



21 November 2022

Expert Panel – Planning System Implementation Review  
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Dear Chair,

The Australian Institute of Landscape Architects, South Australian Chapter (AILA SA) extends its appreciation to the Panel for the opportunity to provide feedback and our expertise to inform the review of reforms to the planning system implementation.

As outlined by the Minister for Planning, Hon. Nick Champion MP, an independent expert panel of planning experts is conducting a review of reforms to South Australia's planning system implementation, including:

- *The Planning, Development and Infrastructure Act 2016*
- the Planning and Design Code and related instruments, as it relates to infill policy, trees, character, heritage and car parking
- the ePlanning system, to ensure it is delivering an efficient and user-friendly process and platform
- the PlanSA website, to check usability and ease of community access to information.

## **1. About AILA**

AILA SA leads a dynamic and respected profession: creating great places to support healthy communities and a sustainable planet.

We work together to create healthy communities, connected urban green infrastructure, and liveable, sustainable cities and regions. Our 2,800+ members are driven by AILA's values and our advocacy, driven by our [Strategic Plan](#) core values of Connection to Country, Climate Change and AILA SA is committed to creating '**A greener, healthier, inclusive and climate resilient South Australia**'.

The work of South Australian landscape architects is recognised for creating more liveable cities, healthy active spaces, and sustainable design outcomes for everyone. It is fair to say many of our members have helped shape many projects across the State, creating the vibrant community spaces for all members of the public.

## **2. Reviewing the Planning and Design Code**

AILA SA has positively engaged in the process of planning reforms in South Australia over many years and we applaud the new State Government's review, with particular regard to the Planning and Design Code (the 'Code').

AILA SA has advocated for positive planning changes to amend the rapid loss of private property greening, which has been a side effect of the conflicts and exemptions with the Significant and Regulated Tree Act and has led to clear felling of housing blocks across



Adelaide and the Adelaide Hills. This has been consistently the main criticism from our members on the Code in particular.

As we have provided comprehensive and detailed feedback on many aspects of the Code in previous submissions to a range of agencies, the following is a summary of our feedback which may assist the Panel's review:

1. Reviewing the interaction and conflicts between the Significant and Regulated Tree Act 2011 and the Code – this remains one of our principal concerns with the Code
2. Performance of the Tree Offset Scheme – how is it performing? Has it worked? How many trees have been offset? How much has been paid into the Fund? Who has been administering the process, and what are the key findings?
3. Reviewing the structure and approach of calculating tree offsets – we have provided detailed submissions on using a better calculation which is more meaningful, and is focused on ensuring developments work around existing Significant and Regulated Trees, and making the Scheme mandatory and not voluntary
4. Reducing pressure on local and state governments to provide tree canopy cover on public land to make up for the losses on private land
5. Protecting Significant and Regulated Trees on private property in the Code
6. Integrating climate adaptation and mitigation within the Code
7. Reviewing all State-funded projects and how the Code (and a revised Tree Offset Scheme) may be applied to health, education and infrastructure projects.

Finally, we note there are a range of issues that have become heightened during the recent worldwide pandemic and the impacts of a changing climate, and these include:

- Increasing tree canopy loss in our cities
- equitable and safe access to quality, local, and green parks and open spaces
- equipping our cities, towns, and regions to be climate resilient in a warming, dry climate
- supporting more people walking and cycling
- authentic and effective reconciliation with First Nations people

We are interested in how forward trends are considered as part of the implementation of the Code, and how the Panel is considering their approach and responses.

### **3. AILA SA's advocacy**

AILA SA has been active advocating for improvements to the Code, to protect existing Significant and Regulated trees (primarily on private property), through a range of publications with the Conservation Council of South Australia, as follows:

- [Comparison of Australia's Capital Cities Tree Laws \(2022\)](#)
- [Comparison of Australia's Tree Laws \(2021\)](#)
- [Myth Busting Our Trees 2021](#)
- [A Call to Action: Protecting Adelaide's Tree Canopy \(2021\)](#)

Our own State Election [Manifesto](#) prepared for the State Election earlier this year focused on positive improvements to protecting, enhancing and creating a more sustainable and inclusive South Australia, including:



- Creating a new, single, government agency to coordinate the planning, design, and delivery of South Australia's green infrastructure.
- Protecting South Australia's Trees
- Improving South Australia's connectivity by creating better streets for people.
- A new approach to Designing on Country.

Our advocacy is based on the loss of tree canopy cover across Adelaide focused on private property, and positive changes within the Code that will address the shortcomings of the Code in its current form.

#### **4. Selected Submission Extracts**

Over the course of the process of the Code's implementation, AILA SA has submitted numerous responses, submissions and presentations to the Department and the Commission.

The following are relevant to a review of the Code.

##### **4.1 Letter to Minister for Planning, Tree Offset Scheme, 9 February 2021**

In a [letter](#) to the previous Minister for Planning in February 2021, we wrote to express our serious concerns regarding the treatment and requirement for trees on private property in the Code and requested further independent review of the basis of the proposal (including the new Urban Tree Off-set Scheme).

Our view remains that the Tree Offset Scheme will not incentivise tree planting on private property, and we are yet to see how this will achieve increased private greening, let alone incentivise it despite assurances from the Commission and staff implementing the Scheme.

In a presentation to industry on 29 January 2021, the Commission confirmed that the Scheme is entirely voluntary, viz: *'the Scheme will not require or mandate payment into the Fund, but an applicant may elect to pay into the Scheme in lieu of planting a tree as required in the Urban Tree Canopy Overlay'*.

