

28 February 2020

Mr Michael Lennon
Chair
State Planning Commission
PO Box 1815
ADELAIDE SA 5001

Dear Michael,

RE: Community Engagement Charter and Evaluation of Engagement

Council Administration wishes to raise concerns it has with the Community Engagement Charter and holds the position that it has not resulted in a meaningful or effective engagement. The reasoning behind this position is described below.

1. Incomplete, erroneous and staged release of documentation

Even at the close of the public notification period for phase three Councils, the documents provided were incomplete and erroneous and despite being implemented as an electronic system, was not provided in that format for consideration. This has had an enormous impact on the ability to review and interact with the Draft Planning and Design Code (the Code).

The document did not contain any page numbers or headers and footers, which made review of the Code problematic. Even experienced planners found navigating this document difficult. When these concerns were initially raised, DPTI stated that it is supposed to be used via ePlanning and as such navigation aids were unnecessary. However the ePlanning system was not, and is unlikely going to be ready until phase three implementation of the Code (possibly September 2020).

Important factors for consideration such as public notification, fees and revised assessment tables are yet to be finalised and as such, no comment can be provided to DPTI on these aspects. This is not considered to be in keeping with the principles of the Community Engagement Charter which sought genuine, informed and transparent engagement. It cannot satisfy these principles if the details of key components have not been made available in the first place.

When the Code was initially released on 1 October 2019 it contained many errors that included, but not limited to:

- Incorrect numbering (lists starting with numbers other than 1);
- Missing information (dot points or lists with no information in them);
- Incorrect referencing to other sections (incorrect names or referencing incorrect POs);
- References to overlays that do not currently exist (Significant Tree Overlay);
- Missing Technical and Numeric Variations (TNVs) in the mapping system;

- Inconsistent references to assessment criteria for Deemed to Satisfy (DTS) development between zones;
- Multiple spellings of the same word (e.g. licenced v licensed) which made in conjunction with no page numbers made finding information difficult;
- Inconsistent formatting of the document such as page orientation and table formatting;
- Inconsistent references throughout the documents. Examples include the use of DPF's, and DPO's interchangeably. In some cases DTS and DPF are both used and in others only DTS;
- Conflicting Overlays with no hierarchy (Affordable Housing v Historic Area Statements);
- Missing setback information for a Neighbourhood Zone;
- Building Near Airfields Overlay eliminating almost all DTS development within the City of West Torrens;
- Inconsistent application of Aircraft Noise controls between council areas;
- The Code referring to levels but the mapping system referring to storeys;

On 8 October 2019, DPTI released 'council specific' versions that were supposed to contain only the relevant sections of the Code that applied to each Local Government Area. However, it was quickly ascertained that these too contained errors and missed critical pieces of information such as sub-zones for the Urban Corridor Zone. A further version of the council specific documents was provided at the end of November 2019. This version did contain all the relevant zones and subzones, but it retained the remainder of the errors highlighted above.

The complexity of the new system was felt by many practitioners and stakeholders alike, with many not understanding how an application would be assessed. Subsequently, DPTI released development assessment scenarios on 5 December 2019, however the scenarios fell short of what stakeholders were expecting, merely referencing which provisions needed to be considered rather than an example of how an application would actually be assessed.

During consultation, DPTI/SPC recognised that more robust policy was necessary when considering development in areas with important heritage and character characteristics. In an effort to resolve this, DPTI invited councils to draft 'Historic and Character Statements'. While this was welcomed, it diverted attention and resources away from considering/analysing the Code.

Under growing pressure from stakeholders, DPTI/ SPC acknowledged that an amendment to the Code was necessary. This was released by DPTI at 6:10pm on 23 December 2019, as most people were beginning their Christmas break. The updated document included a 22 page overview of what they had heard so far and how they were intending to address the issues, as well as a revised 2,200 page assessment table. These documents must be considered in conjunction with the documents already on consultation.

The initial updated table did not provide any tracked changes or indications about what had actually been altered. When a track changes document was requested, DPTI suggested that people use two screens to compare the documents side by side, which is clearly not feasible when dealing with 2,200 pages, especially halfway through the consultation period.

This updated document resolved some of the basic numbering issues but also introduced some major changes, such as the way public notification would occur and the ability for assessors (other than Council) to approve land divisions. These changes were not demonstrated in any detail or in a complete format suitable for review nor was there any background provided to explain the context of the changes.

During a meeting with Council's Transition Manager, these matters were raised and further detail was requested. DPTI has declined to provide any further detail and suggested a general response noting that there is insufficient detail able to be provided in any submissions to DPTI/SPC. This is at odds with the Community Engagement Charter which states that a performance outcome is (pg 9):

"All relevant information was made available and people could access it."

The combination of all these issues serves to highlight that the Code was severely lacking and not advanced enough to have been released for consultation. Council has provided a detailed response, however this only reflects on the aspects of the Code that were available. Ultimately, the Code was not ready to be released for consultation and was not fit for the purpose of community engagement.

