

Mr Michael Lennon

Chair- State Planning Commission

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Dear Mr Lennon

The Stirling District Residents Association Inc. submission on the draft Planning and Design Code.

We consider there are two main elements to this submission:

- The ePlanning system and
- Apparent changes to many elements of the Adelaide Hills Council Development Plan

THE EPLANNING SYSTEM

It is very difficult to make a fully considered response to this new proposal as it is clear that many components of this system are incomplete. Accordingly, we consider that any finalisation of community consultation by the deadline of 28th February is unreasonable and premature. This assumes that the State Government is genuinely seeking full community consultation.

CHANGES TO THE AHC DEVELOPMENT PLAN

Given the diversity of the Adelaide Hills Council area with its mix of small townships, rural activities, tourism industry, important watershed areas, undulating terrain and lack of sewered areas it was always going to be more difficult to implement a 'one size fits all' approach to planning guidelines and policies.

Examination of the CODE indicates:

- extensive mismatches between existing zone guidelines and suggested new 'standard' zones.
- Significant mapping errors

As a result there is a vast body of unresolved queries as outlined in the AHC response, as yet unaddressed by DPTI. As a result the community has little idea of the actual intended changes the Planning Commission is proposing. So how can we respond to them?

There is also difficulty in trying to assess the impact of the introduction of 'Performance Planning', 'Deemed to Satisfy', 'Designated Performance' on outcomes, particularly with incomplete ePlanning and unknown guideline changes.

We have attached our latest newsletter. Please include its contents as a response. As you can see from the wording we have attempted to try and summarise most of the issues as we see them in terms that most people will be able to understand.

There are two unique but important elements of the AHC Plan that should not be lost in any transition.

- The Median Rule, which is adequately explained in the AHC submission and
- The incentive for undercroft parking that was introduced by this organisation into the Stirling District Centre Plan. The current lack of a designated maximum site coverage guideline in the draft CODE prevents the use of this incentive. It was introduced as it has the following benefits;
 - The current Plan allows 20% more site coverage to compensate for the additional cost of undercroft work
 - This is the highest rainfall area of the State and the key water catchment for dams including Mount Bold.
 - Uncovered sealed car parks result in maximum flood runoff of polluted water that cannot be collected.
 - A covered car park reduces water pollution and enables retention water storage
 - Undercroft car parking makes better use of space and affords more landscaping
 - A better amenity for shoppers in both winter and summer

We trust that the community consultation will be extended to allow for consideration of what is actually intended both in terms of a working example of the eplanning system and the real proposed changes being sought, as opposed to errors.

Your Faithfullt

John Hill

Stirling District Residents Association Inc

28 February 2020

The Stirling District Residents Association Inc

PO Box 472 Stirling 5152

Newsletter number 46

THE STATE GOVERNMENT'S NEW PLANNING CODE

Do you want to see buildings up to 6 storeys in Stirling and other Hills townships?

Do you want a large shop built next to you in what is now a residential 'country living' zone without any notification to you or opportunity for you to oppose it?

Do you want a block of flats built next to you in a 'country living' zone?

Do you want large big box developments in small Hills townships even next to residential properties?

All this and a lot more is possible under the new Planning CODE in its current form which is set to replace the current Adelaide Hills Council Development Plan in September 2020.

This new CODE is being marketed as a new more efficient computerised planning tool. In reality it appears to also be a Trojan Horse to bring in major changes to what can be developed without the community being fully aware of them combined with removal of notification and representation rights.

It has taken 5 months of fulltime work by an experienced planner to enable the Adelaide Hills Council to respond to the Government. The document totals 140 pages. The Mount Barker Council response is 150 pages. Both were very recently completed and put forward many questions and suggestions. Both councils expect their cost of dealing with development applications to increase under the new proposals. For the AHC response look under SPDPC agenda for 18 February and scroll down for the 140 page report, and then see if you can understand it all.

