area Statement as drafted which provides a half page statement (in table form) which replaces the carefully considered provisions of the existing Development Plan (as outlined in 3 pages in the current Development Plan plus a 3 page guideline document)
- No development objectives or policies are included resulting in very minimal and vague guidance

**It is therefore recommended that**

- The draft Historic Area Statements should be completely redrafted, edited and rewritten to expand the content, incorporate necessary additional information, and provide a statement which can be used to guide appropriate development in these significant historic areas. In their current form, development could be approved which would destroy the historic values of a Historic Area Overlay.

**It is recommended that all these statements be redrafted and revised by experienced heritage consultants/ planners as in their current format they are inadequate and incomplete and will not result in retention of historic values of the proposed historic area.**

**KATRINA MCDUGALL** BA (MELB) HISTORIAN **ELIZABETH VINES** OAM B.ARCH (HONS) MELB, FRAIA ARCHITECT

St Peters, South Australia 5069  
Mobile [REDACTED] Email [REDACTED]  
ABN 1664 2902 141

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We would also like to point out a specific error of transition of existing controls in the NPSP case. Land division controls for the residential character zone in Norwood Payneham and St Peters have been removed, and we request confirmation that these controls will be reinserted in the code? This is of particular concern for Ninth Avenue, Seventh Ave, (between Stephen Terrace and Harrow Road), and Seventh Avenue Joslin. **Please respond to this specific request.**

**In summary** we are concerned that the Code as proposed contains major errors, and requires considerable editing and change. We are particularly concerned that it is proposed to release and put into operation the Phase 2 areas by the 1<sup>st</sup> of April which provides insufficient time for meaningful consultation.

We also believe that the Code as a whole, proposed for general release by 1 July 2020, will not allow sufficient consultation to the many changes required to the Code. We strongly support an extension of timeframe beyond July 2020, via legislative change, to ensure the Code is up to standard and fit for purpose.

Yours sincerely



ELIZABETH VINES OAM



KATRINA MCDUGALL



**Prospect Residents  
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[REDACTED] Prospect,  
South Australia 5082

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[REDACTED]  
[REDACTED]

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# APPENDIX B

**SUBMISSION BY CONSERVATION SA FOR PHASE TWO**

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Department of Planning, Transport and Infrastructure  
GPO BOX 1533  
Adelaide SA 5001

DPTI.PlanningReform@sa.gov.au

Friday 29 November 2019

**Re: Comments on the draft Planning and Design Code  
(primarily focused on Phase 2 councils (Rural Areas))**

To whom it may concern,

The Conservation Council of South Australia (Conservation SA) welcomes the opportunity to make comments on Phase 2 of the draft Planning & Design Code. Conservation SA is an independent, non-profit and strictly non-party political peak body organisation representing more than 60 of South Australia's environment and conservation organisations. Conservation SA has been a strong advocate for the protection of nature and biodiversity, and the promotion and uptake of sustainable practices in South Australia since 1971 and has a significant ongoing interest in ensuring sustainable planning, design and land use.

Our comments focus on Phase 2 of the Code, but also touch on broader issues relating to the overall Code process and intent.

Ideally, we would have preferred to synthesise the views of our member groups into a consolidated submission representing the conservation and environment sector. However, that has not been possible due to inadequate time: our member groups, and our organisation, have struggled to deal with the enormous complexity and sheer volume of this Code review within the allocated consultation period.

Instead, we endorse the comments of our member groups, including the Nature Conservation Society of SA, National Trust of SA, Friends of Parks Inc. and Community Alliance, as well as the Environmental Defenders Office provided as part of the submission process.

The new Code based system, as the key state document guiding planning decision making, has the potential to address future development in a rapidly changing world, as we face growing challenges including significant biodiversity loss, increasing temperatures and extreme weather events. The challenge is to protect our state assets, both natural and cultural, against destruction in times of environmental and economic stress, and to enable producers and Councils to provide resilient ways for adapting to changing circumstances. It is an opportunity to make the planning system clearer and more certain in direction, and to enable consideration of longer-term impacts on public wellbeing and the environmental resources on which we rely.

