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Department for Planning, Transport
and Infrastructure

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Attn: Planning Reforms Section

To whom it may concern:

RE: Planning Reform Submission on the proposed Planning and Design Code Stage 3 (Metropolitan and Major Regional Centres)

I am a planner with approximately 15 years of experience in the public and private sector working in areas relevant to my key qualifications in Urban and Regional Planning and Design. I am a full member of the Planning Institute of Australia and I have been at the 'coal face' of development assessment at Local Government level for around 13 years of that time on and off, while also operating my business, AcroPLAN[SA] for nearly 5 years now. I am well-positioned to be able to speak objectively about what is working in the current system and what is not working so well from both public and private perspectives.

My intent as part of the submission is not to disseminate in detail the numerous and specific policy concerns that I have with the draft version of the Planning and Design Code (the "Code"), which has changed several times since its first release in October 2019. The document is simply too cumbersome to be able to properly construe, has numerous errors and omissions, which the Department has already been made aware of, to be able to make a detailed submission in relation to every aspect of the Code.

Quite frankly, the Code in its current form on consultation is not reflective of how the new system is purported to operate, with the e-Planning format not having been available during the consultation period. As such, there have been significant challenges in comparing the draft Code to current Development Plans and understanding the full scope of the implications of the proposed policies.

The manual cross referencing to tables required to determine relevant policies and overlays has made the task of comparing all facets of the proposed new system with the current Development Plans, as well as the relevant sections of the Act and Regulations to be replaced with "Code" based assessment triggers and procedural matters, very difficult for an experienced planner, and impossible for a 'lay person'.

As an example, it is difficult at this stage to ascertain with certainty the public notification of certain development types, many of which under the current PDI Act and Regulations would appear to require notice as soon as they fall outside of the "Deemed to Satisfy" Assessment stream, as the Code tables are still a 'work in progress'. The implications could be that, unless rectified, some very basic forms of development currently not requiring consultation (such as detached dwellings), unless exempted by Code, would be dragged through a farcical (and longer) consultation process, while the current system would not require this ordinarily.

The Community Engagement Charter states that people should *"have access to all relevant information at the time it is needed so that they can participate fully."* The extent of errors and omissions in the Code significantly compromises the ability for practitioners, the community generally and property owners to properly and confidently understand the full impact of the draft Code policies.

Given the substantial changes envisaged to be required before the Code is in its final form, the Department would open itself up to litigation if the Code was not refined and re-released for consultation in a form in which it will actually be used – i.e. using an online portal that brings in all of the relevant policy for any particular forms of development and is readily able to be used by a diverse target audience.

Background

The reform agenda began in 2014 principally on the back of a pitch from the housing industry to the Government at the time, that there were significant issues with the current planning system and perceived 'backlogs' and 'delays' entirely at the fault of Councils. The catchcry of *Residential Code* was for a 'simpler, faster, cheaper' alternative, and the neo-Liberalist spin of the Government continued, making piecemeal, ad-hoc policy changes to the *Development Regulations* to bow to the development industry and further diminishing the control that Local Government has over its own areas.

Unfortunately, there was never any real fact checking to ascertain the true reasons behind the apparent delays and issues with the system and the then Planning Minister, Mr Rau continued on his merry way pushing a specific agenda, bowing to major land holders,

developers and the petrol station monopoly. I have little doubt that the Expert Panel were given instructions on the findings that they needed to 'discover' with respect to the analysis of the current system, and simply come up with a believable storyline to justify what appears to have been an aggressive reform agenda aimed squarely at significantly reducing Local Government involvement in the planning system.

I plead of the current Liberal State Government to undertake a detailed review of the early documentation, emails, transcripts, meeting minutes and discussion papers behind closed doors relating to the Expert Panel's findings and undertake a thorough audit to determine exactly what transpired in that early phase of the Planning Reforms Agenda.

The shadow Government may have indicated bi-partisan support for changes to the Planning System at the time, but not been furnished with, or have had access to, the relevant detail to undertake its own proper analysis of the costs of such an exercise and what the actual benefits would be, beyond the spin portrayed by the then Labor Government.

Where things need improvement

I put it to the current Government that the significant delays attributed to application processing in the current planning system be reviewed with an unbiased, open, transparent and detailed analysis of applications of a broad cross section of Councils, development types, and applicants to determine exactly where things are going wrong.

Information at the beginning of the Application Process:

I have had some involvement interacting with the Victorian planning system and the level of detail required of applications to progressing through lodgement and planning assessment is significantly greater than what a typical application for a basic residential form of development might look like in the SA system. Of course, that will vary from Council to Council, as to what thy are happy to accept, but by and large the capacity to hold onto applications for long periods of time while the applicant gets their act together and arranges the relevant information to be provided, is being taken away from Councils with the new system.

Greater onus therefore needs to be put on applicants at the beginning of the process to ensure that all of the relevant information is conveyed on plans, the plans are accurate and sufficiently detailed, to scale with scale bars and relevant dimensions and contain all other necessary information for assessment. I note that the content of Schedule 5 of the

Development Regulations is more or less the same as the content of Schedule 8 of the PDI (General) Regulations. I am not sure if a legislative change is required or whether the Code can be amended to include reference to Schedule 8, such that ALL relevant detail must be submitted to the satisfaction of the relevant authority BEFORE it is formally lodged.

This perhaps will improve efficiency at the early screening stage before applications are channelled into the relevant assessment pathways and to whatever relevant authority may be involved.

This itself presents a substantial opportunity to improve timeframes of assessment, and given the significantly reduced assessment times and limited availability of relevant authorities to request further information on certain types of development in the new system, things will just end up clogging up the Courts if there are 'avoidable' refusals or appeals on procedural grounds based on the information required not being provided within the necessary timeframes. Relevant authorities will naturally be more 'trigger happy' on refusing things out of time with the imminent threat of 'deemed consents'.

