

Review of the Character Preservation (Barossa Valley) Act 2012 and Character Preservation (McLaren Vale) Act 2012

Review Outcomes Report



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Government of South Australia
Department of Planning,
Transport and Infrastructure

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1 Introduction and Summary

The *Character Preservation (Barossa Valley) Act 2012* and the *Character Preservation (McLaren Vale) Act 2012* (the Acts) were introduced to protect the special character of the Barossa Valley and McLaren Vale.

The legislation was supported by changes to the South Australian Planning Strategy and local development plans to provide clarity about special areas that should be protected from residential subdivision. This is important to:

- protect our valuable food producing and rural areas
- conserve our prized natural landscapes, and tourism and environmental resources
- provide more certainty to food and wine producers about their ongoing investment
- make it clear where residential growth should happen.

The legislation has been effective in protecting our vital food and agricultural land and in containing the threat of urban encroachment. A key outcome of the legislation is the long-term protection afforded to these districts through a reduced ability to subdivide land for residential purposes. The evidence shows that the legislation has reduced the number of residential land divisions in sensitive areas while maintaining an appropriate supply of land for housing within townships.

The character legislation specifies that the Minister must undertake a review within five years of its commencement. As such, the Department of Planning, Transport and Infrastructure coordinated this process and a discussion paper was released in October 2017 which included some background and assessment of the affects these Acts following initial conversations with councils and State Government agencies.

The discussion paper was placed on public consultation for a period of four months to allow adequate time for all stakeholders to provide comment. During that time DPTI received 40 submissions from a variety of stakeholders (see Section 7 for more detail).

What We Heard

The submissions received supported the overall intent of the legislation as providing the long-term protection of the special areas of Barossa Valley and McLaren Vale. The legislative protection was seen to be far greater than the protection afforded by local planning policy. There was widespread agreement among respondents that farming lands should not be lost to urban subdivision and a general consensus among respondents that the legislation has not created any major detrimental direct impacts.

A number of the submissions received during the consultation process proposed amendments to the boundary of the character preservation districts (a map of the sites and summary is provided in Appendix B). While many of these proposals have merit, most require additional consultation with the community, further investigation, or in some cases a rezoning prior to any amendment to the legislated boundary.

Many submissions received identified opportunities to improve the planning policies guiding development within the character preservation districts and the need for an ongoing review process.

Review Outcomes

As a result of the review and consultation process, four main recommendations are made. These are:

1. Retain the legislation for the protection for the character preservation districts.
2. The State Planning Commission investigate the merit of the proposed amendments to the character preservation districts in the context of Greater Adelaide's growth.
3. Introduce a statutory review process that provides for amendments to the boundaries of the character preservation districts.
4. Provide for greater consistency and clarity of policy within the character preservation districts in preparing the Planning and Design Code.

No immediate changes to the Acts will be pursued until the Commission has led a proper review and investigation into boundary adjustments, policy refinements and improved process to make such amendments.

(see Section 8 for more detail)

2 Background

The Barossa Valley and McLaren Vale were among the first places beyond Adelaide to be surveyed after South Australia's proclamation by European settlers in 1836.

Both of these districts still have much of the character that was established in these early years.

The Barossa still contains a strong sense of its German heritage and McLaren Vale still boasts much of the landscape character that was first farmed by the many English settlers of the region.

Yet so much is different too. The towns have grown – as have the wineries. Things that were once just a part of daily life – food and traditions – have evolved into industries in their own right. But perhaps the biggest change is how close these regions are now to our capital city, Adelaide, both in distance and in time. Once remote enough to be completely separate, modern transport and our growing city have drawn the Barossa Valley and McLaren Vale into the outskirts of our metropolitan area.

While these regions might now be closer to Adelaide, most South Australians would agree that development in these areas must maintain their fundamental values – productive agriculture and viticulture, a strong sense of heritage and culture, scenic beauty and healthy environments.

Enacting Character Preservation legislation

The tourism, agriculture and food production industries are all major employers in our State and contribute billions of dollars into the State economy. The Barossa Valley and McLaren Vale food and wine regions hold particular significance in these industries and are recognised worldwide as iconic South Australian destinations.

Populations are increasing and cities worldwide are losing valuable food production lands to housing placing upward pressures on fresh food prices. In view of these trends, the South Australian Government took action in 2011 to prevent similar consequence here.

In particular, the emergence of inappropriate development within the Barossa Valley and McLaren Vale regions and the ever increasing threat of urban encroachment saw the need to introduce greater protection for the two districts. In November 2011, a Ministerial Development Plan Amendment made changes to zoning to prevent inappropriate development in the districts while legislation was prepared to protect the character of these areas.

The *Character Preservation (Barossa Valley) Act 2012* and the *Character Preservation (McLaren Vale) Act 2012* (the Acts) came into operation in January 2013 (see **Appendix A** for map for the districts). These Acts provide further weight to development policy by providing statutory protection from inappropriate urban development (such as development primarily for residential purposes within primary production areas or development which is at odds with the desired character of a town) in the Barossa Valley and McLaren Vale Character Preservation Districts. This legislation was informed by similar legislation protecting the Napa Valley in California.

The core objectives of the legislation is to ensure that the special character of the two districts is recognised, protected and enhanced while also facilitating the economic, physical and social wellbeing of the communities within the districts. The legislation restricts the creation of additional allotments primarily for residential development outside of township boundaries to halt urban encroachment to the north and south of Adelaide's built-up area, thereby seeking to provide for continued viable farming and primary production activities.

In December 2013 the South Australian Planning Strategy was amended to reinforce and reflect the intention of the Acts. This was done through an Addendum to The 30-Year Plan for Greater Adelaide and Murray and Mallee Region Plan.

To support the implementation of the legislation, local development plans were also amended to include the 'Character Preservation District Overlay' which largely reflects the identified character values in the Act.

The character values of the district

The Acts recognise the importance of the following character values of the each district:

- (a) the rural and natural landscape and visual amenity of the district;
- (b) the heritage attributes of the district;
- (c) the built form of the townships as they relate to the district;
- (d) the viticultural, agricultural and associated industries of the district;
- (e) the scenic and tourism attributes of the district.

These character values, along with the special character of each district, are defined in more detail in the Addendum to the SA Planning Strategy (Greater Adelaide and Murray and Mallee Regions).

Need for a review

Both Acts became operational on 18 January 2013. Section 10 of the Act specifies that the Minister must undertake a review the Act within 5 years of commencement.

The Department of Planning, Transport and Infrastructure coordinated the review on behalf of the Minister for Planning. This Review Outcomes Report has been provided to the Minister for his consideration before it is tabled in Parliament.

What the review covers

Section 10 of the Acts specifies that a review must be undertaken that includes an assessment of:

- the state of the district, especially taking into account the objects of the Act and any relevant provisions of the SA Planning Strategy;
- the family, social, economic and environmental impacts of the Act;
- the impact of the Act on local government in the district; and
- any steps that have been taken or strategies that have been implemented to address any negative impacts of the Act.

The feedback from councils, government agencies and the community have been to key to informing this review.

Implementation of the Acts

While the Character Preservation Acts interact closely with the *Development Act 1993*, the provisions found in these Acts are additional to those in the *Development Act 1993*.

The legislation is also recognised in the South Australia Planning Strategy (Greater Adelaide and Murray and Mallee Regions), which provides more detail to the Acts by providing rationale and policies specific to the Objects of the Acts and informs changes to development policies.

Councils should ensure that development plans contain policies that align with the Planning Strategy. The development plans of all affected councils have been amended so that the local rules around planning and development reflect the objectives of the Character Preservation Acts and the Planning

Strategy. These changes ensure that the ‘rulebooks’ for planning and development in each district seek the achievement of the core preservation objectives of the Acts.