We acknowledge the enormous effort by the Planning Commission and DPTI staff in their attempt to meet the legislated Code implementation date of July 1 2020. However, we are deeply concerned the timeframe is simply inadequate for the size of the task.



Conservation  
Council SA

The Joinery

Adelaide, SA, 5000

ABN: 22 020 026 644

As a result, the process has become deeply problematic, and community concern is high and growing. There are four main reasons for this concern:

### **1. A clash of expectations**

At the start of the planning reform process, the community was told that there would be a shift away from public input and involvement when development was taking place, and brought forward towards the front end of the planning process when the policies and rules governing land use were being designed. The theory was that this would be a more appropriate point for engagement and reduce the potential for battles later.

From the beginning, we argued this was a flawed premise, as the community, in the main, only tend to engage with issues of land use planning when an actual development is proposed. Therefore, opportunities for meaningful engagement need to be built into all stages of the development cycle, not just the beginning.

However, even if we accept this flawed premise, a clear promise made was that the public would be given an adequate opportunity to engage and create the policies and rules at the start of the process. That time is now when the Code is being created.

Yet the sheer complexity of the draft Code, the lack of time for adequate consultation and the technical nature of the consultation so far have excluded the public from the opportunity of appropriate engagement.

### **2. Are we dealing with a change in rules or a change in the process?**

There have been mixed messages about whether the Code development is merely a 'cut and paste' transfer of the current planning rules across to the new e-portal process, or a 'once in a generation' overhaul of planning rules.

At different times the community has been told both.

It seems with the current drafting that we have a hybrid – with about 90% of the current planning rules imported, alongside changes in other areas. That is deeply confusing for the community. Why have some rules been changed, and not others?

An appropriate process would be either:

- a straight 'cut and paste' of the current rules to a new system, with a longer-term schedule of updating the rules based on detailed and extensive community consultation, or
- a genuine community conversation now about our collective vision for our neighbourhoods and land use systems for the coming decades.

This current process is neither. If there are changes proposed in the planning rules, then why are only some areas on the table for discussion and not others?

### **3. A moving target**

Not only is the Code incredibly challenging for non-planning professionals to navigate and understand, in part because of its novel and complex structure, it is apparent that the process of translating policies from the old system to the new has been limited by time and/or resource constraints, resulting in a significant number of errors, omissions and anomalies.

As the draft Code is a hybrid of imported old and created new drafting this is particularly problematic as the community doesn't know if particularly wording is an intent to change the rules, or merely a mistake which will be remedied in later drafts.

Also, we understand a significant amount of new policy underpinning the Code is still being written. It is very hard, therefore, to assess the true impact of the Code as we try to navigate and respond to a moving target.

#### **4. Truncated timing**

Originally, the State Planning Commission proposed 3 staged consultations based on Outback, Rural Councils and Greater Adelaide. Phase 1 Outback has been activated but still retains content to be corrected. By bringing Phases 2 and 3 together, with submission timelines for Phase 2 due by the 29th November, and Phase 3 by February 28, 2020, there appears insufficient time to correct content as well as fully test the electronic system's compatibility with local government IT systems.

Again, we acknowledge the enormous and complex task given to the Commission and DPTI staff. We believe it is unrealistic given time and resource constraints.

We are deeply concerned that the lack of time remaining until the legislated implementation date, and the sheer size and complexity of the reform process, will severely restrict the ability of the Commission and DPTI staff to adequately consider and incorporate changes recommended by us and others through this consultation period.

The risk of inadequate drafting, or inadequate policy out of step with community expectation, is considerable and growing. An incomplete Code will cause confusion and inefficiency, especially as it will need significant alteration by the Minister acting on the advice of the SAPC.

We strongly urge you to advise the Minister for Planning, Transport and Infrastructure that more time is required to ensure appropriate and respectful consultation, and genuine community consent, in such an important policy development process.