As an accredited professional likely to be making decisions on certain types of development I am very concerned about the amount of 'free' work put onto Accredited Professionals in the pre-lodgement phase. Ultimately the system as proposed will allow users to select a 'relevant authority' from a list using the online portal and from there the information and plans are remitted to the Accredited Professional to review and determine a number of things about the application, and quite often refer that onto who is the correct relevant authority after determining that something is not 'deemed to satisfy'. While not relevant to the Code itself, the system must be improved to ensure that significant burden is not placed on Accredited Professionals during Pre-lodgement of applications where it will be difficult for them to recoup fees for this process.

Some of the reform agenda, I believe, will improve certain pitfalls of the current system, but overall, I have significant concerns professionally about what the Code seeks to do to the planning system from an ideological standpoint. The standardisation of policy 'across the board' goes against the cornerstone of 'grass roots' planning that is based on the nuances and particular characteristics, local demography, built form and landscape character of given areas, upon which much of the policy content of existing Development Plans is based, and has been derived from consultation, community participation and policy development over decades. The significant stripping back of local content and rationalising of Zones has the potential to completely disrupt the local identity of any particular area.

Reviewing the distribution of "General" vs "Suburban" Neighbourhood Zoning

Of course, there are the cases of Councils that have been unwilling to amend their Development Plans, and have not undertaken the necessary periodical amendments pursuant to Section 30 of the *Development Act*. In those cases, such as City of Mitcham, which has several unchanged Residential Zones and Policy Areas since the inception of the Development Act and despite the numerous updates to the State Planning Strategy in that time, there is a great opportunity for the Code to bring policy into the 21st Century.

The Code should seek to modernise and rationalise certain Zones that enables a more contemporary approach to development and recognises the close proximity of some of the areas to major nodes, centres and services. Areas comprising, by and large, 700-800m^2 allotments containing post-war housing on large, generally flat areas within a 10km ring of the CBD should be treated with the same Policy mechanisms whether they are south, east, north or west of the city so that less burden is placed on the urban fringe to accommodate population growth. I see no planning rationale to keep areas such as St Marys, Melrose Park, Pasadena, parts of Daw Park, Clapham, Panorama and Lower Mitcham, within a "Suburban Neighbourhood" Zone that bring with it the Technical and Numeric Variations of yesteryear (for example 500m^2 site areas) from the archaic City of Mitcham Development Plan. The logical approach would be to bring most of these areas into the General Neighbourhood Zone, unless the Draft *Suburban Neighbourhood* Zone in the City of Mitcham Growth Precincts Development Plan Amendment (which is different to the Suburban Neighbourhood Zone of the Code presently) proceeds beforehand with more compact density targets for specific areas.

The prevention of further depletion of Adelaide's primary food bowl areas and hills and escarpment areas with significant exposure to fire risk should be a cornerstone of the Code and as such, areas that are devoid of notable pre World War II character and within close proximity to services and transport nodes, should be freed up to allow for economic growth, increased density and better utilisation of existing infrastructure. Maybe in 30 years with the growth targeted in the right areas, there could be justification for a decent public transport system in Adelaide, maybe even an underground… I will keep dreaming.

The missing "Design" element in the Planning and Design Code

Another issue that I see with the 'tick box' approach and the specific review of the relevant criteria is that there is a distinct lack of 'design' quality being embedded in the system, and potentially, less opportunity to consider minor variations to Code criteria where there is not a "Desired Character Statement" against which such variations may be justified.

I was involved in the certification process through Residential Code of South Australia's first 10 star house, being constructed at Woodforde presently. In the Code I have found four items that would automatically kick it out of the DTS assessment stream.

My concern is that, a very high-performance building such as that, should not be punished by having a lengthier and more onerous assessment path through a Council (and potentially notification) by virtue of beginning the design process with site, locality and climatic analysis rather than a set of what some Council planning staff may consider 'inviolable prescriptions' in the Code for the easier assessment pathway.

Moving forward and elevation of "Design" in the Planning and Design Code should be another key foundation of what underpins the Code. Some improvements to water management, and increased / mandatory vegetation and landscaping are noted but the Code could go further in these aspects as well. I am sure that Water Sensitive SA would have more detailed comment on that aspect so I will leave it to their expertise.

It is inherently difficult to accommodate a high performance building within a tick box system designed to predominantly cater for the bulk builders. The focus is the Code should be not to appease this very powerful section of the market that continues to produce standard 'off the shelf' housing to fit certain block dimensions, but design be elevated such that higher performing buildings are rewarded with a quicker and more certain path for assessment. One mechanism I see as a potential solution would be to require, upfront a report from a relevant expert, providing detailed analysis of overall building performance and a specific Deemed to Satisfy pathway for such buildings which not only depends on this, but assessment by an Assessment Manager or Level 1 Accredited Professional to make planning judgement on whether there are variations to the Code that are beyond "minor" but acceptable nonetheless, and still permit this assessment pathway.

Concluding Statement

The consultation process has certainly been interesting and I have had the opportunity to attend numerous events and seminars on the Coe and the legislation to which it is tied.

Notwithstanding, the great disappointment in all of this, is the lack of clarity able to be deciphered from what is clearly an inadequate and unresolved version of the Code that has been on consultation.

I hope the Department takes on board some of the concerns and suggestions from the wider planning community as ultimately it should be the planning community that has the greatest say with the changes to the system, and not the housing industry.

I look forward to a proper review of the Draft Code in its ''online'' format to be available before the final release later this year.

Yours sincerely,

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