

Mr Nick Champion MP
Hon. Minister for Planning
MinisterChampion@sa.gov.au
[cc:The Presiding Officer; The Expert Panel, GPO Box 1815, Adelaide 5001](mailto:DTI.PlanningReview@sa.gov.au)
DTI.PlanningReview@sa.gov.au

Dear Minister Champion & Presiding Officer

Re : The current Review Committee of the PDI Act of 2016 (as amended) Regulations, the Planning & Design Code and attendant documents.

We are pleased an independent panel of planning experts has been appointed by Minister Champion to conduct a review of reforms to the state-wide planning system, including the Planning, Development and Infrastructure Act, the Planning and Design Code and associated Practise Guideline documents. The intent, as promised by Premier Malinauskas, is for the independent Expert Panel to consider relevant information, listen to submissions and to assist him in improving many public concerns around the current system. We shall look forward to a positive outcome.

By way of introduction, the Graham F Smith Peace Foundation Inc was established over 30 years ago in 1989 as grassroots, non-profit and non- political organisation to promote human rights, social justice and environmental sustainability through sponsoring the arts that relate to these objectives. The projects that we support must include an educational component and be in accord with the Foundation's objectives. With respect to the review of the planning system, the following objectives are relevant to your portfolio; namely

- The care of the environment and ecological sustainable development
- Increasing understanding and cooperation between political, racial and ethnic groups
- Supporting the rights of indigenous peoples to economic self-determination
- Supporting projects that enable people and communities to lead environmentally sustainable lifestyles.

We are aware of the public concerns over several current developments approved and legislation that now substantially reduces third party appeal rights, enabled by a shift to performance assessed development rather than on merit assessment. The Code lacks direction and provides no certainty for participants in terms of policy content. Very few clear standards are based on clear and distinctive polices. We believe that planning is crucial at a community and local level in achieving a system that respects the above objectives.

To promote a progressive response to ensure sustainable development, planning needs to establish consistent standards of design and future proofing of infrastructure systems to

manage extreme weather events. Adapting to emerging communications, energy and market distribution systems, the housing industry is faced with increasing costs.

Adaptation rather than Growth should be driving planning policies to avoid destructive and wasteful building projects in areas most at risk due to climate change. Our planning system needs to protect valued environments where natural and built heritage is part of the design and development process. To do so, our planning system needs to recognise and protect heritage, acknowledge indigenous stakeholders over Aboriginal country as relevant stakeholders in the content of the Code's zoning. It needs to guide the development assessment process for resilient economies, lifestyles, and resources sustainably. To do so, consideration is urged to **reverse the current inability of the public planning system to enable public comment and participation in subdivision design development for sustainable living.**

Most importantly - since the instigation of the planning reform process and its adverse impacts on democratic rights, there has been a significant disconnect between state and local government planning at the local level to reflect the cultures of the communities and well researched and consulted strategic planning

The Board strongly supports a radical rethink to include local government strategic planning and local input into any changes that might be recommended. A review of the consequences of disengagement of the public in any legal right to be notified of developments previously considered on merit, including rights of third party appeal, is urged.

The expert committee should consider all stakeholders who might be adversely affected by developments strongly at odds with zoning objectives and policies. More certainty and transparency in accessing details of the Code within zoning provisions would reduce the need to orienteer various platforms of overlays, technical note variations, guidelines, and bulletins. This is not a user-friendly system. Third party appeal rights have been substantially reduced, exacerbating the lack of the democratic right to challenge decisions of adverse consequences to persons, property and environmental and cultural amenity.

Of real concern is the fact that state government departments are not leading by example regarding **the retention of tree canopy**, as evidenced by the disastrous level of ongoing tree destruction by both government and private infill developments on public & private land. It is recommended that the Urban Land Trust require environmental improvements in land division projects released for developers and engage with all relevant stakeholders in the planning phases for subdivision. The regulatory amendment of the Open Space Fund (formerly MOSS) to fund the planning reform process rather than the original intent of developer contributions for funding public open space acquisition, landscaping, and improvements to existing bike trails and parks should be reversed to dedicate 30% of the Fund, not the 10% proposed, for public open space acquisition and tree planting projects by local government. It is hoped the expert committee will substantially increase the Fund's allocation to reflect the need to reverse the current trend to less, not more, canopy cover. We support the Conservation Council tree advocates, including Tom Morrison, Joanna Wells and Yuri Poetzel in monitoring the State's environmental performance and strongly support their advocacy to reform the loss of habitat,

trees and vegetation through the expansion of housing development and infrastructure projects. See appendices and examples below on the issue of canopy cover to improve future public health standards

We strongly support Minister Rau's protection of farmland production areas and urge land capability as a consideration when dealing with developer pressure for the further release greenfield expansions and in reviewing outlying Deferred Urban Areas.