If you would like to clarify, or seek further detail, about these comments, please contact me on [REDACTED] or [REDACTED]

Yours sincerely



Craig Wilkins  
Chief Executive

*Additional Comments:*

*Please note: these comments are preliminary – we, along with our member groups, are still attempting to fully understand the content and intent of the Code.*

We acknowledge and support:

- The proposed new Native Vegetation Overlay, which will provide a formal link between the land-use planning and native vegetation protection regimes. We believe this will lead to more coordinated implementation of current legislative settings and awareness-raising regarding existing obligations, and
- Policies for encouraging more 'green infrastructure' and Water Sensitive Urban Design in new developments, particularly by including requirements for trees in the Deemed-to-Satisfy assessment pathway. Encouraging the establishment of the new tree canopy is critical for cooling our city in a warming climate, as well as providing a range of other benefits.

***Climate Change***

The community needs the Code to set up our state for success over the coming decades. During this time, we will inevitably experience a significant shift in extreme climate variability and natural hazards, with far-reaching impacts. Much of the information about the impacts is known now, and because of the significant lead time between planning and the construction of infrastructure/building/housing etc based on the planning rules that exist at the time when approvals are given, we increase significantly the risk to health, wellbeing and prosperity if we delay necessary changes to later generations of the Code.

We note that the words 'climate change' is not specifically referenced in this version of the draft Code, which is a surprising and significant omission. The Code must better articulate the need for climate resilience in all forms of development including consideration of what, where and how we build to adequately mitigate future climate impacts and reduce carbon emissions.

We acknowledge the inclusion of positive approaches to mitigating climate impacts, particularly concerning the greening of neighbourhoods and water sensitive urban design, however, there has been a significant and sustained reduction in tree canopy cover across the metropolitan area, despite growing concerns about the impact on health and wellbeing from heat island effect. While support for new tree planting is essential, this generation of the Code also needs to consider ways to reduce the loss of mature, significant and regulated trees.

There is increasing awareness about the benefits of 'natural climate solutions' and the potential for blue carbon and other carbon sinks. When living systems – like bushland, saltmarshes, mangroves and seagrasses – are allowed to recover and expand, they draw down carbon from the atmosphere, reducing the chances of climate catastrophe. Their restoration also increases the resilience of the living systems that underpin our soils, water, pollination and air quality. There are significant opportunities in the Code to strengthen protection for natural spaces in our regional and outer metropolitan areas.

## **Biodiversity**

The Code fails to adequately reflect the State Planning Policy 4 - Biodiversity.

### **RECOMMENDATIONS**

1. The Code is reviewed to contain an overarching biodiversity policy (e.g. Desired Outcome) and includes important policies included in Development Plans and the Planning Policy Library.
2. Consider a Biodiversity Overlay for the Conservation Zone, including all areas proclaimed under the National Parks and Wildlife Act 1972 and Wilderness Act 1992, (p.154 Guide to Draft Planning and Design Code, Attachment 2: Alignment of the Planning and Design Code with State Planning Policies)
3. Include the definition of biodiversity in all key zones and overlays and the new general provisions:
2. Include the full definition of biodiversity is found in State Planning policy; namely the variety of all living things; the different plants, animals and micro-organisms, the genetic information they contain and the ecosystems they form. Biodiversity is usually explored at three levels – genetic diversity, species diversity and ecosystem diversity. These three levels work together to create the complexity of life on earth.
3. Include Native Forest Reserves (16,000 hectares in total) in the Conservation Zone. These areas are managed by Forestry SA for conservation purposes.
4. Ensure mapping to accurately zone existing reserves as Conservation (this applies to all Phases of the Code).

### ***Trees & Loss of Native Vegetation***

The excessive removal of native vegetation within South Australia needs to be addressed by the Code: We support the referrals to the Native Vegetation Council for direction.

For all phases of drafting and reviewing the Code, consideration of economic and social benefits of trees in combating predicted temperature rises, extreme weather events and public health impacts needs to take into account information on the benefits of trees in our urban environment and the costs of not having them for the following benefits:

- Increased shading = lower power bills, what is the average saving?
- What is the economic benefit of trees producing clean air?
- What is the \$\$ benefit to mental health from trees?
- What is the economic benefit of reducing the urban heat island effect?

