



## Mt Barker & District Residents' Association Inc.

PO Box 19 Mount Barker, South Australia 5251

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15 December 2022

Expert Panel  
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Dear Members of the Expert Panel

The Mt Barker & District Residents' Association (MBDRA) thanks you for the opportunity to present this submission to your review of the State Planning, Development, and Infrastructure Act (the Act), Planning and Design Code Reform (the Code) and the e-planning system and the Plan SA website. We would like to bring to your attention a number of key issues in this submission, supported by evidence to confirm some serious flaws in the current situation in the Mt Barker District Council.

### **Background**

In 2010 the State Government rezoned 1300ha of land for housing in the Mt Barker district, largely in Mt Barker (1300 hectares) but also in Nairne and Littlehampton. This decision was strongly opposed by thousands of residents as well as the Mt Barker District Council, but to no avail. As a result of this, the population of the Mt Barker region is expected to increase from 39,616 to 56,710 by 2036. The Mount Barker Growth Area will experience the biggest population change from currently 3,790 to 16,780 (343%). (Source: Mount Barker District Council, *Population forecast* <https://forecast.id.com.au/mount-barker/about-forecast-areas>).

Since 2010, the speed of development and associated increase in population across the district has outpaced that of associated infrastructure and services. This rapid expansion has led to a loss of liveability, community, and biodiversity – the very things that make the Adelaide Hills attractive. A recent review found that to date only 17.27% of that rezoned land has been developed. (Source: *'Near record growth year for the district'* by Louis Mayfield. The Courier 9/11/2022, p 32). This of course means there is still over 80% of development to occur! We realise this decision and current outcome is not within the scope of your review, however the subsequent decisions since the new Act and Code were implemented are impacting negatively on the daily lives of our community.

As all planning and development is now controlled by the State Government, the Local Council is effectively disempowered from planning in its own district. This is not delivering good planning outcomes for residents and communities. The loss of biodiversity and landscape amenity is indisputable in and around Mount Barker and surrounding towns. Thousands of trees and native vegetation have been destroyed to make way for housing development, formerly considered appropriate for inner city areas such as Bowden or Port Adelaide.

The Mount Barker and Districts Residents Association (MBDRA) acknowledges that housing development is inevitable and that commercial and industrial industry is essential in supporting a growing city. However, all three need to be undertaken with sensitivity to residents, the broader community, and the natural environment. There needs to be a careful and considered balance of all stakeholders in planning decisions, not just those with the money, which are usually the developers. The current Planning Act and the Planning and Design Code are effectively fast-tracking development at the expense of those important elements.

This submission focuses on a number of key aspects:

1. The Council Assessment Panel (CAP) Process
2. Tree Protection
3. Planning and Development Case Studies

We believe that the Act and Code have failed the individual, the community, and the environment in the Mt Barker District Council. We welcome this review to ensure improvements are made for the benefit of not only our area, but all of South Australia.

## **1. The Council Assessment Panel (CAP) Process**

An Executive member of the MBDRA recently attended a Mt Barker Council Assessment Panel (CAP) meeting to provide a verbal representation on behalf of the MBDRA opposing a particular development application. This proved to be an 'eye opening' experience. Firstly, it is important to note that only a very few development applications come to the CAP for approval. Most applications are automatically approved if they are deemed as 'Accepted' or 'deemed-to-satisfy development classification' if they meet a set of criteria laid out in the Planning and Design Code (PDC).

The application in question was the last of five on the agenda that day, which gave our representative the opportunity to sit through all the preceding applications. In total the meeting went for just over four hours. The agenda and papers were 1565 pages long. Papers are available online 3 'clear days' before the meeting. This is not much time for anyone unfamiliar with the information within to not only read but understand the key issues.

Those who put in a submission for or against a development are called Representors. The written submissions are in the agenda papers along with everyone else's submissions including the applicant's response to those submissions. Verbal Representors are requested not to read out their written submission, thus it is an opportunity to respond to the Applicant's response or give more arguments to support a point of view. However, the first time one sees the Applicant's response is in the agenda papers (3 days before the meeting). No doubt the Applicant had more than 3 days to prepare a response to the Representors.

The Agenda includes the applicants detailed development application, including reports from consultants, engineers, numerous experts, discussions had with Council staff, etc. It is very detailed. The front page of each application summarises the proposed development including a recommendation. In all cases on this day the recommendation was to grant approval, some with conditions. This suggests the decision had already been made to favour the Applicants as advised by Council Planning staff. We are aware that Council planning staff in our council, and in most, if not all councils are very wary of recommending 'non approval' as it is seen as 'stifling development and a serious career limiting move'.

Representors were allowed 5 minutes to present their verbal 'pitch'. The Applicant has the right to reply. The Representor has no further right to reply. The Panel asks questions of the Representors and/or Applicants. This does not always happen, so there is no more opportunity for the Representor to make their case.

Sometimes the Representors are immediate neighbours of the proposed development, or several individuals or groups representing the community around which the development will occur, or in our case the MBDR. Some Representors appoint a delegate to speak on their behalf. All the presentations are respectful, passionate, and openly concerned about the impact of the particular development on their patch and surrounds. Some are angry, upset, bewildered. All just try to present the facts, but the personal feelings sometimes creep in. This is hardly surprising given the changes being proposed literally on their doorstep which will impact on their daily lives, and in most times in a bad way. Keep in mind the Applicants and Panel members are somewhat 'removed' from this in that these developments are not happening next door to where they live. They remain, or appear, impartial.