The new CODE is near impossible for the average person to understand and a major challenge for planners to understand. Some of the important concerns are:

- 6 very senior managers, including the leader, have resigned from the task force in the last few weeks. Why? How can this reflect a process that is progressing well?
- The CODE is over 3000 pages and still being added to. Even criteria such as Design Standards, which are key to development of the Design Code, have yet to be released.
- **The deadline for consultation is 28 February 2020 and to date Minister Knoll has refused to extend this.**
- The deadline for introduction of the new CODE is a date not given in September 2020 even though the Minister has agreed to a delay of three months from 1 July 2020. **Remember the CODE is planned to be an operating system dealing with all development applications in this state.**
- There are numerous errors mixed in with intended changes to existing Council Development Plans. To date there has not been a single response from DPTI on questions raised, they also have yet to see council's 140 page response. **It is currently impossible to**

know what is a proposed change or a mistake. So how can anyone respond by 28 February?

- Current development zone names have been replaced by new standardised ones for all 68 councils. This makes the task of reviewing the proposals more difficult and this is further complicated by the planning guidelines not closely matching existing ones.
- Something called 'Performance Planning' has been introduced into the CODE. This effectively allows the assessing body to approve a proposed development even if it is seriously at odds with the planning guidelines for that zone. This will result in inconsistent and unpredictable outcomes. Performance Planning has been a disaster where it applies in NSW, Queensland, NZ and USA. Surely the whole idea of a development plan is to have clear guidelines for development and an expectation that they will be largely adhered to.
- Much of the code is loose and lacking clear guidelines. When combined with the introduction of Performance Planning this makes assessment outcomes a lottery.
- Desired Character Statements for each zone have been removed. They are essential for assessment guidance anywhere but even more so in the AHC area given our varied townships, rural areas, tourism, watershed and residential mix.
- Diagrams illustrating design guidelines etc. have also been removed from the plan. Words can be interpreted differently by different parties, drawings cannot.
- Removal of maximum site coverage percentages in township zones means that developers will go for maximum site coverage to assist funding applications. This will also remove the existing ability to provide a financial incentive for the use of undercover car parking in the Stirling shopping area which was introduced to encourage more efficient use of land, more landscaping as well as reducing flood risk and pollution from stormwater in this important watershed area.
- Removal of Median Rule Land Division Tool, an objective character retention guide.
- Removal of the concept of non complying developments in a zone, except for such things as an airport or oil refinery. This contributes to the removal of virtually any community representation rights.
- Reduction of the current development setback from creeks from 25m to 20m. This combined with inadequate consideration of flood and pollution mitigation in the highest rainfall area of the state suggest the exclusion of the EPA from the process. Local creeks feed Mt Bold reservoir.
- Removal of scenic routes. In this tourism reliant area?
- No real restriction of advertising material size or type.
- Reduced protection and recognition of heritage sites and areas.

SO WHAT SHOULD BE HAPPENING ?

CONSULTATION

If the Government is genuine in its intent to consult it must set out in plain, simple to understand terms, what changes it is proposing to make to the current Council Development Plans, which have been developed over many years, and what it means to the communities involved. This explanation must cover removal of notification, removal of representation rights and new concepts such as 'Performance Planning', 'Deemed To Satisfy' and 'Designated Performance Feature'.

DPTI needs to formally respond to and clarify the huge number of queries raised by councils and other parties to date. This should separate errors from intended changes.

Then the community should be provided with an opportunity to respond to the intended changes.

Without the above it is a meaningless and misleading definition of consultation.

NEW COMPUTER SYSTEM

It is both unwise and unrealistic to comment on this concept or process without seeing it work successfully in practise. There are too many recent examples of major new computer system failures, all lauded as being major advances, to be confident of satisfactory outcomes at this stage. It is a complex area even if it were simply a council by council system using existing Development Plans, however we are talking about a one size fits all system covering 68 councils.

Clearly all the data input errors must be corrected and submissions from 68 councils, all with their own unique issues that need reconciling, be dealt with before data into the system can be considered complete.

It is imperative that the ePlanning System be fully tested and operational, free of errors and incorporating the entire CODE before it is introduced to this States' planning process.