All of these concerns have been noted by Peace Foundation board members, especially with reference to the Public Petition No 2 of 2020 to Parliament. Submissions were invited and heard by the Legislative Review Committee over a 2-year period. This petition articulated very clearly the concerns of the community and was signed by 14,000 people. We reject the view that this equates to a 'vocal minority' and have read the published LRC Report to the Minister of Planning. We ask that this current review of the planning system ensures the committee has regard to the summary and recommendations of this report to complement the discussion papers prepared by the DPTI who are responsible for the current state planning system. It may have been better for public comprehension if the key issues were more simply and concisely expressed in the discussion papers. All three papers are rather lengthy and complex for a member of the public to understand, and the public meetings being scheduled are so close to the closing date do not inspire confidence in consultation outcomes.

The Local Government Association's submission suggests a number of reforms to reinstate local and state partnerships in policy formulation and reform to achieve a more informed and participatory role for councils, residents, professional institutions and First Nation peoples in the planning process. We support their suggestions for reform.

The Peace Foundation Board applauds the willingness to consider all relevant issues and hopes the review will result in a clearer set of planning standards and policies to promote a progressive, inclusive, and respectful planning process for all South Australian communities and local councils.

Yours sincerely



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Appendix 1

An example of a public Submission to the Legislative Review Committee on Petition No. 2 of 2020 - Planning Reform:

Renewal SA, Private Developments and schools' impact on green spaces

Trees often seem to be razed to allow for temporary construction convenience. It's unfortunate that there isn't more emphasis in the Development Act to Ecological, Environmental, and Mental Health benefits of old growth habitat, as we'd likely have less contentious designs for major projects

Renewal SA's portfolio has a huge footprint, which includes public assets such as Housing Trust homes, former schools, TAFES, fire stations and health facilities such as Glenside Renewal SA has been selling off many rezoned allotments all over town, catalogued on their website.

<https://renewalsa.sa.gov.au/for-sale/land-sales/>

Many of these tracts of land have old growth vegetation being systematically cleared.

Also, Renewal SA's Renewing Our Streets and Suburbs program (ROSAS), aims to renew all pre-1968 SA Housing Trust housing over the next 15 years, with the priority up to 2020, being those houses within 10km of the CBD. This will account for approximately 4,500 SA Housing Trust homes.

As an alternative to the Standard Pathways, the ROSAS program can be facilitated through Schedule 1A of the Development Regulations 2008. This allows Renewal SA (as agent for SAHT or private community provider), to lodge applications for dwellings and associated land division proposals, direct with the State Coordinator-General (or one of the assistant Coordinator-Generals).

There is no specific requirement for consultation on applications dealt with under the ROSAS program. Development plan consent is not required for this programme, so Councils and communities will potentially not be consulted. What will be the impact of that to our metropolitan vegetation?

Example1

Below is a satellite image of former Enfield High at Gepps Cross, which was sold for urban infill development. Every tree in this image (bar 2) has since been destroyed, several were Significant and Regulated natives



This suggests that other former school sites sold by Renewal SA will befall the same fate. (Former Davoren Park High School has been sold for infill and the site is in the process of having its many trees destroyed. Appendix 2)

Possibly supported by **Schedule 14 of the Development regulations** (see Appendix 1)

The next series of 3 photos below of former Enfield High were taken from Coles St facing West, from approximately the red X in Picture1 above

GOING (this image was taken from Google street view)



GOING



GONE



Example 2: Glenside

In Glenside **Preliminary Master Plan Brochure 2015**, the first topic in its community feedback summary, discusses the importance of keeping the Significant trees. (Something that was subsequently ignored)

Further on, under the heading of "Open Spaces and Trees" it says
"PROPOSED BUILDING AREAS AND ROAD RESERVES HAVE BEEN CAREFULLY
LOCATED TO ENSURE ALMOST ALL OF THE SIGNIFICANT AND REGULATED TREES
ARE PRESERVED"

(The capitals are a bi-product of the copy and paste from the document).