Nearly all the Representors question the Change in Land Use – which would allow for the development to occur. Perceived impacts range from environmental, amenity, traffic, noise, etc. The Applicant can then respond. Often it is not the Applicant but their representative, sometimes a consultant, or a lawyer who responds, and on this day not always respectful of the Representors views/opinions. Arguments are backed up by referencing data, evidence, the PDC, etc.

The Panel remains respectful, professional, and somewhat distant, but are obviously guided by the Planning and Design Code and their interpretation of the terms, which are not clear or precise and allow for individual judgement. There is no room for emotion or empathy, not outwardly anyway.

There is a real hesitancy of the panel to reject an application. On this day, there was only one of the five applications that caused some concern and so the decision was made to defer approval to seek further information from the Applicant. We suppose the hesitancy to refuse applications is due to a fear of potential escalation to the state government, legal action, and legal costs.

It was somewhat deflating and depressing to witness one after the other of the applications approved, including the one the MBDR was opposing. All were deemed to be 'not seriously at variance with the provisions of the PDC.' This term needs to be changed and needs much greater rigour and definition applied to it in the future.

Each Representor is denied any sense of meaningful involvement (or "natural justice") in the process. There are no wins or even compromises. There are several factors that favour Developers:

- The PDC – a long and complex document which favours development
- Resources to appoint experts, collect evidence and build detailed, data-driven applications to support their claims, experts to interpret the Planning and Design code; appoint Lawyers and Consultants to do the work for them
- This is core business for many of them; the community is usually uneducated and/or inexperienced in planning matters.

The PDC is nearly 5000 pages long and is in no way an 'easy read'. How can most lay people understand the intricacies of such a document and where there might be room for interpretation?

General members of the community do not have these types of resources to fall back on. These are usually 'just' ordinary members of the public. They rely on individual and collective resources, mostly voluntary and with limited knowledge, to challenge these claims. Further, the Representor's presentations will not be recorded in the minutes of this meeting so the community cannot read what was being argued or know the value of those arguments.

Representors invest time and energy, have little to no resources, but see no win or even compromise. They come away with the general sense that they are not being heard and that their concerns are not seriously been considered. It seems to us that if a development application ticks all the boxes of the PDC then it gets approved. The best that may happen is that some conditions are put on the development to satisfy a few concerns.

Where is the personal impact on the community considered? Where is the transparency and accountability to the Community? It would appear that the community is faced with overwhelming odds against it in this situation.

This is indeed a sad indictment of the process when the planning process clearly favours developers at the expense of meaningful community consultation. Some might think the process (of consultation and representation) is farcical and why bother when it seems a 'done deal'. But if we give up then the system (and in most cases, developers) wins.

Most people are not against development per se. It is an inevitable fact of our growing communities. However, what is frustrating and concerning is the fact that input from the community appears to effectively be disregarded in the process. On this occasion, CAP approved these development applications because they were 'not seriously at variance with the provisions of the Planning and Design Code.' This being the case, what degree of variation or deviance should be acceptable and how should it be best decided?

The State Planning and Design Code, under which these developments were approved, clearly favours Developers over the Community. This process shows that Community Consultation and input is not occurring in a meaningful way, and this must change through amendment to the PDC.

### **CAP Issues and Recommendations**

The Council Assessment Panel (CAP) is an independent body from Council however the public is misled into believing its actions are those of Council.

1.1 Recommendation: The CAP to be renamed Development Assessment Panel (DAP).

There is only one Elected Member (EM) on CAP who has any knowledge of local issues, all other members are planners and/or planning lawyers who are far too removed from local issues and concerns. One member on the Assessment Panel is a very reduced voice for the local community, compared with the former 3 Elected Members.

1.2 Recommendation: Increase the number of EMs on CAP and invite the EM(s) whose ward(s) is/are being impacted by the proposed development to attend and contribute to the discussion and decision.

1.3 Recommendation: Council to have more influence in CAP decisions through EMs.

Only a very few development applications come to CAP for approval. Many applications are automatically approved if they are deemed to meet a set of criteria laid out in the Planning and Design Code. Under the Planning, Development, and Infrastructure (PDI) Act 2016 anyone can submit a representation when the application is publicly notified. Under the Development Act 1993, only those entitled to be notified can make a representation.

1.4 Recommendation: All development applications should require public notification and be open for public consultation. Any member of the public should be entitled to make a representation.

Public Notice requirements under each relevant Act are currently different. This leads to confusion with many being overlooked.

1.5 Recommendation: All Public Notices should follow the same requirements. Those requirements should follow the principles of clear, open, and transparent communication.

The Panel is only allowed under the Act to consider the actual application before them, not what is next door, and not how it might change the character or impact on an adjacent heritage building.

1.6 Recommendation: The Panel to be given the ability to consider the impact of development on neighbouring properties.

In its deliberations, the Panel cannot consider whether a development application is another 'iteration' of an earlier application which was refused at an earlier stage.

1.7 Recommendation: Any subsequent 'iterations' of an earlier development application must be compared with the first application and initial decisions considered.