### **RECOMMENDATIONS**

1. Propose State Policy 4.1 references to the ongoing protection of trees in areas to include 'to minimize impacts of development on areas of recognized natural character and values'.
2. Include 'the retention of all large, long-lived and drought-resistant trees' within the context of biodiversity policies.
3. The City Of Melbourne has an Exceptional Tree Register where the trees are assessed against clear criteria. A similar approach should be considered in the Code.
4. Regulated trees overlay policy to include:
  - a) reference for regulated trees in general to indigenous to the local area and important habitat for native fauna being criteria for considering retention;
  - b) reference for significant trees to indigenous to the local area, an important habitat for native fauna, part of a wildlife corridor and importance to the maintenance of biodiversity being criteria for considering retention;
  - c) Retention test "Significant Trees should be preserved" rather than "where they make an important visual contribution to local character and amenity"; and
  - d) test for significant trees of "all other remedial treatments and measures have been determined to be ineffective".

## **Heritage**

### **RECOMMENDATIONS**

Replace current demolition controls in Historic Area Overlay with:

1. A Contributory Item should not be demolished or removed, in total or in part unless:
  - a) the part of the item to be demolished or removed does not contribute to the heritage value, historic character or desired character of the zone; or
  - b) the condition of the item is structurally unsound and substantial rehabilitation work is required to an unreasonable extent; and
  - c) in either of the circumstances described above, the demolition of that building, or that part of a building, is part of a development involving erection of a substitute building, or part of building, or addition to that building, in a manner which does not diminish the level of contribution to the historic character of the zone made by the building on the site of the demolition.
2. The poor appearance of a contributory item should not serve as justification for its demolition or significant modification.
3. Heritage Area Statements for State Heritage Areas and Historic Areas should contain detailed policy in line with those that currently apply.
4. The Heritage Overlays should clearly express the importance of preserving heritage values.
5. Remove deemed to satisfy provisions for conservation work.
6. Include public notification provisions in Heritage Overlays.
7. Clarify which policies apply to properties within the State Heritage, Local Heritage and Historic Area Overlays and which apply to adjacent sites.
8. Clarify what are acceptable changes in the Historic Area Overlay.
9. Clarify what is suitable development for applications involving alterations and additions to properties in the State Heritage Area and State Heritage Places Overlays.
10. State Heritage Place Overlay should refer to the preservation of whole landscapes.
11. Define or clarify the phrase "extent of listing" in the State and Local Heritage Place Overlays and the phrase "visible from the public realm" in the Historic Area Overlay.

**RECOMMENDATIONS**

1. Correct overlays to include Conservation Zoning to apply to all areas of parks.
2. Review vague terms to provide specific meanings: e.g. 'contemplate' undermines the purpose, use and protection of reserves expected by the public.
3. Campgrounds are shown in some management plans. It needs to be clarified whether tourist accommodation is to be considered in these areas beyond temporary tents rather than permanent facilities (e.g. cabins) Camping is an option for members of the community as an accessible and inexpensive way of connecting with park environments. It would be a pity if such areas were to be commercialised.
4. 'Restricted' is the appropriate default assessment path for Tourist Accommodation in areas proclaimed under the National Parks and Wildlife Act 1972 and the Wilderness Act 1992. Code amendments could make provide exemptions to the 'restricted' category for sites for Tourist Accommodation designated in Park Management Plans and extended where no management plan exists to apply to historic buildings such as lighthouses, farm buildings and homesteads.
5. Consider notification to apply beyond the 50m area around a proposed development site and include Park volunteer groups who have invested significant time and effort in caring for natural areas, as well as the general public who have a clear interest in public open spaces and parks.
6. Amend the Significant Landscape Protection Overlay to include Wilpena Pound
7. The information regarding public notification (p26 of the Guide) states that the types of development exempt from notification are listed under procedural matters at the end of the relevant area zone. Reference to procedural matters includes Class of Development /Activity-Referral body/Purpose of referral. This notification does not refer to public notification and it is suggested a clearer and direct reference to public input be provided.
8. Public land – why should the public not be included, advised and contribute to the assessment o new developments on public land? Many NGO volunteers have donated considerable and continuous-time caring for parks, to support the aims of conservation. It is strongly recommended that under Procedural matters the Friends of Parks and Nature Conservation Society be enabled to be a comment on tourism accommodation and other land uses that may compromise the integrity of park management.