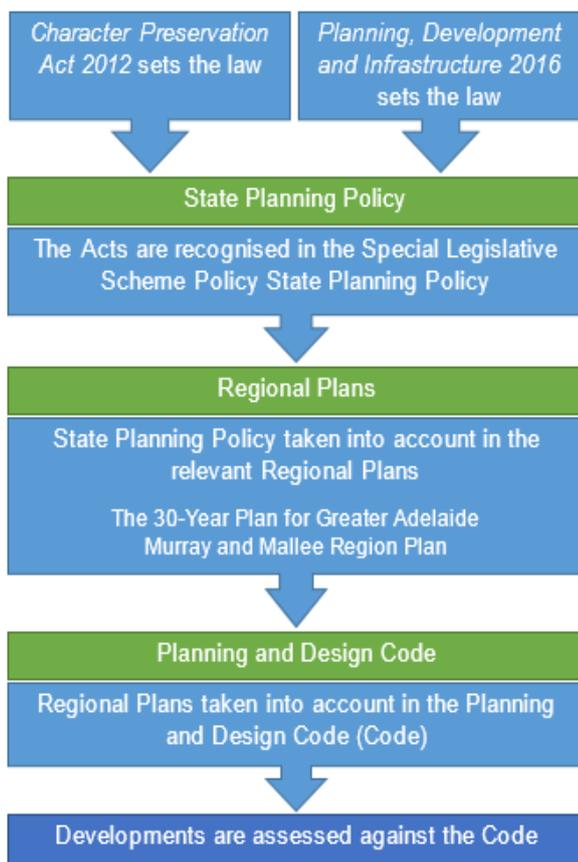
The Character Preservation Acts however, effectively prohibit the creation of additional allotments for residential purposes in that the Acts state that an associated application must be refused and no appeal rights apply. These legislative provisions are much stronger than what can be achieved through local development plan policies.

The Acts and the new planning system

The *Development Act 1993* will be replaced by the *Planning, Development and Infrastructure Act 2016* (PDI Act) in stages over the next few years.

Once fully implemented, the *Development Act 1993* will be repealed and the intention is for the PDI Act to streamline the development application process and result in a clearer assessment path for applications within South Australia.

It is envisaged that the Acts will be interpreted in the following way:



The Planning and Design Code is a central piece of the new legislation, which will replace the current 72 local development plans with one Code. The Code will incorporate planning policies for the Character Preservation Districts and other areas to ensure contemporary zoning is in place for South Australia.

3 The state of the districts

The Acts have been successful in ensuring development enhances the special character of the two districts and restricting land division in designated areas. To achieve similar policy outcomes over a wider geographic area, restrictions on land divisions were also extended through the environment and food productions areas in April 2016.

Development within the districts

In the majority of instances, land division to create additional allotments for any purpose were and continue to be non-complying, and the Acts have made it harder for additional lots for 'lifestyle' housing to be created. Similarly, development within the districts has been in line with the desired character of the area. Council development plans already contain strong policies in relation to protecting character and the character preservation legislation adds further weight to development assessment. Although the applications received give an indication of what the public feel they are able to gain approval for, it is impossible to know which applications are not received due to the restrictions in place. It is likely that the character preservation legislation is helping to minimise the number of inappropriate applications and is giving potential applicants more certainty in what may or may not be approved.

New dwellings

A variety of factors may have influenced the change in the number of approvals – e.g. demand, availability of allotments, economic forces, but when comparing the five years prior to the introduction of the Acts¹ and five years since, the number of new dwellings built outside townships in the Barossa Valley District has reduced by just over 40% in the rural living areas and just over 10% in the rest of the district. In the McLaren Vale District, the number of new dwellings built outside townships has reduced by around 28%.

Dwellings built	Barossa Valley District		McLaren Vale District
	Rural Living Areas	Outside Townships & Rural Living Areas	Outside Townships
Total 2007-11	42	84	94
Total 2012-16*	24	74	68
Difference pre/post Act	-43%	-12%	-28%

*January to June 2016 only – Data source: DPTI

¹ restrictions in place as of late 2011 in the interim DPA

Land divisions

Land divisions within the districts have seen a much more significant drop. New allotments created outside of townships halved in the Barossa Valley District and dropped by just over 30% in the McLaren Vale District.

	Barossa Valley District		McLaren Vale District
Land divisions - new lots by year lodged	Rural Living Areas	Outside Townships & Rural Living Areas	Outside Townships
Total 2007-11	68	15	21
Total 2012-16	24	7	14
Difference pre/post Act	-65%	-53%	-33%

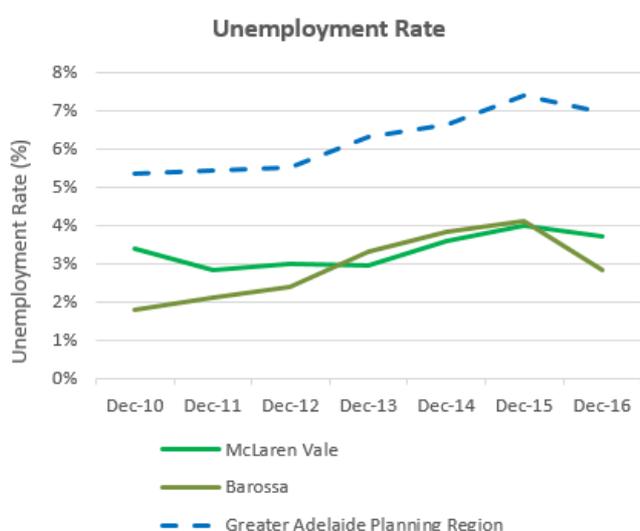
Data source: DPTI

Land supply

Providing sufficient land supply is important in driving the economy and maintaining housing prices. The latest DPTI estimates show there is currently in the order of 635 hectares of zoned broadacre land supply in the Southern Adelaide region and approximately 5,000 hectares in the Northern Adelaide region.

Unemployment

Unemployment rates show the districts* have a lower rate of unemployment when compared to the Greater Adelaide Planning Region (GAPR). The unemployment rate trend has generally been consistent with the GAPR trend over the past 7 years (see below graph).



*Note: as the data is only available at the SA2 level and do not match the Character Preservation District boundaries, the most relevant SA2s have been used to demonstrate the overall trend within the areas. Data source: Australia Bureau of Statistics

4 Family, social, economic and Environmental impacts of the Acts

Family and social impacts

When the Acts were first introduced, there was a perception amongst some people in the community that the Act will prevent or alter development outcomes. However, in most cases, this has been unfounded. In most areas, the Acts did not introduce any further restrictions to those that were already in place in the council Development Plans.

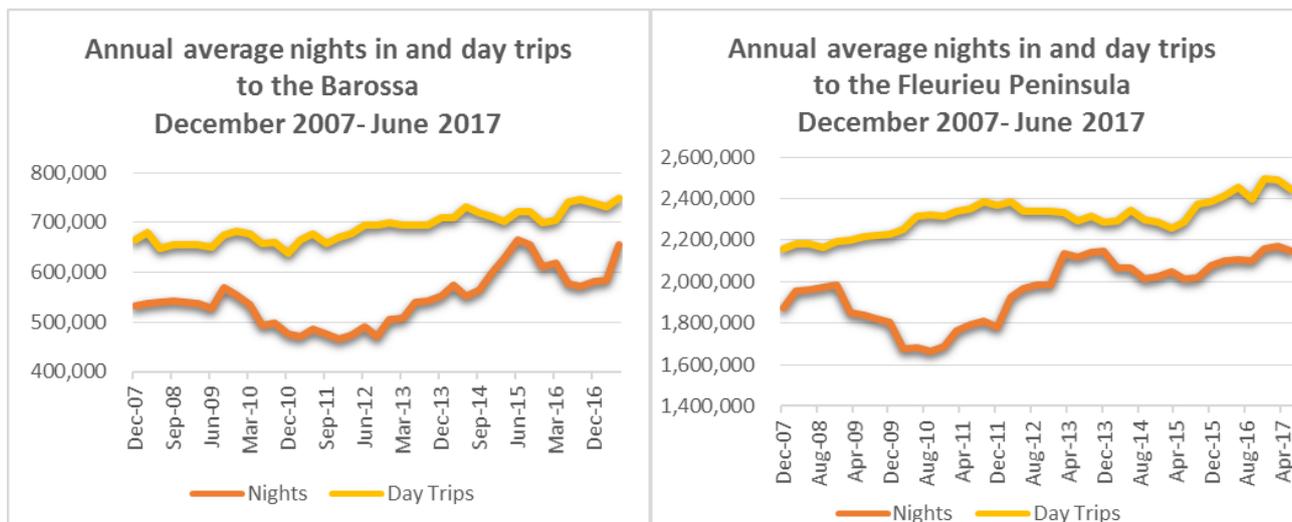
There is limited awareness about the Acts and this could lead to misunderstandings in the community about the intent and reach of the Acts. It is hoped that the broad consultation DPTI has attempted on the discussion paper has helped to dispel some of these misunderstandings.