This statement proved false as over 80 regulated and significant trees and untold smaller trees, were wood chipped.

Attached is the plan that indicates the Significant and regulated trees removed at Glenside for urban infill. Approval was given for the tree removals, before any plans of the new development were publicly accessible, allowing a blank canvas for the developers. This was overseen by John Hanlon of Renewal SA. Hanlon has since been removed from his post and is under investigation by ICAC.



The remaining trees adjacent to Fullarton Road are now under threat due to the addition of more road lanes for the Fullarton Glen Osmond intersection upgrade. Diagonally opposite the site in Park 16 and Bluegum Park, a further 120 trees are slated for removal, for storm water management <https://yoursay.cityofadelaide.com.au/46448/documents/106729>

Below, some of the Glenside trees. People in the first photo indicate the scale of the 80+ trees lost





The Glenside scenario is repeating throughout metro area in Renewal SA's massive fire sale.

Example 3: Renewal SA Former Richmond Rd Marleston TAFE site

Before and after



There are still huge trees on the site, what will befall them?



Example 4: Private Development Tree Removals

Private developments, have been a key contributor to the loss of Adelaide's green spaces
These next images are from Torrens Road Woodville
The buildings and trees already co-existed, but the trees were inexplicably still removed (the next 10 images are from Google Street View)



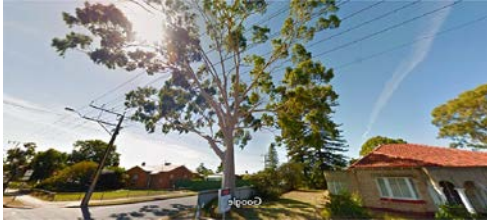
Another tree was lost at a private residence, this time on Burbridge Road. Once again, the tree isn't in way of new construction or infrastructure



Tapleys Hill Road, before



Tapleys Hill Road after



Another Tapleys Hill – before



After

Example 5: Public Schools

Now that Schools are exempt from requiring planning approval to carry out tree damaging activities (see **Schedule 14 of the Planning Regulations**), an untold number of regulated and Significant trees have been destroyed

Before, Christ is King School, Warradale



After



Many Sporting clubs have lost native vegetation.

Before, Brighton football Club, A stand of big Casuarinas

After



Poisoning of healthy old growth trees is a common, ongoing issue throughout the metro area and it seems very few unapproved tree removals are successfully prosecuted.

Here's a link to a recent news story in Victoria, it highlights how ineffective SA tree laws are. In Melbourne, "Under local law, the owner or owners of private land where a tree has died is guilty until proven innocent. The onus is on the title holder to prove that someone else was responsible"

<https://www.9news.com.au/national/pensioners-accused-of-tree-poisoning-melbourne/44fcb9a2-7fc2-4f1a-af9f-119b1de032bf>

If only SA had a similar legal approach. We certainly need it.

The tree below is an example at Rowells Ave Lockleys. After witnesses observed poison being applied into pre-drilled holes on the trunk, the West Torrens Council intervened and the tree has started to recuperate. A council staff member confirmed that an earlier removal application had been rejected by council



Springwood Development

On February 13, 2020 SCAP approved the removal of forty-seven (47) regulated trees and forty (40) significant trees. For a new subdivision east of Gawler called Springwood. The application is on page 2 of the Agenda in next link

https://www.saplanningcommission.sa.gov.au/_data/assets/pdf_file/0006/637476/SCAP_Agenda_-_13_February_2020.pdf

https://www.edala.sa.gov.au/Content/928000/928603/DNF_Land_Division_-_Town_of_Gawler_-_DA_490_D026_19_-_ID_65313_-_Arcadian_Communities_.pdf

The Ekistics report, contained in the Council assessment panel attachments (in link below on page 183 of 851), there was a mistake presented to SCAP. Tree numbers on site are substantially inflated and not representative of what is on the ground. Ekistics added 101 phantom significant trees and 96 phantom regulated trees to be retained; incorrectly claiming that only 23% of the significant and regulated trees are to be destroyed. Simply counting the trees on the Tree retention Map confirms this. (See Appendix 3 below)

https://www.gawler.sa.gov.au/_data/assets/pdf_file/0019/216541/22-07-2019-council-assessment-panel-attachments-under-separate-cover-item-6.1-part-1.pdf