Timing of CAP meetings: 9am on a weekday (eg. at Mt Barker), can go for over 4 hours and are not livestreamed or recorded.

1.8 Recommendation: Meetings should be held at times more suitable for members of the public to attend and be livestreamed and recorded.

Agenda papers can be thousands of pages long, but often only available for the public to view online 3 'clear days' before the meeting. In addition, sometimes these files are so big it is impossible for them to be easily downloaded for viewing.

1.9 Recommendation: Reduce the number of files to be downloaded at any given time by scheduling additional meetings. Make the agenda and papers available 7 business days before the meeting.

The first time one sees the Applicants response to a submission is in the agenda papers (3 days before the meeting).

1.10 Recommendation: Papers should be available at least 7 business days before the meeting to give Representors time to mount a response to the Applicant. The front page of each application summarises the proposed development including a recommendation. That recommendation is in most cases to grant approval. This suggests the decision has already been made to favour the applicants.

1.11 Recommendation: An assumption of approval should not be included before the application is discussed and representations heard, otherwise what is the point of hearing the submissions?

Representors are allowed a limited time to present (ie. 5 minutes).

1.12 Recommendation: Presentation time should be extended to give the Representor more meaningful time to present a reply.

Though the Applicant has the right to reply, the Representor has no further right to reply.

1.13 Recommendation: The Representor is given the right to reply.

The content of all presentations is not recorded in the minutes and as such the community cannot read what was being argued.

1.14 Recommendation: In the interests of transparency, all discussions/presentations must be recorded in the minutes. This would also have the advantage of allowing future reference.

Unlike in Council meetings, members of the public in attendance cannot ask questions without notice. This limits discussion and curtails Community involvement in the process and thus serves only to reduce Community trust in the system.

1.15 Recommendation: Members of the public who attend CAP meetings should be given the opportunity to ask questions without notice.

The Assessment Manager can exclude representations in accordance with CAP procedures.

1.16 Recommendation: All representations should be given the right to be heard on relevant matters.

The Planning and Design Code is nearly 5000 pages long and is not easy for the lay person to meaningfully interpret.

1.17 Recommendation: Provide a variety of resources (human and written) to assist the Community in the easy interpretation and application of the Code.

Many applications are approved because they are 'not seriously at variance with the provisions of the Planning and Design Code.' This means in practice that most applications get approved despite valid individual or community concerns.

1.18 Recommendation: Review the definition of 'not seriously at variance'.

The provisions of the Planning and Design Code are such that in most instances development is approved at the expense of any meaningful outcomes for the Community.

1.19 Recommendation: Introduce a more meaningful and impactful consultation process where the Community is heard, and concerns are genuinely considered and addressed. This last recommendation is about bringing some feeling, compassion, 'natural justice' and humanity back into the process.

## 2. Tree protection

Thousands of ancient gums and old, established, exotic trees have been removed since the change to legislation (2010) which has allowed any tree within 10 metres of a dwelling to be felled. More than 100 protected trees were cut down across the region in the first year alone under this provision. In an effort to protect significant trees, the Mt Barker District Council developed a strategy to place as many as possible onto roadsides and reserves during the planning process (Source: *'Plan to Save Giant Trees'*, by Lisa Pahl. The Courier, Wednesday, 15/6/2011, p52).

Then contrarily, Mt Barker Council removed four significant gum trees, reportedly up to 300 years old, for the erection of a sports field in 2019. Given its previous position on supporting significant trees it remains unclear to this day how this was allowed to occur. The consequence of this was an outraged community which felt angry and disenfranchised from participating in local decision making.

A number of issues particularly concern the MBDR and these are outlined below:

### 2.1 The continual, rapid loss of remnant trees and native vegetation across the district

Most of the remnant native trees and vegetation under threat are adjacent existing road networks (road verges), scattered throughout farmland that has been rezoned for housing and on private property.

As the Mt Barker district is generally former farmland, there is already very little remnant vegetation left, thus it is even more noticeable when such vegetation is removed. Generally, developers, except for a few, are not inclined to incorporate remnant vegetation into the design of new residential estates. They prefer a clear-fell site as it is easier to work with and allows them to build more houses, often very close together. They then pay into the offset scheme rather than plant replacement trees. This means that some developments end up with very few trees, with aerial photos revealing a high intensity 'sea of roofs' resulting in suburbs experiencing high temperatures.



Google Maps New development area 2022





**New housing development adjacent Wellington Road, Mt Barker, December 2022**

Many of the new houses are built on very small blocks and occupy most of the area, allowing for very little green space. There are associated issues related to increased temperature, storm water run-off and drainage. Very few houses are fitted with solar panels or rainwater tanks. During site preparation topsoil is removed and sold to landscape companies leaving clay and concrete, resulting in a total loss of biodiversity. This is in direct contradiction of the high aspirations and goals of “Green Adelaide” and the State Government’s claims to be protecting and conserving ‘biodiversity’.



**Existing farming land expected to be developed, Wellington Rd, Mt Barker, December 2022**





**Former farming land, adjacent to the above farming land, Wellington Rd, Mt Barker, December 2022**

The Native Vegetation Council (NVC) has also approved applications that have resulted in a ‘concentration of clearance around Mt Barker’ to make way for residential developments and for road and infrastructure upgrades. Ironically, the NVC manages a fund to ‘restore native woodland habitats lost because of residential development and infrastructure upgrades. (Source: Adelaide Hills Herald, Friday November 11, 2022, p2). However commendable this is, it wouldn’t be required if the vegetation was initially protected and does not resolve the issue of displaced wildlife because of vegetation lost. Nature corridors for wildlife are effectively lost.