The objective to preserve scenic and landscape beauty in Acts is in line with already existing Development Plan policies which require such character and amenity considerations and are therefore not adding to the costs of finishes and materials utilised in development.

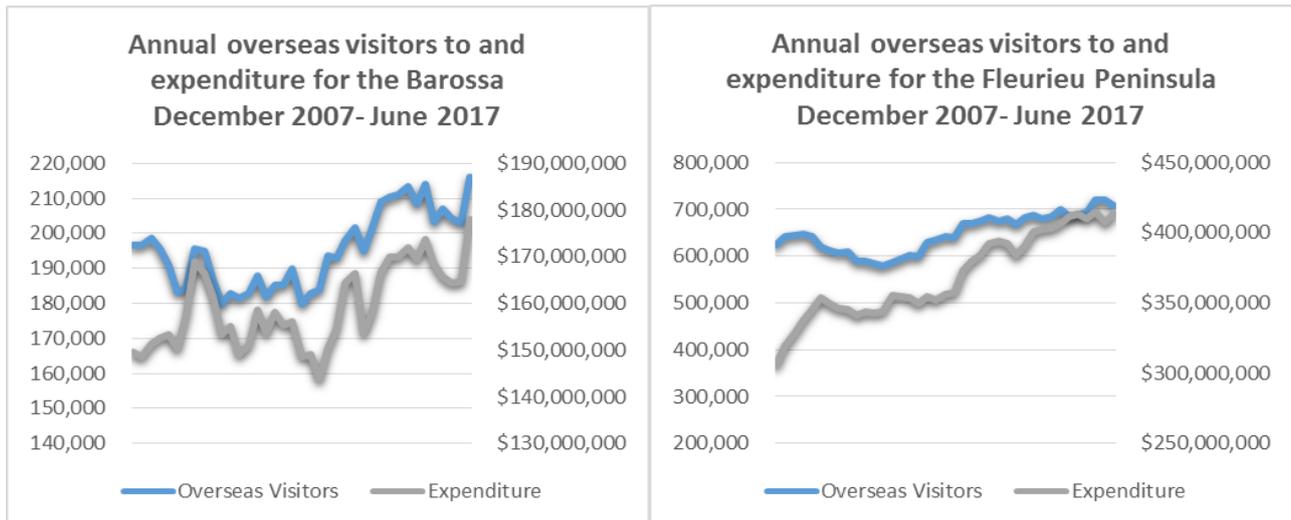
Economic impacts

There has been no clear upturn or downturn of particular industries since the introduction of the Acts. Development applications and growth have continued in line with market trends.

There has been continued growth in these regions from a tourism perspective. Statistics on the tourism regions of 'Barossa' and 'Fleurieu Peninsula' provided by the SA Tourism Commission show a steady increase in average nights spent in, day trips to, overseas visitors and expenditure in the regions over the past 10 years (see graphs below²). No specific impacts of this legislation have been identified by the SA Tourism Commission.



² Note: the data in the graphs is only available by region, which is wider than the Character Preservation District boundaries.



Environmental impacts

No direct environmental impacts were identified.

More generally, interface impacts are seen in primary production areas where there are competing land uses, in particular, the use of rural chemicals in close proximity to townships/dwellings. The Acts restrict the creation of additional allotments for residential purposes outside of township boundaries, therefore helping to minimise the occurrence of these land-use conflicts.

Restricting the creation of additional allotments for residential development outside of township boundaries may minimise the clearing, fragmentation and degradation of remnant native vegetation (e.g. along boundaries and water courses) and the associated impacts on:

- biodiversity
- soils (e.g. erosion and loss of nutrients) and waterways
- essential ecosystem processes such as pollination, seed dispersal and regeneration.
- the resilience of smaller fragments of remnant vegetation to invasive species and fire.

5 Impact of the Acts on local government in the district

The Primary Production Zones, Watershed Protection, Rural Landscape Protection, Rural and Hills Face Zones were in place prior to the introduction of the Acts and provided some protection for these districts from residential land division outside of townships.

The Acts have strengthened the protection of the districts through a legislative framework that protects this for the longer term.

The following issues have been highlighted through meetings with the administration of local councils:

- *Increased administrative procedures*

The legislation was designed to put additional checks and balances in place for development that could compromise the values of the Barossa and McLaren Vale to occur. A higher level of assessment is therefore required and administrative processes are greater.

- *Requirement for concurrence from the State Commission Assessment Panel*

There is in some cases requirements for additional levels of decision making through the concurrence of the State Commission Assessment Panel. It is recognised that there may be opportunities to further streamline these processes, however it is intended that the legislation prevent land division for residential development outside of townships that could compromise the values of the region. This process is also consistent with environment and food production provisions.

- *Ongoing policy enhancements*

Councils identified opportunities to further enhance the policies that are currently in place to protect the regions and further strengthen the assessment process.

Separate to the Character Preservation Districts, the councils have identified opportunities to further support value adding and tourism activities. The legislation has not placed any restrictions on this type of activity and in fact clearly envisages its development. However, further enhancements to planning policy could be introduced through the new Planning and Design Code to provide a consistent policy framework across the region that supports value adding and tourism.

The Planning and Design Code may also consider other issues such as boundary realignments and interface between land uses.

6 Steps taken or strategies implemented to address any negative impacts of the Acts

The Planning Strategy and local development plans have been updated to provide greater consistency with the Acts.

As part of this review process a number of policy issues have been raised. These are largely outside of the legislation itself and highlight the need to continuously review and improve planning policy for all areas. The transition to the new planning system will seek to further refine local policy relating to the character preservation districts.

The Planning and Design Code will provide a better avenue to achieve this in the longer term by modernising planning policy and providing improved amendment processes that enable policy to keep pace with community expectations and industry trends (e.g. changes in primary production, tourism and value adding).

To support councils in the transition process, the Department of Planning, Transport and Infrastructure has assigned a 'transition manager' to each council to work with them on how the new Planning and Design Code can be implemented in their area. As part of this process, improvements to current policy can be identified.

7 Community engagement

As required by legislation, the Department of Planning, Transport and Infrastructure began consultation on the existing special character protections of the Barossa Valley and McLaren Vale in September 2017.

A series of discussion forums took place with affected local councils and state government agencies to develop a discussion paper and questions on pertinent matters.

Following this, the discussion paper with questions was published, promoted and open for comments over four months from (Monday 30 October 2017) to (Wednesday 28 February 2018). This ensured that a wide range of people and interested parties were given an opportunity to hear about the review and to have a say.

It was important to listen to the public and a range of local and state government and agencies, peak bodies and industry groups about the impacts of existing legislation - drawing on professional expertise and valuable local knowledge.

What we asked:

Seven questions were asked as below:

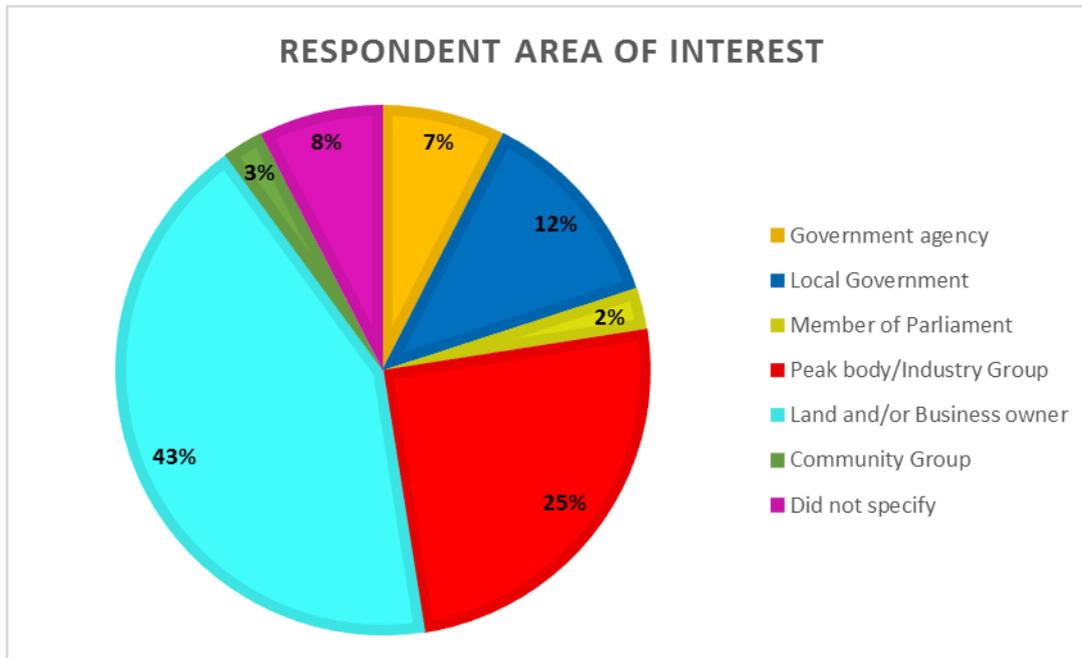
- QUESTION 1 : The Character Preservation Acts aim to protect the character values of the districts. Do you think these values are being adequately protected?
- QUESTION 2 : Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?
- QUESTION 3 : Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them?
- QUESTION 4 : What do you consider are the family, social, economic and environmental impacts of the Act/s?
- QUESTION 5 : Have these Acts resulted in any positive or negative impacts on farming operations or farm business?
- QUESTION 6 : Do you believe any changes are needed in the Act/s?
- QUESTION 7 : SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?

