

DIT:Planning Reform Submissions

From: Parnell [REDACTED]
Sent: Friday, 18 December 2020 4:57 PM
To: DIT:Planning Reform Submissions
Cc: Parnell
Subject: Planning and Design Code Submission

[REDACTED] [REDACTED]

Dear Michael,

I was pleased that the Commission and the Minister agreed to a further round of public consultation prior to the implementation of Phase 3 of the Planning and Design Code. As you might recall, it was my Private Member's Bill in State Parliament which ultimately gave the Minister the ability to extend the legislated date for implementation from 1st July 2020 to a future date, most likely in 2021.

My submission will be brief and focus on high level issues. I have received copies of many quality submissions from community groups, heritage organisations, environment groups, local Councils and the Local Government Association which delve more deeply into the detail of the Code and its implementation. I would urge you to give these submissions most careful consideration.

The challenge

The ultimate test for a statutory planning regime is whether or not it serves the needs of the whole community and how it helps or hinders our response to the pressing environmental issues of our time, including dangerous climate change and loss of biodiversity.

However, when it comes to measuring the success of the planning system, none of these elements are taken into account. For example:

- a) Mere lip service is paid to housing affordability, as evidenced by the universal failure of affordable housing quotas in the City of Adelaide and elsewhere. Developers promise affordable housing to meet planning requirements or gain concessions, then conveniently ignore them knowing that compliance will never be enforced.
- b) The liveability of communities is largely ignored. Ghettoes-in-waiting are approved on the far flung outskirts of the city where there are no jobs or services and where car-dependence is assumed and accepted. The Open Space Fund continues to be raided to

pay for a new planning system that exacerbates loss of open space and tree canopy in urban areas.

- c) Biodiversity is still regarded as irrelevant by most planners.
- d) When it comes to climate change, the statutory planning system is clearly part of the problem, rather than the solution. One example is the complete failure of the Planning Commission (SCAP) to even mention climate change when making recommendations to the Minister supporting new fossil fuel power stations. As I've said in the media and in person "What planet do these people live on?" It's as if government planning officials spend their days exacerbating climate change, then go home at night to watch a David Attenborough documentary whilst tut-tutting at the dire state of the world! "Somebody should do something!"

The system

The planning system is incredibly complicated and not understood by most people. At the pointy end of the system, what most people see is developments that they either like or don't like, yet the sausage machine that produces the results is a complete mystery.

However, most people would expect that at the heart of the system are high level principles or policies that decision-makers rely on. Eg. The right to live in a clean and healthy environment or development that doesn't send species into decline or extinction. I think most people would also expect that the planning system would actively try to make things better rather than worse, including undoing bad decisions made in the past.

When looked at through this lens, it is clear that such considerations are rarely taken into account. In fact, the system is structured in such a way that all of the important principles are contained in documents that **MUST NOT** be used to assess actual development proposals. The new system, like the old, provides that the role of high level policy documents, such as State Planning Policies, is to inform the Planning and Design Code, **NOT** development assessment. Yet, it is hard to reconcile the Code with these policies. Apparently it is no-one's job to systematically address these policies against the Code. This is clear from my work on the Parliamentary oversight committee for planning (ERDC) when we review Development Plan Amendments (DPAs). From the material presented to us by government, it is clear that compliance with State Planning Policies is never considered other than in the most abstract terms.

So, before Phase 3 of the Code becomes operational, the Commission / Department should produce a comprehensive analysis of how the Code supports the State Planning Policies and should honestly identify where SPP objectives are not being met in the Code.

Another failing of the system that can be partially alleviated through the Code is to address the decline in opportunities for public participation. As you know, opportunities for neighbours or the general public to participate in decision-making have been in freefall for many years. This is borne out by analysis of the numbers of developments that fall into categories 2 and 3 (in the current system) and by analysis of ERD Court records of third party appeals. Unfortunately, making developments “appeal-proof” is currently seen as a sign of success in planning, rather than a sign of disenfranchisement of the community.

The Planning and Design Code should categorise development applications in such a way that it provides greater opportunities for neighbour or public participation where there is either deviation from standard rules or where the development is of such a scale that it will clearly attract public interest, regardless of compliance with zoning or other planning policy. A good example would be developments in National Parks. The idea of multi-million dollar private developments in publicly-owned conservation land being assessed and approved with NO rights of public participation is appalling and assists in bringing the whole planning system into disrepute. The Planning and Design Code categorisation of development can fix this.

The future

I’m in no particular hurry to see the new Planning and Design Code implemented. It’s not as if we have a vacuum. The existing comprehensive Development Plans still provide guidance to planning assessors and should remain in place until we have a genuinely improved replacement Code.

I appreciate that the mantra that the first iteration of the Code would be “like for like” with the Development Plans the Code replaces. Clearly that is impossible when you are removing hundreds of pages of fine-grained local planning policy developed over many years and replacing it with a one-size-fits-all approach. For example, under the Code there are areas where block sizes will be smaller, houses will be bigger and for a few hundred bucks, you can even avoid planting a single tree.

So, once “like-for-like” is out the window, you may as well take the opportunity to actually make things better. Sadly, there is another unwritten rule in planning that land must never be rezoned to a lower economic value. I don’t accept this philosophy and would like to see it overturned. A good example would be the blocks on the outskirts of Adelaide and some regional towns that were zoned “Deferred Urban” many years ago. Some of these blocks have high biodiversity values and others provide important future biodiversity corridors or linkages between shrinking areas of native vegetation.

I know there are speculators and developers who are just biding their time before being allowed to subdivide these blocks. Certainly they will cry blue murder, but why not take the opportunity to reverse some of these old decisions? Just because a 1970s or 80s planner thought it was a good idea to identify where the urban sprawl would go next, the current generation of planners should know better and should be able to reverse previous bad decisions.

Sadly, I don't have the time or resources to forensically examine thousands of pages of text and maps to identify chapter and verse specific Code improvements, which is why I am grateful to the Local Government Association and others who have done this detailed work.,

Finally, when this process comes to an end, you should do the community the courtesy of responding to every suggestion, including reasons why they weren't taken up.

Thank you for the opportunity to comment on the Code.

Regards,

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