Native vegetation can also be incorrectly identified as ‘saplings’ when, they are already at their full height and width. Such misidentified trees may have a small circumference at maturity and would thus fall outside of the definition of ‘regulated tree’. Further, smaller vegetation is often not valued, yet it is this vegetation that supports much of the local biodiversity – small birds, butterflies, bees, insects, frogs, reptiles, etc. These faunas now face local extinction by the careless removal of such habitat.

The Department of Infrastructure and Transport (DIT) is responsible for the maintenance of the main arterial roads across the district. These roads are under pressure due to the increased traffic as a direct result of the exponential residential development. Often the fix is seen to be road widening and the installation of roundabouts. This often results in the removal of many trees and roadside vegetation without any community consultation. This leaves the community upset and frustrated at the lack of engagement and at the loss of the very reason the hills are valued.

We acknowledge that getting the balance is difficult as development is inevitable, but the concern is that DIT do not seek meaningful community feedback. Approvals through the NVC seem inevitable and no effort is being made to seek alternative options.

## Examples

### 2.1.1 Springlake development, Wistow - Potential removal of 438 trees

This site is at Wistow, on the southern boundary of Mt Barker. Nelson Road, Potts Road and Paech Road border the west, north and east of the site respectively.

Members of the community discovered, by chance, an application to the NVC by a developer, to remove up to 438 trees at a property at Wistow. Unfortunately, the NVC had already approved this application, so local community organisations and leaders were contacted to forward Community concerns. This included correspondence to Council planning staff, Councillors, the local MP and the local newspaper, The Courier (letters to the editor including a feature article).

The MBDRA discovered in its correspondence with Council that as the land in question is located within the southern portion of the Mount Barker Growth Area within the Master Planned Neighbourhood Zone it does not trigger any public notification. This effectively means that the Community, Elected Members (Council) and even the immediate adjacent neighbours are excluded from being notified or allowed any opportunity to present any meaningful submissions. In addition, even though the application is assessed in conjunction with relevant state agencies, the final decision rests solely with one person, the Council Assessment Manager. This is grossly unfair as it is clearly intended to fast track development by excluding any involvement from the Community or representatives of the Community.



Map of proposed clearance area for the Springlake development, note the vast majority of land is already cleared





### **Springlake Development area August 2022**

The Developer claims that much of the removal will be mostly ‘young saplings’ implying that these are not worthy of retention. However, it is these exact young saplings that are the very habitat required for the survival of Ringtail Possums (now locally a threatened species) as young saplings growing close together is where they build their dreys.

As with many other developments, this will prove another example of loss of biodiversity.

#### **2.1.2 Wellington Rd/Heysen Rd roundabout construction by the Department of Infrastructure and Transport (DIT)**

The MBDRA first enquired about this matter in May 2022, seeking information on the impacts of construction. The main concern expressed was regarding the potential removal of trees and native vegetation around the site. This was followed by a number of emails and phone calls from May to June where the MBDRA representative was informed that the roundabout was still in design phase and that services were being laid around the vicinity. As such there was no further information that DIT was able to provide.

The next communication from DIT was received on 20<sup>th</sup> September 2022 which consisted of two information sheets outlining what was going to occur on the site. At about the same time there was concern being expressed across the Mt Barker community (on social media and via email) that trees were being cut down. It was then confirmed by another member of the Association on 29<sup>th</sup> September indicating that the trees had been felled.

The MBDRA has since discovered that DIT had in fact already received conditional approval from the Native Vegetation Council to cut trees down on 22<sup>nd</sup> March 2022.

A complaint has been lodged with DIT in relation to being misled about the removal of trees and being belatedly informed of the tree removal at the time the trees were being removed, thus effectively not allowing any further consultation or discussion to take place.

This experience revealed that DIT blatantly misled the Residents Association and are clearly not accountable to the public for their actions.



**Wellington Rd, Mt Barker, May 2022**



**Wellington Rd, Mt Barker, December 2022**

## **2.2 The loss of tree canopy and individual trees as part of infill and larger commercial/industrial development**

Trees are not valued as a community asset or for the role they play in combating rising temperatures and climate change through the benefits of canopy cover. Current practice is to clear backyards of large trees/vegetation before selling properties or before submitting development applications.

The most common species found in backyards in the more established parts of Mt Barker are currently exempt from protection. In addition, there are many small creeks and tributaries throughout these areas which are either adjacent to or run through some of these properties. The total removal of adjacent vegetation then impacts on the health of those creeks by the accumulation of silt and sand which washes into them from nearby development areas.

Even if a tree is identified as 'regulated' or 'significant' this is no guarantee of its protection. More so for single, or small groupings of trees which are often treated as obstacles to development, with no attempt made by the Developer to incorporate them into the design of the development. The Code indicates that "development should be in balance with preserving regulated trees and have minimum adverse impacts on them". Such trees are not supposed to be removed unless it can be demonstrated that the development is reasonable and would not otherwise be possible. The Code indicates that "conservation of significant trees should occur in balance with achieving appropriate development, while avoiding their indiscriminate and inappropriate removal." Yet regardless of such aspirations, indiscriminate tree removal appears to be a common practice. Commercial and industrial development applications mostly do not demonstrate that all reasonable alternative development and design solutions have been considered to prevent tree removal. All too often, for



the Developer, it is easier to clear fell a site rather than incorporate existing vegetation, especially if there are longer term plans for that site.