What We Heard

A total of 30 written submissions and 10 online feedback forms were received during the 4-month consultation phase from the local government sector, members of parliament, peak bodies, industry groups and individual community members.

Nearly half of the responses we received (43%) were from land and/or business owners, a quarter (25%) from peak bodies or industry groups, 12% from local government, 7% from government agencies and 3% of responses came from local community groups. (see Figure 1 below).

Figure 1: Respondent area of interest



The respondents locations and district of interest are shown in Figure 2 and Figure 3.

Figure 2: Respondent location

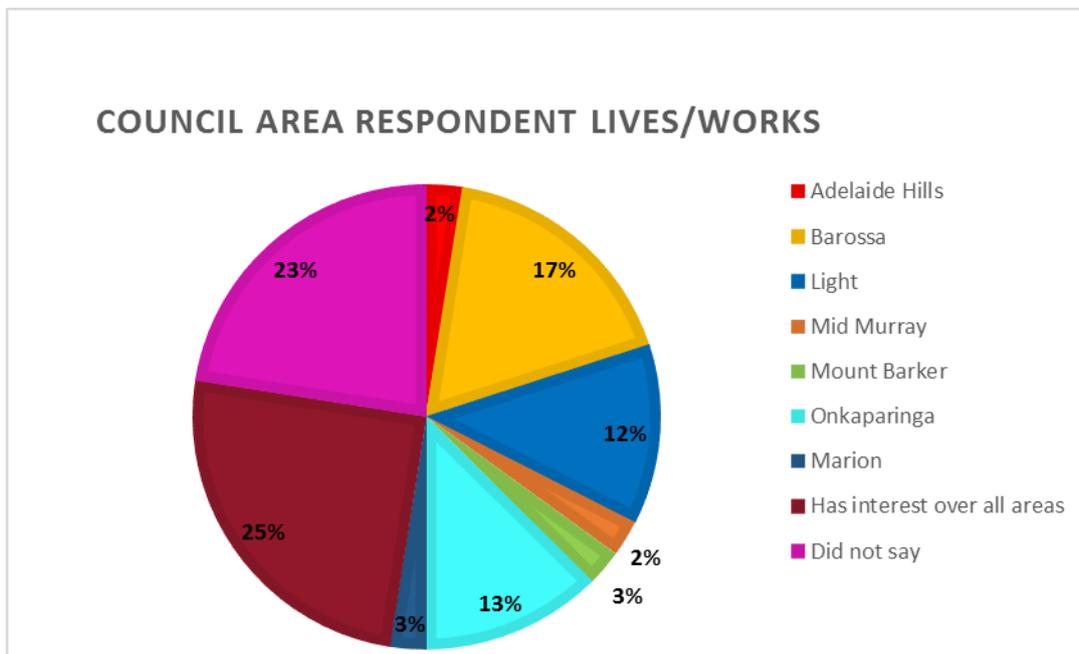
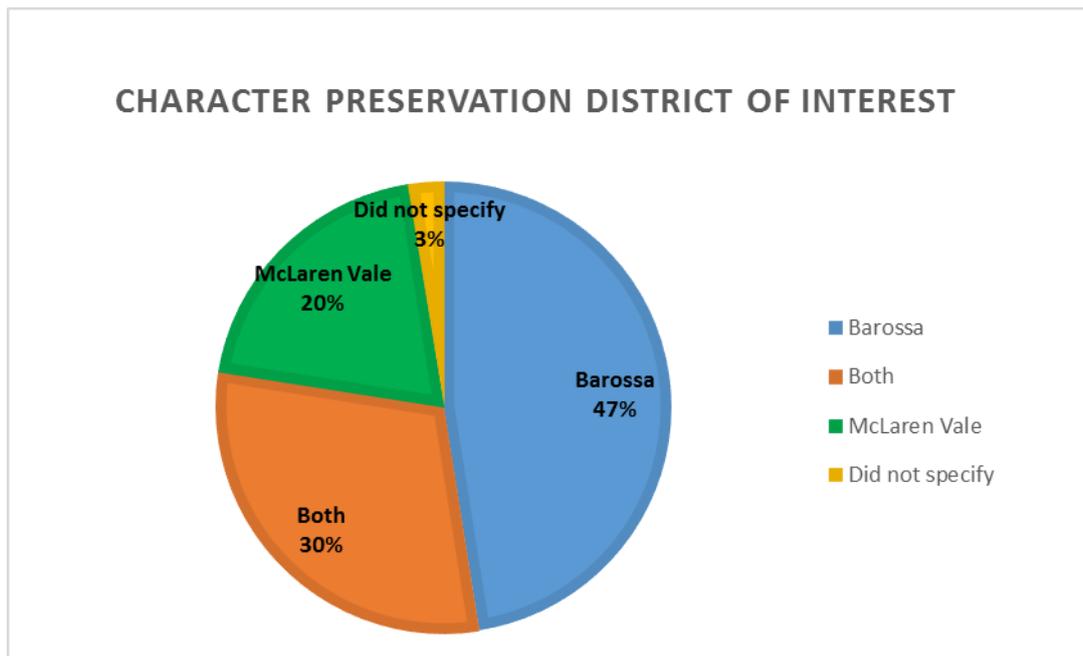


Figure 3: District of interest



QUESTION 1: The Character Preservation Acts aim to protect the character values of the districts. Do you think these values are being adequately protected?

There was a general consensus among respondents that the legislation is protecting the character values of the districts. Respondents however pointed to what they say are existing policy gaps and inconsistencies in local council development plans and instances where they say policies can be in conflict with each other. Respondents also said that policies around siting, design and construction materials may need some improvements to ensure character is maintained and to add a requirement for development to be designed in a manner that is site responsive and visually unobtrusive.

Other comments included:

- Legislation should be expanded to include the whole of the Adelaide Hills
- All decision makers, not just councils, must have regard to the legislation and more awareness is needed
- Other regulations place are making farming difficult
- Consideration should be given to tomorrow's heritage as well as today's.

QUESTION 2: Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?

Many respondents believed the existing land division controls are adequate. However, a few respondents believe that restrictions on boundary realignments for residential development should also be included as part of the legislation. Respondents also said that they felt that the concept of an "additional allotment" is poorly defined and restricting the new allotment to non-residential uses will be difficult to mandate in perpetuity.

Other comments included:

- Tourism development is impacting on primary producers right to farm
- There needs to be land division restrictions in the Adelaide Hills
- The definition of 'residential development' has not yet been tested in case law
- Land in Concordia needs rezoning as it is no longer viable to farm there

- Some flexibility is required in the policies to facilitate multigenerational farming
- The Watershed (Primary Production) Zone provides greater protection and controls than the Character Preservation Act.
- The Act should be altered to exclude golf courses from land division restrictions.

QUESTION 3: Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them?

Respondents pointed out that local council development plans have not been amended since the Addendum to the SA Planning Strategy was released and said that they felt that these plans require some policy amendments to address the existing policy gaps, particularly to relax restrictions on diversification and value adding. Respondents also said that they felt that policy enhancements would also reduce the occurrence of policy conflicts occurring.

Other comments included:

- Policies are not allowing farmers to perform farming activities
- More could be done to embrace local strategic visions
- Policies should allow cemeteries in appropriate locations
- The Code must not water down the existing policies
- Development Plans make it unclear if townships are included.