The presentation then outlines the payment levels should a voluntary payment be made. These are extraordinarily low and do not represent the true cost and value trees provide. We analysed the report commissioned by the Commission titled *'Costs and Benefits of Urban Tree Canopy Options for Minor Infill Development in the Planning and Design Code'* (the Report) and many of our members have contacted us with concerns.

However, there is need to consider complementary actions and incentives inside and outside the Code to achieve the public and private greening of Adelaide. The onus should be on the Code to incentivise private tree planting for the all the benefits we have previously outlined.



#### 4.2 AILA's response to the draft Planning and Design Code, Phase 3, 18 December 2020

- [Recommendation 1](#): Clarification and resolution on whether gardens are considered 'contributory items' as part of heritage protection in the Code.
- [Recommendation 2](#): Clarification and resolution on the priority and/or hierarchy of concept plans in the Code.
- [Recommendation 3](#): Clarification and resolution on the priority and/or hierarchy of Sub Zones in the Code.
- [Recommendation 4](#): Consideration of clearer, stronger links on climate change mitigation and adaptation in the Code.
- [Recommendation 5](#): The tree offset scheme is removed from the Code. Analysis of 'Costs and Benefits of Urban Tree Canopy Options for Minor Infill Development in the Planning and Design Code' (Report). This is a flaw in the research and misrepresents the true value of trees. We would recommend this is reconsidered and the value of trees to society is more accurately represented in the Code
- [Recommendation 6](#): More detailed and relevant research is undertaken to improve the basis for any future costs to remove trees from private and public land to include all benefits that were outlined in the Commission's own Report as 'well-researched benefits that could not be defensibly quantified'.
- [Recommendation 7](#): The Code reinforces the importance of trees contributing to health and wellbeing, climate change mitigation and adaptation, property values, habitat and biodiversity and increasing canopy cover to meet the state's target of 20% cover. View full [submission](#).

#### 4.3 Presentation to Parliamentary Inquiry into Urban Green Spaces, 17 July 2020

We [presented](#) two recommendations to the Parliamentary Inquiry in 2020 on Urban Green Spaces, which are relevant to the Panel's considerations:

- [Recommendation 1: New legislation to create a single agency to coordinate the planning, design and delivery of South Australia's Green Open Spaces](#)
  - A new single agency with responsibility to plan, manage, design, deliver and maintain South Australia's green spaces with oversight of infrastructure projects will ensure greening targets are not only initiated and delivered, but managed and protected over time
  - We recommend a green infrastructure policy is developed and owned by one department with targets and reporting as well as grant funding – which will demonstrate commitment and leadership at the State Government level
- [Recommendation 2: Government Stimulus Opportunity – COVID 19: The State Government leads by example in projects across government agencies including infrastructure and education projects and includes:](#)
  - Minimum tree canopy retention and increase
  - Minimum targets for new areas of quality green open space
  - Minimum targets for stormwater retention, reuse and treatment
  - Minimum targets for biodiversity and habitat increase



#### **4.4 Response to the Draft Planning and Design Code Consultation Phase 3 Urban Areas, 28 February 2020**

The key recommendations in our [response](#) to the Phase 3 consultation were:

- [Recommendation 3.3.1](#): The Code must include a mechanism to integrate existing Significant and Regulated Trees
- [Recommendation 3.4.1](#): The Code must integrate and reference the Significant and Regulated Tree legislation
- [Recommendation 3.5](#): The Code must protect all existing Regulated and Significant Trees

#### **5. Summary**

AILA SA has positively contributed to the Code's implementation and review over many years.

Our submission to the Panel, to assist with improvements to the Code, are:

##### **Recommendation 1: Review the conflicts between the Code and the Significant and Regulated Tree Act**

Review the interaction and conflicts between the Significant and Regulated Tree Act and the Code, recommending amendments to the legislation to remove the exemptions that allows tree removals from private property, and provide clarity in the Code on existing Significant and Regulated trees on private property.

##### **Recommendation 2: Review performance of the Tree Offset Scheme**

Review the current scheme and provide data on how it has performed. Has it worked? How many trees have been offset? How much has been paid into the Fund? Who has been administering the process, and what are the key findings?

##### **Recommendation 3: Change the Tree offset value calculations and make payments mandatory**

Review the structure and approach of calculating tree offsets – we have provided detailed submissions on using a better calculation method which is more meaningful (using the City of Melbourne process as a benchmark), focused on ensuring developments work around existing Significant and Regulated Trees, as well as making the Scheme mandatory and not voluntary to change development behaviours.

##### **Recommendation 4: Increasing tree canopy cover on private property**

The current Code is leading to a loss of tree canopy cover on private land, as outlined in the reports and submission links above as well as the conflicts with the Significant and Regulated Tree Act.

The pressure on local governments to provide tree canopy cover on public land to make up for the losses on private land is increasing and at odds with the State's vision for a cooler, greener Adelaide. Maintaining and protecting Significant and Regulated Trees on private property is a start, as is promoting more room for larger trees on private property.



**Recommendation 5: Integrate Climate Change mitigation and adaptation measures in the Code**

The Code is relatively quiet in regard to how the planning system can proactively address the impacts of climate change. We recommend measures and policies to embed mitigation and adaptation measures are introduced.

**Recommendation 6: Consider the role of State-funded projects and the Code - the State leading by example**

Many (if not most) infrastructure projects avoid current planning system requirements – particularly roads and rail projects. However, many health and education projects suffer similar avoidance of the Code. We recommend reviewing all State-funded projects and how the Code (and a revised Tree Offset Scheme) may be applied to health, education and infrastructure projects to lead by example, creating cooler, greener and more biodiverse outcomes for their communities.

We look forward to presenting our recommendations in person.

Yours sincerely,



Daniel Bennett  
AILA SA - State President  
Fellow (AILA), Registered Landscape Architect #1183