In just five months this year (2022), 7 regulated and 2 significant trees have been approved by CAP to be felled for developments ranging from residential, aged care to hotel facilities. These are just the 'protected' trees and do not include the countless others not afforded any recognition as they are not deemed noteworthy of being protected. Multiple this activity across the state and it becomes quite alarming.

## Examples

### 2.2.1 Adelaide Rd, Mt Barker - Clearance of land adjacent residences for potential future development

A single entity appears to own three adjoining houses, two of which are currently used for businesses. In preparation for a potential future development (a car park for a medical facility), all the vegetation, including a number of mature trees in the backyards were cleared. Sand and aggregate were brought in, and machine compacted. This land is also adjacent a local creek. The only sediment mitigation strategy has been to put hay bales along the creek. Though the immediate residents had been aware of the development application (land clearing for a car park), they received no courtesy notification of when the vegetation removal would occur. They found out on the day of removal when they were then impacted by the noise and dust, and then subjected to days of continual sand and earth compounding. The removal of the vegetation has also impacted on the privacy of the adjacent neighbours. However, under the current rules, a developer has three years from the date of the development application to substantially complete a development. This effectively means that the neighbours must endure no privacy for this time unless they take action themselves. In the meanwhile, the owner/developer has placed the 3 houses on the market putting the future of the development in doubt.



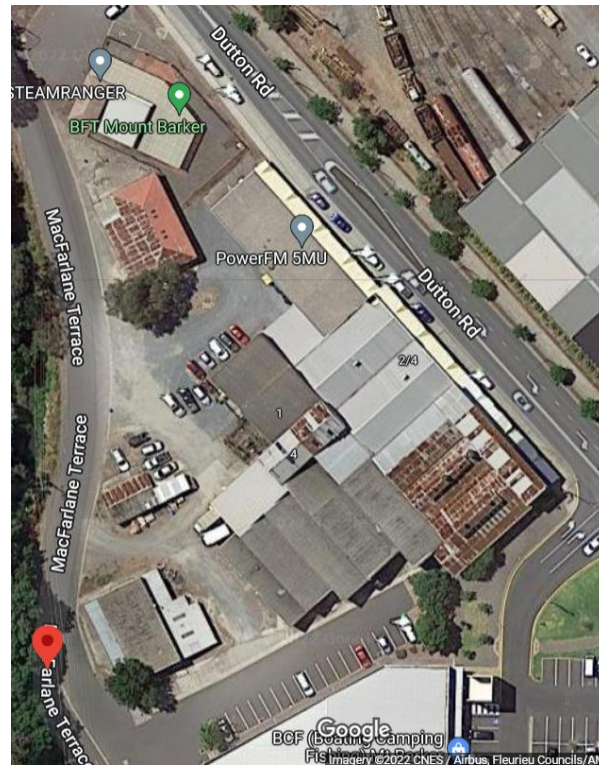
Aerial photo from Google Earth prior to removal of vegetation



Current backyards totally cleared with neighbouring properties having lost privacy

### 2.2.2 MacFarlane Terrace, Mt Barker (Homemaker Centre development)

The very few remaining trees on the development site were near the boundaries. Only one of those, a regulated tree, needed approval to be felled. Despite the fact that all the trees were close to the boundaries of the development, no effort was made to incorporate them into the design of the new premises.



Google Maps 2022





**Google Maps Sept 2021 The regulated tree that was removed even though it was close to the boundary of the property and could have been incorporated into the new design. There is no incentive to do this.**

### **2.3 Poor pruning practices, construction around root zones and wilful vandalism**

Pruning of a protected tree can be undertaken without Council approval if it does not exceed 30% of the tree. This can impact the health and appearance of the tree and lead to its eventual removal if it becomes diseased or becomes a risk to human safety. This is exacerbated by tree fellers/loppers who are allowed to operate even if they have no appropriate training or qualifications.

While it is commendable in those instances where developers have agreed to retain large trees, there is a concern in the community about how those trees will be protected during construction. This concern is not unfounded as recently experienced in a development bordering Bollen Rd, Mt Barker where the community was assured by Council that several trees along a street verge would be protected. However, the tree root zones were compromised during the laying of services and as a consequence the trees died and have since been removed.

A number of trees across the district are also being damaged or poisoned and it is difficult for Council to prove liability due to the high burden of proof required to prosecute offenders. Further, it can then be costly for Council, using ratepayers' money, to pursue lawsuits. In one of the few instances where action has been possible, Mt Barker Council is currently mounting a prosecution against an individual for vandalising a street tree in the main street of Littlehampton. This has partly been possible due to CCT footage. (Source: *'Man faces court for tree damage'* by Louis Mayfield. The Courier 21/9/2022, p.7). It remains to be seen how successful this prosecution is.