QUESTION 4: What do you consider are the family, social, economic and environmental impacts of the Act/s?

There was a general consensus among respondents that the legislation has not created any substantial direct impacts in terms of family, social, economic and environmental - and that the impacts of the Acts have been positive and although negative impacts may be perceived, most are not realised. However, respondents also felt that there is limited awareness of the legislation and more is needed to engage and educate the communities on their worth.

Respondents also said that they felt there is adequate land supply in the townships currently, but this may not be the case in future years. Respondents felt that there is an increasing need and demand for aged care and retirement living and townships may require expansion to cater for this.

QUESTION 5: Have these Acts resulted in any positive or negative impacts on farming operations or farm business?

There was widespread agreement among respondents that farming lands should not be lost to housing. Respondents felt that there are some instances where policy conflicts are seen, particularly around tourism developments and the right to farm. Respondents viewed impediments to farming operations and farm business as generally the result of inflexible and restrictive development policies, State and Federal legislative obligations, market trends, commodity prices and inflation.

QUESTION 6: Do you believe any changes are needed in the Act/s?

A few respondents requested changes to the district or township boundaries. Many of these were minor in nature but a couple of suggestions were for broad scale changes. It was suggested by multiple respondents that the five year review should be an ongoing five yearly review rather than a once off review. It was also suggested that a mechanism should be considered for future boundary reviews.

Another suggestion was made that Section 6(2)³ should be deleted or clarified in its operation as it has no operation in the assessment of development applications and simply causes confusion.

Other comments included:

- Remove the need for State Commission Assessment Panel (SCAP) concurrence within rural living areas
- Preventing controlled intensification of rural living is questioned
- 'prescribed allotment provisions' is confusing and require review
- Some parts of townships shouldn't not be included in the district boundary
- Consideration should be given to adding a note on the land title so land cannot be developed for residential development
- The Act should note that the character and heritage attributes are defined in the Addendum and *Heritage Places Act 1993 and Development Act 1993/Planning, Development and Infrastructure Act 2016*.
- Development within townships should be excluded from the provisions of the Act.

QUESTION 7: SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?

Although there was overwhelming agreement from respondents that the legislation must be maintained, it has been suggested that the *Planning, Development and Infrastructure Act 2016* (PDI Act) incorporate the legislation in a similar fashion to the environment and food production areas, but importantly, retaining protection of the 'special character' of the districts.

There was concern raised by respondents over the non-inclusion of major project status exclusion within the districts in the PDI Act and a few respondents noted they would like this to be carried into the PDI Act.

It was suggested by respondents that the best approach to the character preservation policies in the Code is an overlay. Respondents said they felt that policies need to remove unnecessary barriers for value adding and expand opportunities for adaptive reuse of heritage buildings, and that finer details cannot be lost in the Code, with more focus on design.

It was noted by respondents that the Watershed (Primary Production) Zone provides significant protections against inappropriate development and having a character preservation overlay is excessive.

Other comments included:

- The policies should go further and seek food and water security
- The issue of buffers needs consideration
- Policy conflicts must be minimised
- Guidance is needed on the tourism activities that are encouraged
- Primary producers need to have early and ongoing input into the development of planning policies.

The following more general comments received on the review:

- Consideration should be given to allowing solar farms in appropriate locations
- LGA boundaries require adjustment around the Concordia area
- Right to farm issues remain, such as how to manage the interface between existing farming practices and potential new uses of the land, and a solution is needed to managed these issues

³ A person or body involved in the administration of an Act must, in exercising powers and functions in relation to the district, have regard to and seek to further the objects of this Act.

- A Practice Direction should be issued to provide a clear and consistent way to assess applications
- More awareness of the legislation is needed – adding information on the SA Planning Portal and providing a standard page for all councils was suggested
- There needs to be better consistency between different authorities
- The supply of industrial land is an issue
- The legislation should be reflected in State Planning Policies
- Broadacre farming in the Barossa Valley should be protected in the legislation
- There is confusion about where some of the district boundaries are. Using local government boundaries would make things clearer.

8 Review Outcomes

Following completion of the review, four recommendations are made. These are outlined below.

Retain the legislation for the protection for the character preservation districts.

The Character Preservation District legislation provides long-term protection of the special areas of the Barossa Valley and McLaren Vale. The legislative protection is far greater than that which can be provided through local planning policy and requires legislative change through the South Australian Parliament to be amended.

While it is recognised that the legislation provides additional requirements as part of the planning assessment process, this is considered to be warranted to ensure these areas are protected in the long-term.

The legislation applies to any person or body involved in the administration of an Act. More awareness of this legislation is required to ensure all levels of Government, including respective Ministers, are considering the objectives of the Acts when making decisions.

The State Planning Commission investigate the merit of the proposed amendments to the character preservation districts in the context of Greater Adelaide's growth.

A number of the submissions received during the consultation process proposed amendments to the boundary of the character preservation districts (a map of the sites and summary is provided in Appendix B). While many of these proposals have merit, most require additional consultation with the community, further investigation, or in some cases a rezoning prior to any amendment to the legislated boundary.

Any such considerations should also include review of the available zoned land supply, which is currently in the order of 635 hectares in the south and approximately 5,000 hectares in the northern region.

Accordingly, it is recommended that the State Planning Commission review the proposed amendments to the character preservation districts in the context of Greater Adelaide's growth, while also considering the following:

- Whether adequate provision can be made outside of the character preservation districts and environment and food production areas (EFPA) to accommodate housing and employment growth over the longer term.
- The suitability of land for urban development, taking into account serviceability and infrastructure provision.
- Whether the inclusion of the land is an anomaly for the purposes of the character preservation districts.
- The land is more appropriately located within the EFPA.

It is considered that such a review could be completed in around 12 months and inform the Planning and Design Code and future land supply decisions, as opposed to rezonings through a Development Plan Amendment (DPA) process now.

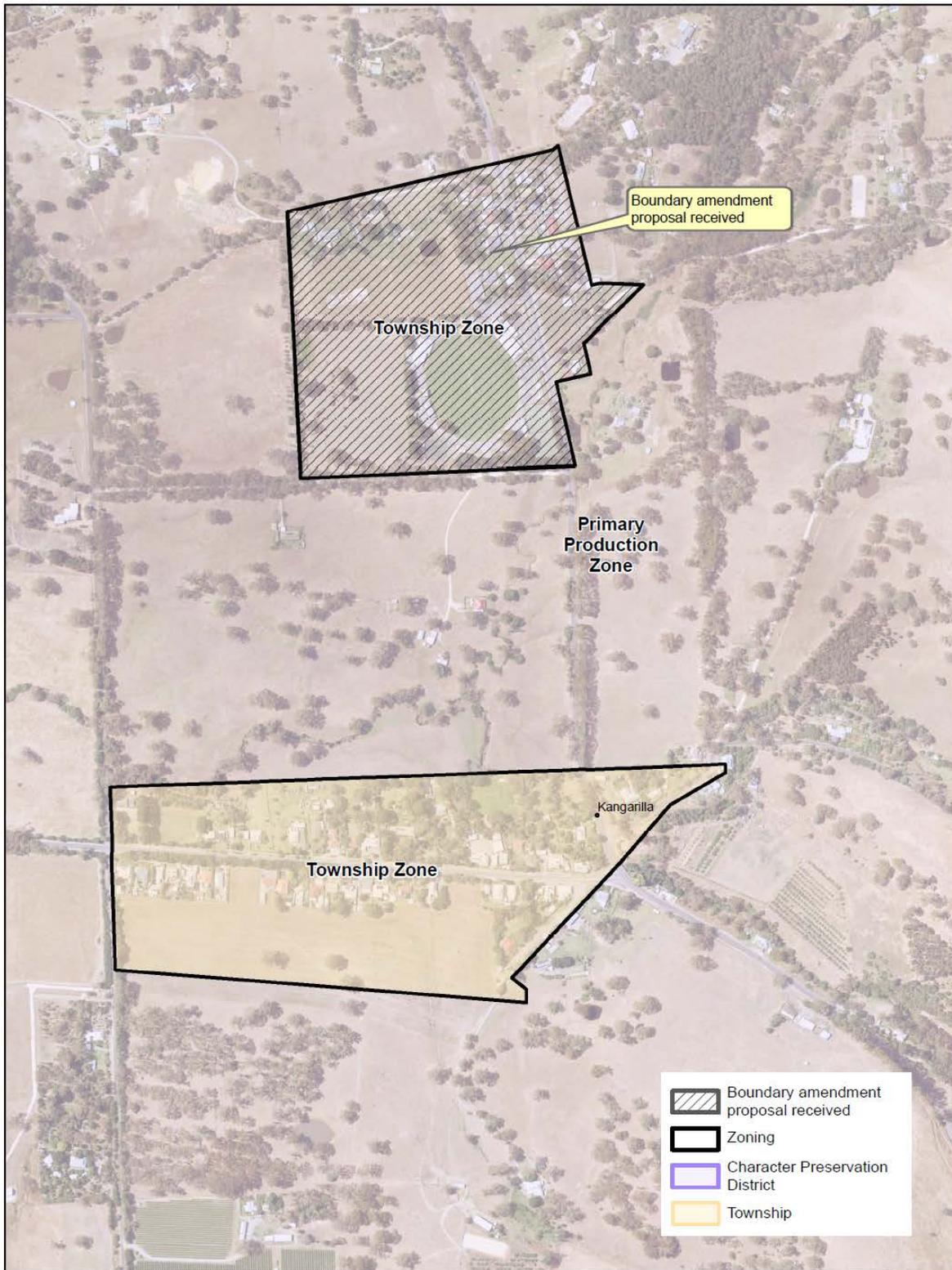
It should also be noted that any amendments to the boundaries of the protection district would require legislative amendment, in the form of a Bill.