SUMMARY

It is far more important to have a successfully operating system that has been the subject of genuine public consultation, loaded with correct data and fully tested, than try to adhere to a pre determined deadline on such an important matter.

Because of its diversity the Adelaide Hills Council area has above average planning complexity and therefore the most to lose from a poorly introduced system.

John Hill

On behalf of the committee 24 February 2020

We urge you to contact our local member Josh Teague [heysen@parliament.sa.gov.au or 83395077], Minister Knoll, DPTI [DPTI.PlanningReformSubmissions@sa.gov.au], local newspapers or other media with your concerns about both the process and what we think are the proposed changes to our Development Plan.

Stirling District Residents Association Inc.

Po Box 472 Stirling SA 5152

The South Australian Planning Commission

Dear Commissioner,

DPTI.PlanningReformSubmission@sa.gov.au

Thank you for the opportunity to comment.

SDRA submission in relation to the draft South Australian Planning and Design CODE.

This submission is additional to the submission [response plus attached newsletter] forwarded via email on 28th February 2020 to the State Planning Commission. We have included copies of the other two.

MAKEUP OF THE SA PLANNING COMMISSION

The SA Planning Commission is composed of six members hand-picked by the State Government. In WA the Commission is composed of 17 members drawn and proposed from different sectors of the community, a far more democratic structure less likely to suffer undue influence from one sector of the community.

The obvious shortcoming of the current SA Commission structure is that it is unrepresentative of the broader community and lacks the wide range of interests, expertise and views required for establishing the democratic built environment in which you and I live.

Surely in any democracy a Planning Code that impacts everybody in this state should be established and reviewed by a much more representative body than currently exists.

The concept of this electronic Code also includes a far easier ability to change elements of it, this needs to be safeguarded. To date we have not seen any indication of how these changes can be implemented.

REMOVAL OF NOTIFICATION RIGHTS, REPRESENTATION RIGHTS AND NON-COMPLYING DEVELOPMENTS

Given that any representation against a Development Application currently can only be made:

- On the basis of non-compliance or some previously unidentified consequence
- By parties impacted as defined by the 60-metre rule for a Category 2 development
- In a very short timeframe of two weeks for a written submission followed by an optional very short 5-minute verbal representation at an Assessment Panel hearing

AND

- A non-complying [category 3] definition is now virtually non-existent in the Code due to the effective removal of non-complying development categories within zones.

It is difficult to understand why the total removal or major reduction of the above is incorporated into the CODE. This is undemocratic and will only serve to increase the incidence of inappropriate developments being approved, sometimes in error.

We ask that notification and representation rights be retained and that appropriate lists of non-complying development be reintroduced into the new Code.



DO YOU WANT THIS NEXT DOOR TO YOU?

The photo was taken from the property next door whose owners were not advised of the development and had no rights of appeal. No Development Application was required as it was declared “deemed to satisfy”, all under NSW planning legislation. **IT COULD HAPPEN TO YOU as this is exactly what is proposed under the new SA Planning Code.**

PERFORMANCE PLANNING [PP]

Other states and countries have seen negative outcomes resulting from the introduction of PP. There are several documented reports available on this subject. We see the Adelaide Hills area as particularly vulnerable to the introduction of PP given its varied nature.

The CODE in its current form [as far as we can ascertain given the extensive number of unresolved queries relating to errors or proposed intended changes] significantly waters down safeguards against inappropriate decision making. Removal of detail character statements for each area, notification and representation rights, design diagrams and other prescriptive criteria contribute to uncertainty.

Part 7, Division 2, Subdivision 3 of the new Planning, Development and Infrastructure Act, 2019 specifies that “**decision makers cannot grant a planning consent if a development proposal is seriously at variance with the provisions in Development Plans**”. However, since the introduction of ‘calling in’ by the commissioner the State Planning Authority [SCAP] has consistently ignored this provision. **Such approvals are illegal**, the recent Aldi supermarket in Stirling clearly falls into this category.