An application for clearance of the first 27 trees for Village 3 of the Springwood Estate development is now before the Native Vegetation Council, public submissions closed on 21-9-20. Many are huge Mallee Box trees

There are a number of troubling inconsistencies within the EBS Ecology data report provided by the developers. The report defines the vegetation as "scattered trees", meaning that the trees

canopies don't overlap. In fact, several of the trees in the submission do have overlapping canopies and several of the photos in the EBS assessment support this. The EBS report claims there is no remnant understory, this is incorrect, as there is at least five types of native grasses and plants adjacent to most of the trees.(see photos below)<https://www.environment.sa.gov.au/topics/native-vegetation/consultations>

The EBS report also seems to have been conservative in their measurements of the tree's height and diameter. In some instances it appears that they measured diameter of smaller trunks on trees with multiple trunks. EBS were required to measure the largest trunk on each tree. It's worth noting that on page28 of the "Scattered Tree Manual", a Mallee Box tree is considered Large (Category 3) when they exceed 6.8 meters in height. Many of these trees at Gawler are more than double this height requirement, highlighting the rarity of these giants.



Some examples of the native understory photographed at the site recently, includes Spear-grass, Climbing Sundew



Woodland Creamy Candles and New Holland daisy

Wallaby-grass,

The trees on the site appear to be ancient and healthy. Unfortunately many of the bigger, more spectacular trees are under imminent threat along with Kangaroo grass. Mallee Box open/grassy woodland is regarded as a threatened ecosystem in SA by Nick Neagle who did work for DEW/DEWNR. When doing a web search for Mallee trees, I could only find one example that had a similar lignotuber to the threatened Springwood trees. The tree is in the Murray Bridge area and has been added to the national Register for Big Trees. The tree is estimated by the Register to be between 200 to 500 years old!

The next links to an article on the Murray Bridge Mallee

<https://www.murrayvalleystandard.com.au/story/4036701/ancient-mallees-historic-roots/>

This is supported by Dean Nicolle leading SA consultant, arborist, botanist and assessor for the National Register of big trees, who says of the Springwood trees. "The *Eucalyptus porosa* (mallee box) trees in the photos are probably bigger than the current champion tree of this species listed on the National Register of Big Trees Australia. They are certainly a couple of hundreds of years old, and potentially much older."



The green spaces that remain on the development map are mainly inhabited by smaller trees and olive trees. Most of the unique old growth specimens will be destroyed.

Some clearances seems to have already occurred without the Native Vegetation Council being contacted

Apparently SCAP assessing the application resulted from the State Govt calling in the Springwood developments to stop Gawler Council dealing with them.

There is a review proceeding in ERD Court with SEA Gas and Council challenging the Cat 1 status given by SCAP – saying should be Cat 3.

Surely this court matter should be resolved before any further development is approved.

Imagine that the trees are destroyed and then the ERD Court changes the status of the development



The Development seems to be rolling out in a modular fashion, so there may be a bit of time before they clear the area with most of the trees. Perhaps with increased community awareness the plans can be modified? Time is short as SCAP has already approved of the removals without acknowledging their historic value or conservation status.

Red gums such as this are also under threat. Note how Gary the 6'2 person at its base, is dwarfed by this gum



2 example of the huge lignotubers of these rare giant Mallee Box trees



There's also no assurance that the trees bordering the site will remain. Photo below, is an example of the trees on the eastern perimeter of the development. It has a 7 meter

circumference. These trees are adjacent to Balmoral Track. If the track is developed into an access road, the trees can potentially be cleared without planning approval or notification, care of **Schedule 14 of the Development Regulations (Appendix 1)**



Here's the Council's response, their concerns were largely ignored in the final approval by SCAP

https://www.gawler.sa.gov.au/_data/assets/pdf_file/0025/218185/14-08-2019-council-assessment-panel-agenda.pdf

On page 126 of Council assessment

73. Open Space Designs

73.1. Open Space Designs illustrated through Concepts plans provided do not communicate an understanding for the requirements relating to clearance and offsets under the Native Vegetation Act. Heavily tree planted areas within the Tract masterplan are likely to impinge upon the Iron grass Natural Temperate Grassland and Peppermint Box (*Eucalyptus odorata*) Grassy Woodland

page 127

74.2. Proposed alignment of the "Share path trails-on and off road" along the northern edge of 'springwood creek' and "Key pedestrian trails - on and off road" along the eastern edge of the South Para River will significantly impact remnant vegetation, including some local species, and encroach heavily into the corridor.