Boundary amendment proposals showing particular merit

Yaroona

An anomaly exists in the township of Yaroona. Yaroona was not recognised as a town when the district boundaries were set. Yaroona is zoned 'Township' in the City of Onkaparinga development plan (see Figure 4) and falls within the Yaroona Policy Area 64. A change to the McLaren Vale District boundary is required to identify Yaroona as a township.

Figure 4: Boundary amendment request, Yarooma



Nuriootpa

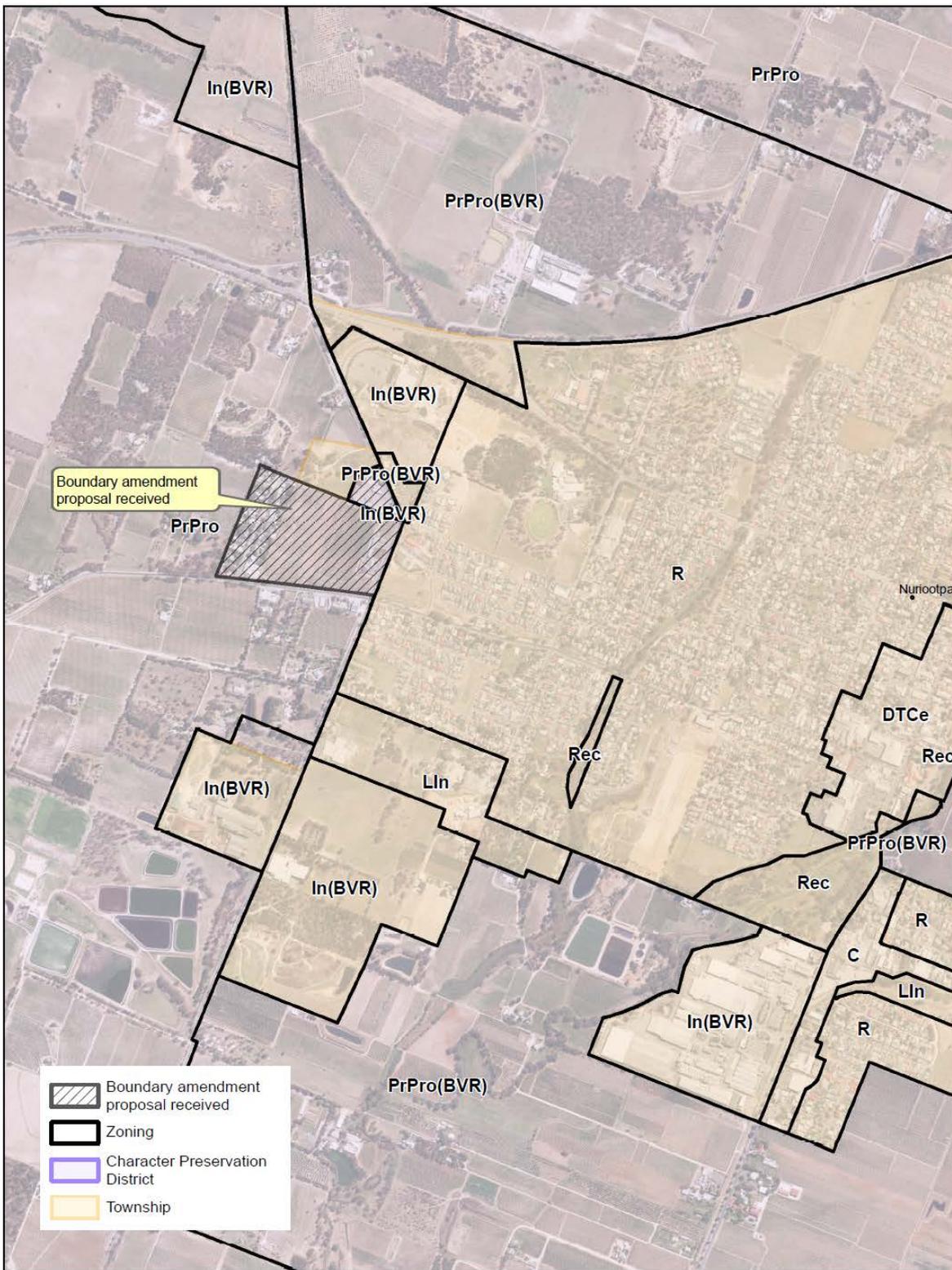
A boundary amendment proposal was received for western Nuriootpa which demonstrates particular merit, based on the information provided. This area is within Light Regional Council and comprises the Neil Avenue residential enclave and the land between that street and Moppa Road South to the east (see Figure 5). Moppa Road South forms the local government boundary between Light Regional Council and The Barossa Council.

Neil Avenue properties are connected to The Barossa Council's Community Wastewater Management System and this area is an area that has been identified by Light Regional Council for potential future residential development. This concept is also supported by The Barossa Council and the registered proponent of the land.

The Neil Avenue properties are not within the township boundary and effectively land locks the primary production land in between residential development. Consequently, the current arrangements do not facilitate effective use of the land for primary industry purposes with day-to-day activities (such as spraying and harvesting) largely constrained by both the residential uses to the west and commercial uses to the south.

This non-inclusion of the Neil Avenue properties and adjacent land in the township boundary appears to have been overlooked in the original township mapping, due to the boundaries being based largely on zoning and the Neil Avenue properties being zoned Primary Production (see Figure 5). An opportunity exists to correct this, provided the proposal is properly investigated and the land is concurrently rezoned.

Figure 5: Boundary amendment proposal received, Nuriootpa



Further investigation areas

Adelaide Hills Council

Adelaide Hills Council's portion of the Barossa Character Preservation District sits within the Watershed (Primary Production) Zone, which contains strong provisions that restrict land division for residential purposes and protect local character values. Including this area in the Barossa Character Preservation District provided further weight to the existing development plan policies. As the EFPAs have now been introduced, this land may be better suited to be within an EFPA, as protections required in this area are more environment focussed, rather than character. Further areas within Adelaide Hills Council have also been highlighted by The Barossa Council for review, such as Cromer, Forreston, Humbug Scrub, Kersbrook and Mt Crawford. Further investigations are required to determine a recommendation in this area.

City of Onkaparinga

The City of Onkaparinga highlighted the need for some boundary adjustments but did not detail these. More information will be sought from the council during the Commission's review.

Introduce a statutory review process that provides for amendments to the boundaries of the character preservation districts.

The character preservation districts are defined in both Acts by the plan deposited in the General Registry Office on 26 June 2012. As such, any amendments to the preservation district boundaries require an amendment to the relevant Act.

This is different to the way the (EFPAs) are reviewed under the *Planning, Development and Infrastructure Act 2016* (PDI Act), where section 7 sets out the following process for amending the EFPA:

- The State Planning Commission conducts an inquiry against a set of criteria (at least every 5 years on upon request).
- The Commission provides a report to the Minister on the outcomes of the inquiry.
- The Commission may vary the EFPA, by notice published in the Gazette and SA Planning Portal.
- The notice is laid before both houses of Parliament, where it may be disallowed.