**Examples:**

**2.3.1 Poorly pruned trees**



**Druids Avenue, Mt Barker**



**Dumas St, Mt Barker**



### 2.3.2 Poisoned trees



Hallmark Court, Mt Barker

2019



2022



Google Maps Street View, Sept 2022 Old Princess Highway, Littlehampton

## Tree Recommendations

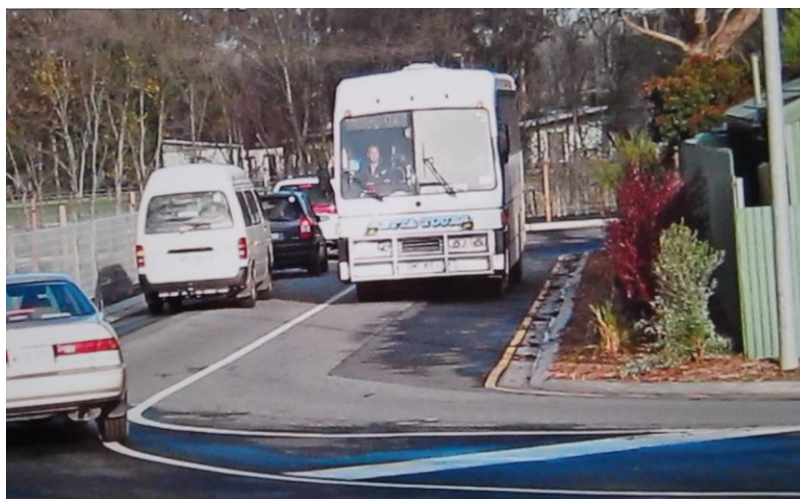
- 2.1 Strengthen the requirement for Developers to demonstrate that all reasonable alternative development and design solutions have been considered to prevent tree removal. Developers to be encouraged/incentivised to retain existing trees as part of any development.
- 2.2 Strengthen the rules to protect native vegetation alongside road verges, fence lines and in private properties.
- 2.3 As a Native Vegetation Survey is required as part of the development plan, significant data will exist regarding what will be lost. It is therefore possible to devise a replacement program for the lost native vegetation that 'cannot be retained'. At the Development Application stage, a specific project be undertaken, jointly determined by the developer's Environment Consultants, Local Council and Landscape SA, that enhances and advances the overall planning for wildlife and native vegetation along creekside/riparian reserves and/or wildlife corridors throughout the region.
- 2.4 Increase the number and size of trees to be planted in new housing developments.
- 2.5 Increase the offset scheme fees in order to assist Council in managing the consequence of having to replant and maintain replacement trees.
- 2.6 Large trees on private property be valued as a community asset by supporting tree owners to retain and maintain them through financial support.
- 2.7 The Department of Infrastructure and Transport be required to gain planning approval to remove trees and engage in meaningful consultation with the Community on the removal of any trees
- 2.8 Include more tree species on the protection list in order to protect those trees more commonly in private backyards.
- 2.9 Amend the definition of 'regulated trees' to ensure trees with a smaller circumference, height and/or which provide a reasonable canopy are protected.
- 2.10 Remove the exemptions which currently allows trees within 10 and 20 metres of a dwelling to be felled, and within 5 and 10 metres from fences as part of the Native Vegetation Regulations.
- 2.11 Remove the ability to be able to prune up to 30% of a protected tree without requiring Council approval.
- 2.12 Arborists and Tree pruners/fellers to have relevant training and qualifications and follow Australian standards of tree pruning (AS4373).
- 2.13 Improve Local Councils' ability to fine or prosecute those people who wilfully damage trees.
- 2.14 Add Vegetation Overlays like those in Victoria to better reflect the expectations of local communities by allowing for the protection of significant urban vegetation.

### 3. Planning and Development Case Studies

#### 3.1 Cameron Rd, Mt Barker - Main Entrance/Exit into high school grounds adjacent residential areas

When the Council extended a walking /cycling trail through the grounds of a local high school the resident adjacent to the road was invited to put in a submission, which was effectively ignored. The plans showed there would only be a buffer of less than 2 metres next to the resident's fence. Prior to this the buffer had been 3.5 metres. At the time, the DIT indicated that there were no limits as to how close a busy road could be to a residential home and that Council was free to do what they wanted.

The road is busy 24/7 as the facilities are used by many other groups outside of school hours, including a gym which opens at 6am, church services (early Sunday mornings), sport, markets, and community meetings. The types of vehicles that use this road regularly includes double buses, 4WDs, delivery vans, trucks, cars, motorbikes, and heavy earth moving equipment. As the buffer is now only 1.9 metres from the fence, the vibrations from the traffic can be felt along with smell of vehicle fumes inside the adjacent residence. This has noticeably impacted on the resident's quality of life and impacts the resale value of the home.





### **3.2 Cotterdale Ave, Mt Barker - Commercial development adjacent existing residential area**

A supermarket complex and associated infrastructure is currently being built adjacent an existing residential area. During the development application process the residents were given access to the plans, but these were very technical in nature. As such it was not easy to interpret and therefore understand the impact of the elevation of the work behind the houses.

It is obvious from the construction, now underway, that residents will have an elevated structure imposing over the rear of their properties. There has been little privacy for residents while construction is underway, due to the elevated nature of the construction and on completion, residents will be in close proximity to a commercial enterprise likely to be operating extended hours. This has impacted on residents' quality of life privacy, aesthetics, and liveability. The resale value of these properties is likely to have been negatively impacted.