While the purported intent of PP is to increase flexibility in planning decisions the balance of evidence and opinion is that there are more negatives than positives to its use, these include:

- A greater number of unacceptable seriously non complying development applications
- Greater complexity of debate on the merits of a proposal because **objectivity is replaced by subjectivity** and consequent slowing down of the time to process applications on the basis of PP
- Individual developers influencing outcomes rather than outcomes being driven by a plan [by councils or state] focussed on a collective good for the community derived from good planning and consultation
- Uncertainty of development outcomes due to the overriding influence of subjective opinions, which can vary widely, rather than objective planning criteria
- Distortion of land values
- Significantly greater opportunity for corruption, due to the lack of objectivity
- Undermining of community confidence in the planning process. Communities expect clear guidelines and buy property in an area based on known planning criteria. Changes to Development Plans are subject to consultation.
- There is no provision for referral to another independent authority of an approval that has been made on the basis of subjective assessment. This is a serious removal of checks and balances that must be part of our planning laws. When added to the above list it is an unacceptable situation.

The recent approval of the Aldi supermarket at Pomona Road, Stirling is a good example of this and should be the subject of a review of the process [we would like to be involved].

The removal of notification requirements, representation rights and non-complying development categories, combined with the introduction of “deemed to satisfy” and “Performance Planning”, is a massive removal of protection currently afforded under the current planning regulations. THE COMMUNITY MUST UNDERSTAND THE HUGE IMPACT THIS WILL HAVE, IT CAN HAPPEN TO YOU.

EXCLUSIONS OF OTHER AUTHORITIES

The CODE makes no provision for the inclusion of other authorities in the assessment and approval process. Recent State Government practise illustrates a clear intent to avoid referrals to very relevant authorities on specialist issues.

Of particular concern is the refusal to involve the EPA on developments that are clearly environmentally sensitive and a major consideration in specific cases.

The CODE needs to more responsible in assuring environmentally sensitive outcomes and not only allow pathways for the involvement of these authorities but enhance their powers in their sphere of operation. What are the Government’s motives behind this deliberate policy?

CATERING FOR BUSHFIRES AND CLIMATE CHANGE.

There is both a Federal and State review of bushfires and climate change. The recommendations from these need to be incorporated into development plans prior to completion of the CODE. In the case of the Adelaide Hills Council bushfires are a major issue.

Completion and introduction of the CODE must be delayed until recommendations from these reviews are incorporated.

FLOOD AND WATER QUALITY

This area, having the highest rainfall in the state, is the prime catchment area for Adelaide's water supply and parts of it are zoned severe flood risk.

The AHC has obtained a matching \$120,000 grant relating to flood mitigation study. This will take time to complete and the outcomes need to be incorporated into the CODE prior to its introduction.

As examples:

- businesses in Aldgate cannot obtain flood insurance cover
- The Aldgate Creek and Cox's Creek, both feed the Mount Bold Reservoir and are the most polluted creeks in the state

The CODE, in its current form, does not address either issue, in fact it further exacerbates both concerns by relaxing planning guidelines and processes. Water is both an incredibly important and potentially destructive commodity in our community and much more work is required to address it appropriately in our Development Plans.

SHOPS AND COMMERCIAL DEVELOPMENTS IN RESIDENTIAL ZONES

The CODE envisages a major expansion in size and in nature of shops and commercial development allowed in residential areas. In addition, if they are "deemed to satisfy" [which the CODE supports], means that residents will not even be notified of such developments alongside their house.

Both aspects of the above are totally unacceptable to this community. They defeat the concept of residential zones, amenity of this area and democratic rights of the community. We are at a loss to understand how the Commission can consider this acceptable.

In this area there has always been a clear distinction between shopping areas and residential areas. There are many small towns and villages in the AHC area so proximity to shops is not a real issue. The recent significant increase in availability of online shopping and home deliveries justifies a reduction of commercial development in residential suburbs never mind an increase, as does the expansion of Mount Barker.

Comments in the next heading on the AHC Township Plan also apply to the above.