While such an amendment to the Act is not urgent at this stage, it is considered appropriate that amendments to both the character preservation district boundaries and the EFPA follow the same process. The process outlined above for the EFPA provides a good basis and could be mirrored in the Character Preservation legislation. A Bill could be developed following a completion of a review by the State Planning Commission.

Provide for greater consistency and clarity of policy within the character preservation districts in preparing the Planning and Design Code.

The State Planning Commission is currently preparing the first Planning and Design Code. In preparing the Code, the Commission should seek to provide further clarity on the envisaged/desired primary production value-adding and tourism activities in the character preservation districts.

Other issues raised that will be considered in developing the Code include:

- boundary realignments
- design guidance

- review of the Interface Between Land Uses' policy within the SA Planning Policy Library.

Consideration will be given to issuing a Practice Direction on land division approvals within the character preservation districts.

There will be opportunities for community members to provide input into the drafting of the Code and when the draft Code is released.

Within the *Development Act 1993*, a major development or project cannot be declared within the rural area of a character preservation. This has not been reflected in the PDI Act. Although this is the case, any development must further the objects of the Character Preservation Act and therefore, it is not envisaged that this change will have any impact on the character preservation districts.

Summary of outcomes

As a result of the review and consultation process, four main recommendations are made. These are:

1. Retain the legislation for the protection for the character preservation districts.
2. The State Planning Commission investigate the merit of the proposed amendments to the character preservation districts in the context of Greater Adelaide's growth.
3. Introduce a statutory review process that provides for amendments to the boundaries of the character preservation districts.
4. Provide for greater consistency and clarity of policy within the character preservation districts in preparing the Planning and Design Code.

No immediate changes to the Acts will be pursued until the Commission has lead a proper review and investigation into boundary adjustments, policy refinements and improved process to make such amendments.

9 Contact Details

Development Division

Department of Planning, Transport and Infrastructure

Street address:

Level 5, 50 Flinders Street

Adelaide

Postal address:

PO Box 1815

Adelaide SA 5001

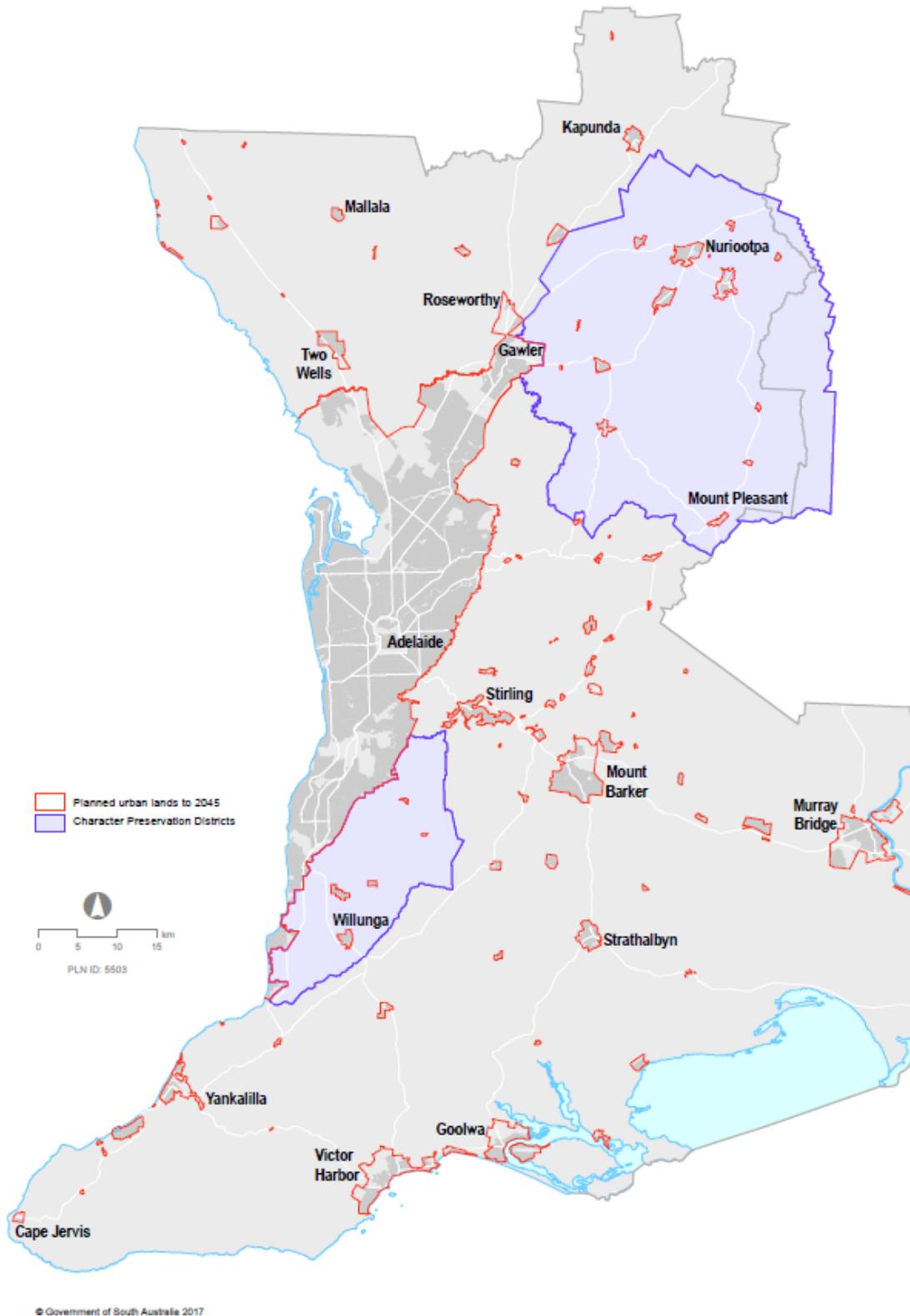
Tel: 1800 752 664

Email: DPTI.PlanningEngagement@sa.gov.au

Web: www.saplanningportal.sa.gov.au

Appendices

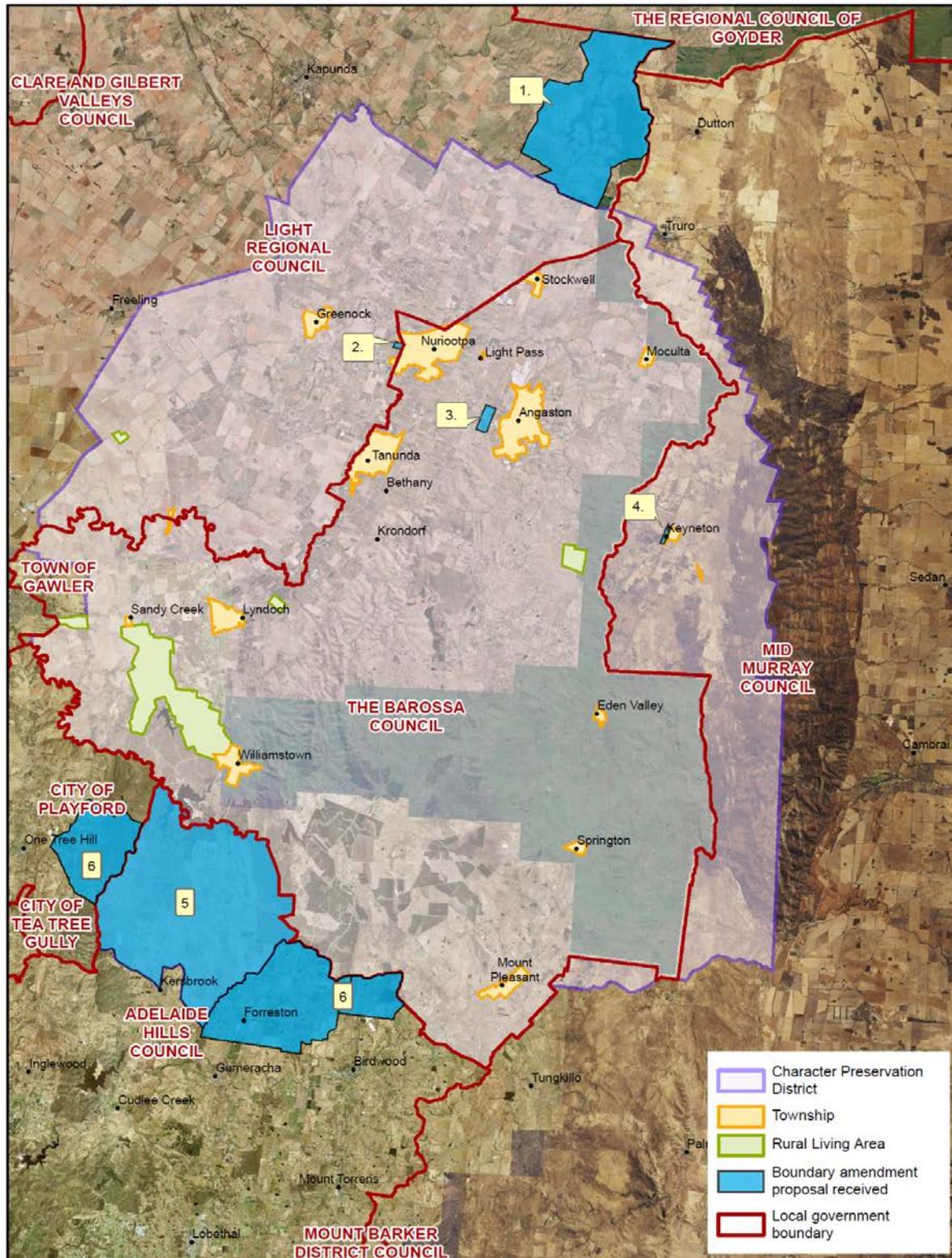
Appendix A - Map of the Character Preservation Districts