2. Ineffective engagement with the community

It has become clear that the general community is either unaware that a planning reform is taking place or unaware what impact it will have on them. This has been reflected by the poor turnout to the community events and responses provided to DPTI on the Code. There are some vocal community groups, but their attention revolves predominantly around Heritage and Character concerns and impact of infill development.

Council is concerned that the changes brought about by the Code have not been well advertised, especially since the intention was to *front load* the process so less public notification will be required during development assessment of individual applications.

This Code will bring about such extensive changes yet has involved less communication with our community than a standard Development Plan Amendment is subjected to. It is noted that when a DPA is consulted on, each and every affected property owner and resident is sent a letter explaining what is being proposed. During the consultation of the Code, only those property owners within a Historic Conservation Area were provided with this level of notification, although the letter did not explicitly identify the changes proposed.

It is considered that the community meetings were poorly advertised as only one advertisement was placed in the local paper and online on the SA Planning Portal. In some cases this advert appeared only days prior to the meeting being held. Whilst information was displayed on the Planning Portal, the community would have to know that these meetings were taking place and how to navigate to the website to find the information.

In response to a perceived lack of dissemination of information being provided to the community, the Elected Members felt that it was important to inform our residential community on the Code and as such developed factsheets which were sent to all property owners and residents within the City of West Torrens area. This approach did prompt interest from the community, which resulted in one of the highest

attendances of the community meetings undertaken by DPTI. This serves to demonstrate how the approach taken by DPTI has not been 'fit for purpose', which is one of the important principles when engaging under the charter.

The consistent message received from the State Planning Commission during both Council and community meetings was that the transition to the Code would provide a fundamentally like for like outcome. This is clearly misleading and further dilutes the community's ability to understand the changes and how they will be affected. It was also at odds with the factual information provided to our community by this Council resulting in confusion and concern about which version was accurate.

3. Lack of confidence in the planning process

All of the above has resulted in uncertainty and a loss of confidence in the planning process as proposed under the Code. There is strong concern from stakeholders around the implementation of the planning reform with overwhelming feedback being that the Code needs to be revised and completed. Once that has occurred, it should be in an electronic format (as it is intended to be) and put out for community consultation with appropriate support materials, which are readily accessible and supported by well communicated community events.

The Mutual Liability Scheme was so concerned with the issues presented by the content and format of the Code that it suggested to the Local Government Association and its members not to provide advice on it to the community, instead queries were to be directed to DPTI.

Adding to the weight of the incomplete and erroneous documents that were made available for consultation, is a greater concern that there has not been adequate research into the massive changes the policy proposes. There will be significant impact that these changes will have on soft and hard infrastructure, the look and feel of neighbourhood zones and the economic impact on commercial and industrial applications within activity centres and employment type zones.

Further frustration and erosion in confidence in the proposed change is that there has been inadequate opportunity to road test the Code effectively. There is serious concern, and Administration reiterate that this process is critical to the implementation of an informed and well considered Code. The Code that was consulted on, contains many issues that are evident now and others that will be realised once the Code has been implemented. This will not only produce poor planning outcomes, but also necessitate a series of Code amendments in the months and years after the Code has been implemented. It is considered to be a better outcome to delay implementation until a final version for consultation has been undertaken using the ePlanning portal as originally intended.

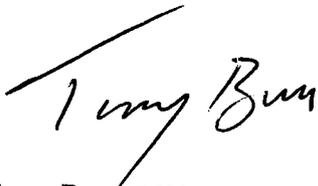
Council holds the position that the Community Engagement for the draft Planning and Design Code, as stipulated by the Community Engagement Charter has not be successfully implemented and the Code should not be endorsed and formalised by the State Planning Commission until:

- The State Planning Commission has engaged and formally responded to councils, addressing errors, omissions and inconsistencies identified during the current consultation process
- The State Planning Commission has undertaken a second round of public consultation on the draft Planning and Design Code, which has been incorporated within the ePlanning system
- A comprehensive learning and development program has been developed in consultation with local government and implemented with all councils, relevant authorities (including accredited professionals) and the community.

This is a once in a generation planning reform and is vitally important to our community and the state as a whole on many fronts. These sentiments are mirrored by a multitude of stakeholders and as such it would be disappointing if the recommendations identified above were not enacted. It is noted that during Phase One of the Code consultation that a feedback form was produced actively seeking feedback, however this has not be replicated for Phase two or Three.

Finally, it is uncertain how our responses will have provided input or have been considered in the final decision. It is recognised that our Council and many other stakeholders have provided a considerable amount of content in their submissions at great cost in terms of money, time and resources. Given the lack of research and background information provided in support of the Code, it would be disappointing to not receive feedback as to why our submissions/recommendations were or were not adopted.

Yours sincerely

A handwritten signature in black ink that reads "Terry Buss". The signature is written in a cursive style with a long, sweeping underline that extends to the left and then curves under the name.

Terry Buss PSM

Chief Executive Officer

CC: DPTI, ERDC Committee, Minister for Planning and Opposition Minister for Planning