DIFFERENT FORMS OF RESIDENTIAL DEVELOPMENT

This subject was the focus of extensive consultation during the 14 year [surely a record] Adelaide Hills Township DPA Report which required involvement of DPTI and sign off by The Minister.

Making major changes after this recent extensive process defies both the reason for and concept of community consultation.

We recognise the importance of multiple forms of residential development to meet, in particular, accommodation needs of older residents who do not want to be forced to move from an area that affords the continued support of family and friends. **These areas must have easy pedestrian access to shops which will provide convenience as well as reduce the reliance on use of cars. In other words, adjacent to townships.**

However, the introduction of flats and similar medium density type development into what is currently defined as country living or equivalent zones will undermine the character of these Adelaide Hills residential areas and should not be accepted. Most residents chose to live here to avoid more intensive development.

BUILDING HEIGHTS

The current building height limit in residential areas and townships is two storeys. The code refers to the term 'medium scale' in relation to development in the Hills townships. This is defined as between 3 and 6 storeys.

All AHC townships are small and can only realistically be described as villages. The whole character of the area, including tourism appeal, is based on this attraction. We cannot support development above two storeys in any AHC township, including Stirling, [we are advised this is also council's view]. The only variation to this to be the use of undercroft parking, with the Code's 1.2m limit. Our other submission document details the advantages of undercroft parking in this area.

Virtually all trees in AHC townships are deciduous. This means that building heights will have a significant visual impact from the other side of the road despite any setback above a second storey height. We also need all the sunshine we can get in winter given the cooler temperatures. Adelaide Hills temperatures are usually about 6 degrees below Adelaide city temperatures.

DESIGN STANDARDS

The Design Standards Document has yet to be introduced into the Code.

Even if the Design Standards is a high-quality document it will only have the status of guidelines. Therefore, as many urban design principles as possible must be incorporated into the Code to give them appropriate status i.e. to allow consideration of them in the assessment of what is deemed "seriously at variance" in any Development Application.

Absence of the above will indicate that the Government does not fully support good design standards. Many SCAP decisions indicated lack of proper consideration for design standards.

There are a large number of areas, some not applicable to this area, where currently we are not getting good urban design outcomes including:

- corporate branding and signage of buildings
- big box developments
- apartment developments

- size, design, landscaping and location of parking areas
- softening of the built form with appropriate landscaping
- medium and high-rise developments
- heritage sensitive development

Many cities across the world have excellent planning policies or guidelines to address these matters but because the Code is inadequate in this area and the Design Standards document hasn't been released as yet we don't know what standards will be applied. **It is imperative therefore that the Code not be finalised before the Design Standards document has been released and public comment has been sought on this document.**

SUMMARY

We confirm our already communicated comments:

The Code was promoted as a like for like transition of planning guidelines in this council. It clearly is not in its current form. Instead it is the introduction of a host of **compounding** major changes that effectively remove, not just reduce, community input into both the Development Plan and assessment processes and seriously threaten the character of the area.

It is very obvious that the wider community have little idea or understanding of the potential impact of what is proposed. This is due to the exclusive use of technical planning jargon in a document of over 3,000 pages. Even experienced planners are having difficulty working through it.

There is still considerable uncertainty as to what are errors and what are proposed changes to our Development Plan pending DPTI's responses to submissions. There are also elements to the Code still waiting to be introduced.

We ask for communication in the form of a plain English explanation of the impact of the number of changes to our Development Plan once all errors remedied. This must include the cumulative impact of impact of intended changes, "Performance Planning", "Deemed to Satisfy" and "Designated Performance". Until then no real community consultation can be deemed to have taken place. Is this too much for the community to ask?

We cannot effectively comment on the ePlanning component of the code until all errors are removed, correct data is uploaded the system is fully tested.

It is far more important to have a successfully operating system that has been the subject of genuine public consultation, loaded with all relevant correct data and fully tested, than try to adhere to a pre-determined deadline on such an important matter.

John Hill

On Behalf of the SDRA Committee

Please address any responses by email to johnjeanhill@bigpond.com