74.3. This is at variance to the Native Vegetation Act 1991. It appears to go through at least one "Significant tree", and significant trees not even mapped along the South Para near the proposed trail. Paths/ trails should be on the outer edge of corridors, nearer roads or housing. 'Significant' and 'regulated' trees are not categories supported by the Native Vegetation Act 1991 in Gawler East, instead native vegetation in the broader sense is protected in Gawler East. The actual number of trees to be cleared, which would all be accounted for in the Native Vegetation Act's scattered tree assessment may be significantly different, although this act only protects native species. A proper assessment of the native vegetation which might be subject to the native vegetation act appears

page 128

76. Cultural consideration

76.1. A significant rock outcrop is present within the Mallee Box Woodland which is proposed to be cleared.

76.2. This may be a significant feature for the Kaurna people and removal would be at odds with Gawler Development Plan.

The next link is for what appears to be sales of Village 3 lots, starting on the 19-9-20. This seems premature given that the application is yet to be determined by the NVC and indeed two

days prior to the cut off for public submissions?<https://mailchi.mp/418f7b071e91/sas-best-schools-right-on-your-doorstep-at-springwood-1551111?e=1d9b4ff880>

There is quite a bit of un-wooded land available within and around the Springwood footprint, without destroying the amazing natural assets there. If the developers are directed to modify their plans, the retention of this forest of huge and unusual Mallee Box trees will likely add value to the adjacent properties

The Springwood development application was prepared by “ekistics”. Coincidentally, Rebecca Thomas a Senior Associate at “ekistics” was recently appointed as Presiding Member of the (SCAP)

Gawler

An earlier application for Removal of another 37 Regulated trees(including 11 Significant trees) approved 02/10/18 is

herehttps://www.edala.sa.gov.au/Content/928000/928603/DNF_Land_Division_-_Town_of_Gawler_-_DA_490_D026_19_-_ID_65313_-_Arcadian_Communities_.pdf

https://saplanningportal.sa.gov.au/public_register#view-3172-LUA

Here's the detailed tree report, with shots of the trees and their location.

Once again as per DPTI's practices, many of the removed trees were not in direct way of the road

https://www.gawler.sa.gov.au/_data/assets/pdf_file/0026/218609/25-06-2018-council-assessment-panel-attachments-item-5.5.pdf

Marion Shopping Centre Development Number: 100/E103/18

This Category 2 application that was before the SCAP was somewhat ambiguous in relation to the Regulated trees in the Planning Report prepared by MasterPlan SA Pty Ltd. It does not comply with the Marion Council development plan and does not demonstrate clearly that all development options have been considered to avoid damage to the threatened regulated trees

In page 38 of the report it states “None of the trees would be highly valued for habitat as they are isolated and in an extremely modified built environment.”

This is a falsehood, not supported by the Arborman Preliminary Tree Assessment. In fact the threatened trees are occupied by many native birds, which can be seen and heard clearly by passer-bys all year round. On day of photograph, 28 native birds of various species inhabited a single tree (R-5). Posing the question; “What other inaccuracies are in the report?”

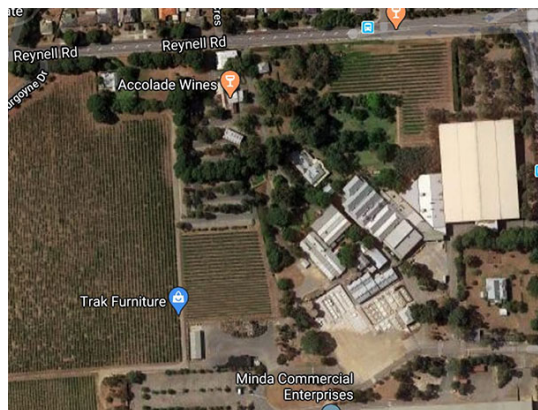


Tree (R-5) can be seen on the far right of above picture. Looking south from the Culture Centre, with Access 11 on the far left. Every tree in this photo will be removed in the current plan. Most are not in the path of the proposed building and multi-story car park expansion. In Page 9 of the application, it is claimed; " Whilst removal of any trees is undesired, the planning and design process has specifically sought to minimise this impact, and the new landscape strategy is developed to provide an improved overall landscape and pedestrian environment than existing." Access point 11 is proposed to be denuded as part of this "improvement". It will be at the same location and still have the same median strip. Has every effort really been made to incorporate existing vegetation?