Appendix B – Summary of all boundary amendment requests and initial assessment

No. shown on maps overleaf	Requested by	Proposal	Preliminary merit assessment
1	Local resident – name requested to be withheld (supported by 24 local residents)	Include the whole of St Kitts in the character preservation district. Currently only half of St Kitts is included and the other half is EFPA.	The boundary through St Kitts was originally set based on the Barossa wine region, which is why only half of St Kitts is within the district boundary. The land is within the EFPA, which provides adequate protection from inappropriate growth.
2	Light Council, Barossa Council and the registered proprietor	Western Nuriootpa, as shown in report. Proposal to include properties on Neil Ave, primary production and industrial site within the township (current in rural part of the district).	<i>Warrants further investigation.</i> Will need to be rezoned so zoning matches its inclusion in the township.
3	Barossa Council	Exclude industrial land to the west of Angaston (Stockwell Road).	This area is not adjacent to the township and would require a special designated area. At this stage, no evidence has been put forward which indicates that being part of the district is restricting development on this site. May be a site considered during the Commission's review.
4	Mid Murray Council	Requested the township of Keyneton be extended.	There appears to be adequate land supply in Keyneton at this time. May be a site considered during the Commission's review.
5	Adelaide Hills Council	Removal of the Adelaide Hills council portion of the character preservation district.	<i>Warrants further investigation.</i> The land may be better suited to be EFPA over character preservation, now that EFPA is in place as the land was put into character preservation predominately for its environmental features, rather than character.
6	Barossa Council	Review inclusion of parts of the Adelaide Hills Council within the Barossa Valley district.	<i>Warrants further investigation.</i> More information is needed. May be considered during the Commission's review.
7	Onkaparinga Council	Highlighted Yaroon is not defined as a township.	<i>Supported.</i> This is a recognised anomaly and should be defined as a township.
8	Botten Levinson Lawyers on behalf of registered proprietor	Requested McLaren Vale township boundary be extended to include their land.	This will be considered during the Commission's review. The land would require a rezoning.
8	Griffins Lawyers on behalf of registered proprietor	Requested expansion of the McLaren Vale township to allow for aged care and retirement living.	This will be considered during the Commission's review. The land would require a rezoning.
9 (not shown on map)	Onkaparinga Council	Highlighted the need for some boundary adjustments but did not detail.	<i>Warrants further investigation.</i> More information needed. This will be considered during the Commission's review.
10 (not shown on map)	Resident of Adelaide Hills	Would like Adelaide Hills added to Character Preservation Act.	This area is covered by the EFPA and relevant council policies for character. Protections in place are adequate.

Boundary amendment proposals received map – Barossa Character Preservation District



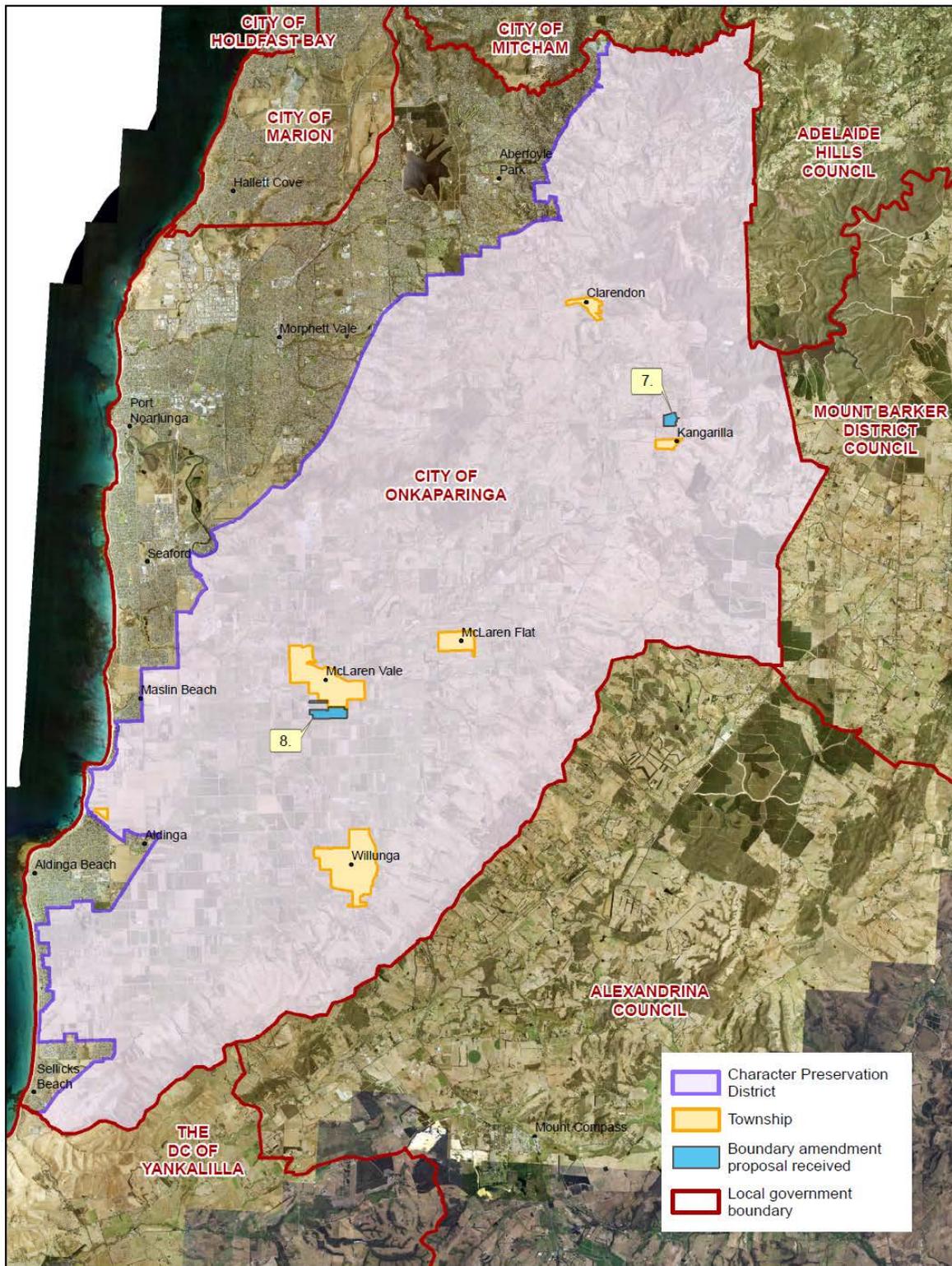

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Character Preservation Districts - Barossa
Boundary amendment proposals received



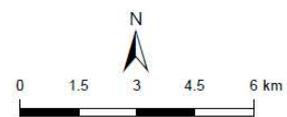
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Boundary amendment proposals received map – McLaren Vale Character Preservation District




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Character Preservation Districts - McLaren Vale
Boundary amendment proposals received



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