In addition, there are large LPG tanks adjacent to these houses and this raises safety issues as well as strong odours of LPG which will be vented to the atmosphere each time the tanks are filled.



**View over Cotterdale, December 2022**





**Cotterdale Ave, December 2022**



**Nearby to Cotterdale Ave, December 2022**

This is an example of poor planning which has allowed residential housing to be in place before the associated infrastructure. These houses are occupied, and residents are now living with the construction of one section of the Heysen Boulevard and a new shopping precinct immediately behind them. Impacts include noise, dust, and liveability. Also note (above photo) the proximity of the buildings to each other and the lack of solar panels and water tanks.

### **3.3 Kernutt Court, Mt Barker - Industrial development adjacent existing residential area**

A multistorey factory complex was constructed behind multiple existing residences. This building not only dwarfs the residences, but windows of this development overlook the rear of the residences. The equipment on top of the building emits an ongoing noise and to date no sound mitigation measures have been put in place although this may be at variance with EPA guidelines.

Nearby residents, whose lives have now also been impacted by this development, had no opportunity to provide input into the development application as they were not within the specified geographical notification zone.

The impact on residents includes loss of privacy, ongoing noise, loss of aesthetics and liveability (quality of life), reduction in the sale value of properties.



### **3.4 Cameron Road, Mt Barker – Development which compromises adjacent heritage listed buildings**

Modern high-rise buildings were approved for construction behind several heritage-listed buildings on Cameron Road. This has now compromised the appearance and heritage status of these buildings.

The application was approved because consideration was only given to the allotment where the development was to take place. The process failed to consider the context and character of the neighbouring buildings.

Though the outlook and character has now changed, the owners of the heritage buildings are still bound by the heritage listing regarding any renovations they may like to make.

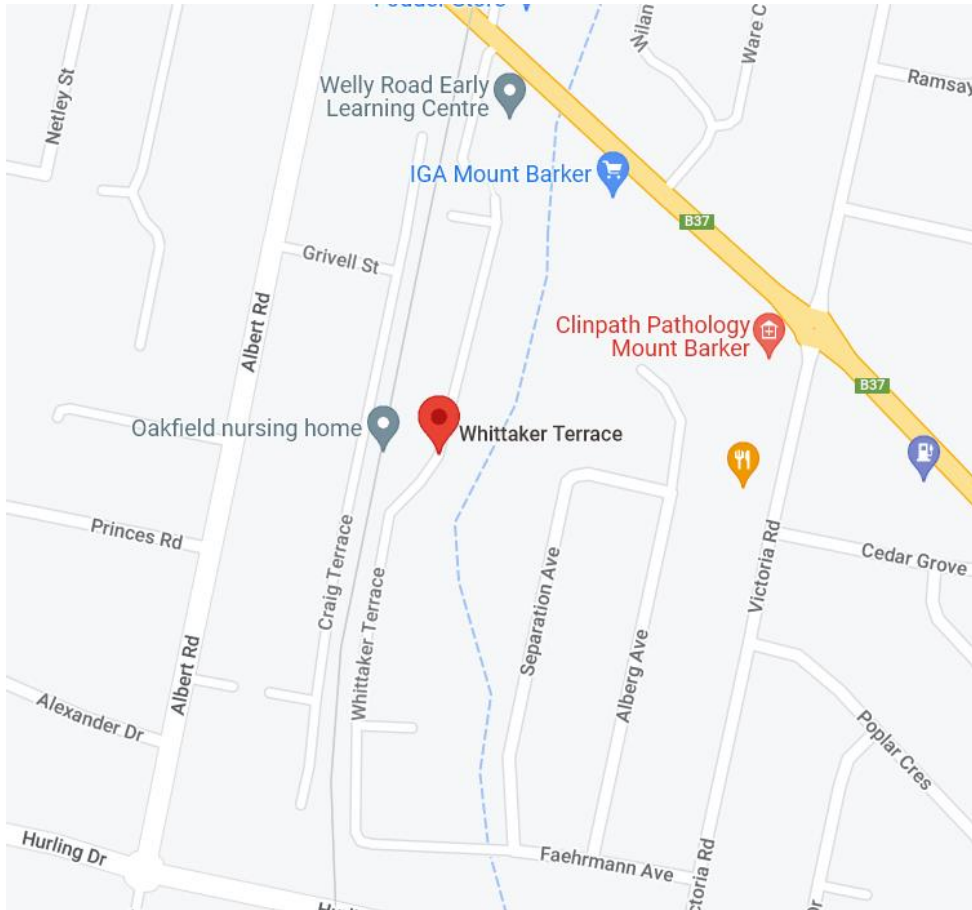




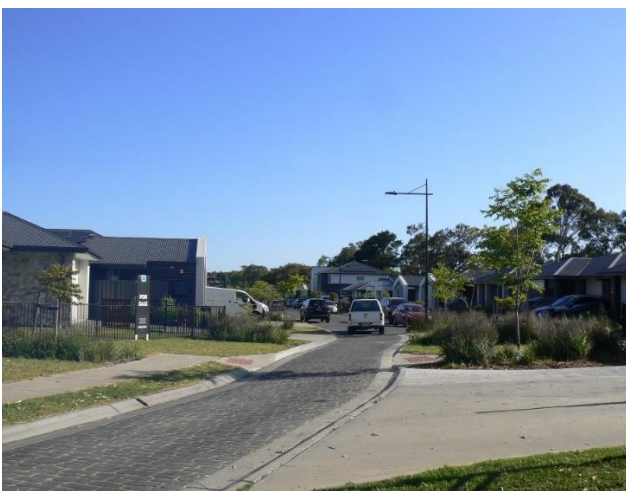
### 3.5 Seasons Estate, Mount Barker – Access to a new housing estate