Access point 11



Old Reynella Winery site:



What will befall the stands old growth trees at this site?



There are many other developments pending that will significantly reduce to metropolitan tree canopy in the near future.

Poor planning, with little environmental consideration is all too common in these supposedly enlightened times. Particularly since tree protection laws have been diluted to the point of being ineffective. It appears the majority of SCAP panelists past and present are, or have been developers in the private sector. Little wonder they have approved most development applications before them and shroud their activities in secrecy.

Many within the community are busy going about their business and taking care of their families, hoping their elected members and public servants are doing the right thing with the power entrusted in them. There is also a general sense of fatigue, frustration and remorse when it comes to development issues. Most concerned citizens won't make submissions to SCAP or the Legislative Review Committee. Simply because it's hard, time consuming and there's little evidence to suggest their efforts have made any discernible improvement in outcomes. There is a genuine sense of futility and dis-empowerment. Still, to sit in silence while these atrocities take place would imply acceptance of these poor practices.

Yuri Poetzl

[REDACTED]

Key contributors: Gary Goland, Joanna Wells, Sandy Ahmed
Appendix 1

Schedule 14—State agency development exempt from approval 1

(1) The following forms of development, other than in relation to a State heritage place or within the Adelaide Park Lands, are excluded from the provisions of section 49 of the Act:

- (v) tree-damaging activity in relation to a regulated tree— (i) that is on any land—
 - (A) on which a school, within the meaning of the Education and Early Childhood Services (Registration and Standards) Act 2011, is located or is proposed to be built; and
 - (B) that is under the care, control or management of the Minister responsible for the administration of that Act; or (ii) that is on any land—
 - (A) on which a road is located or is proposed to be built or widened; and
 - (B) that is under the care, control and management of the Commissioner for Highways; or (iii) that—
 - (A) is on railway land as defined in Schedule 3 clause 13(5).
or Development Regulations 2008—15.8.2019 Schedule 14—State agency development exempt from approval 6 Published under the Legislation Revision and Publication Act 2002

(B) is on land adjacent to railway land and is, in the opinion of the Rail Commissioner, detrimentally affecting the use of, or activities or operations on, the railway land.

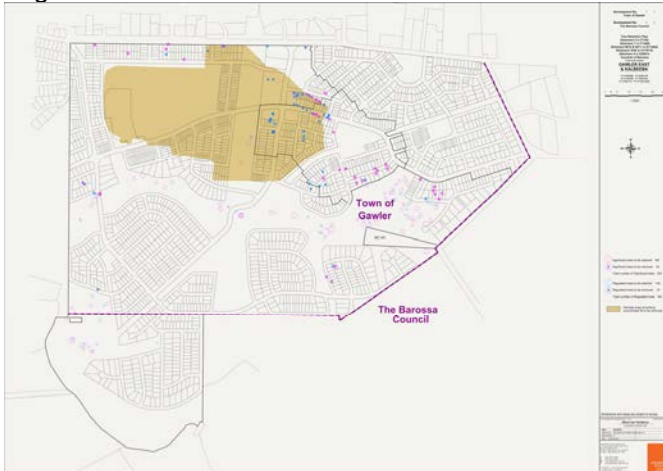
Appendix 2

An Advert for the sale of the former Daveron Park High School; cleared for high density urban infill. See next photo of some tree stumps. There are still trees at the location, presumably on borrowed time



Appendix 3

Below the Springwood Tree Retention Map supplied in the Category 1 Development Application. Also, Attachment 5 The Springwood Tree retention Plan supplied to the Native vegetation Council



Below is a close up of the legend with the incorrect numbers of trees retained



When counting the actual trees on the map and at the site, it reveals the totals have been substantially inflated.

See actual numbers of trees in Red below