The Seasons housing estate on Whittaker Terrace can only be entered and exited by circumnavigating an entire block (Wellington Rd to Victoria Rd to Faehrmann Ave to Whittaker Tce). DIT refused to allow an additional entry point due to the proximity of the SteamRanger Railway line, even though it is only in use for limited periods of the year. This creates traffic congestion in the mornings and evenings, increased noise and disturbance for residents and more cars travelling within a residential area.

The entrance into the estate is via a cul-de-sac roadway with a maximum usable width of only 3 metres. The road through the estate is ‘clogged’ with residents’ cars. The 2021 Australian Bureau of Statistics survey revealed that 64% of households in Mt Barker have access to two or more cars. (Source: Mount Barker District Council, Community profile, <https://profile.id.com.au/mount-barker/car-ownership?WebID=10> ) This can be easily seen throughout the new housing estates, where little space within the footprint of the dwelling has been allocated for cars. This means that residents are forced to park in the streets or verges. This further makes access for emergency services vehicles very difficult.



Google Maps 2022



**Private Open Space per Allotment**

Unless the minimum size of private open space for residential dwellings is increased to 25% for all allotment sizes, a wider nature strip of 2.5m each side of an 8.5m carriageway should be required, with a further 1.5m allowance each side for pedestrian and bicycle paths – a total minimum road reserve width of 16.5m. Street tree plantings will then be able to grow to a significant size to provide shading of both carriageways and paths and so mitigate the heat sink potential of these. Alternate plantings of native and deciduous trees would provide for wildlife in the case of the former, and dense summer shade in the case of the latter.

The 8.5m carriageway allows for parking (2.5m) each side, with a single 3.5m lane for traffic. This is a satisfactory combination of on-street parking for dense allotments and traffic calming through limited passing opportunities for through traffic.

### **Planning and Development Recommendations**

- 3.1 An adequate buffer to be placed between a residential home and a major access road used by heavy traffic. We recommend 3.5 to 5 metres as a minimum.
- 3.2 An adequate buffer (mitigating sound and sight) to be placed between residential and business/commercial/industrial developments. We recommend 200 metres as a minimum.
- 3.3 Development applications to clearly articulate the impacts of potential developments to adjacent residents in language that is non-technical and avoids jargon.
- 3.4 Widen the scope of the current geographical notification zone, so that residents within 500 metres of a potential development are individually notified (as opposed to just immediate neighbours).
- 3.5 Any impact on residential privacy to be addressed by the developer within six months of any action taken by the developer.
- 3.6 All development applications trigger appropriate public notification to a broader public.
- 3.7 All new houses to have solar panels and rainwater tanks fitted.
- 3.8 Housing estates to have sufficient road access to accommodate cars travelling in both directions and can accommodate emergency services access.
- 3.9 Where allotment sizes are minimal, incorporate a wider nature strip of 2.5m each side of an 8.5m carriageway, with a further 1.5m allowance each side for pedestrian and bicycle paths – a total minimum road reserve width of 16.5m.
- 3.10 The most direct access and exit route from housing estates to main arterial roads to be made possible to avoid unnecessary movement through residential areas.

### **Conclusion**

The MBDRRA believes the Planning and Design Act and Code has failed the individual, the community, and the environment since its inception. A healthy, thriving community is one in which its members are meaningfully engaged in local decision making on issues that affect them. A healthy system works well where individual and community opinions are actively sought, respected, and acted upon.

However poor planning coupled with rapid population growth has resulted in a lack of adequate infrastructure, loss of amenity and liveability and loss of biodiversity. In the past there has been little or no respect for environmental issues. This must change for the sake of our future, and the

next generation's future. We are only custodians of this land, but we are destroying it at an ever-increasing rate.

You have an opportunity to make a real difference by developing recommendations from all the feedback that ensures a more balanced approach to planning and development in South Australia.

The community feels extremely disenfranchised as it witnesses changes outside of its control. Please put the people back into planning and ensure those that must live with the consequences of these planning and development decisions are provided with an equal opportunity to know about the changes that are going on about them, and to be able to contribute to meaningful discussions about these changes. To do this they must be notified adequately and appropriately and allowed 3<sup>rd</sup> party right of appeal.

Finally, I wish to acknowledge and thank the authors of this submission, members:

- Julie Hockey
- Richard Jones-Parry

and some of the contributors

- Douglas McCarty
- Gloria Lang
- Carol Bailey

This has taken a great deal of personal time and energy but is well worth it if changes for the better can be made.

Local residents and local councils must have more influence in dealing with local issues. They must be included in the decision-making processes rather than only being allowed to suffer from its consequences. We look forward to reading your report and recommendations in 2023.

Kind regards

*Dianne van Eck*

**Dianne van Eck**  
**Chairperson**

Cc Andrew Stuart CEO