

To Whom it May Concern

SUBMISSION ON REVISED DRAFT PLANNING & DESIGN CODE - PHASE 3

This submission is in two parts: the first deals with the revised draft Planning and Design Code – Phase 3 *per se*, the second with the heritage aspects of the revised draft code.

1. The revised draft Planning and Design Code – phase 3

In response to the revised draft Planning and Design Code – Phase 3, the Mitcham Historical Society Inc expresses its objection to a number of key issues in the draft Code, which we believe will result in detrimental development outcomes within the City of Mitcham LGA..

These are summarised below:

1. Proposed Zoning of Residential Areas

The proposed code is inconsistent and incompatible with many current zone policies. There is no emphasis on the established character of many of our most beautiful areas and the result of this will be significantly poorer design outcomes. The placing of Netherby some years ago, for example, on Res Code some years ago, has led to the slow destruction of the character of the area. New buildings reflect little sympathy to the existing homes and the same can be said of the developers who choose to build these homes – it is all about the “bottom line”. Buy, demolish, design, build, sell as cheaply and quickly as possible– with little regard for amenity, the environment and effect on streetscape. Such developments impact on the immediate neighbours, their mental health and the value of their properties.

The proposed new code will exacerbate this situation and do so right across Adelaide, as it removes any possibility of local councils or residents having any kind of say in what is built around them. Local councils know their council area best – far better than the State Planning Commission and certainly far better than any developer coming in with the sole aim of making a profit.

2. Setbacks from Boundaries:

We are concerned that the current requirements for setbacks for development from side and rear boundaries will be substantially reduced, particularly for two-storey development. This will severely impact the amenity of property and the streetscape, particularly in relation to access to privacy, sunlight, overshadowing and the space in and around buildings.

3. Building on the Boundary

The revised draft Code continues to allow for development on the boundary up to 11.5 metres in length. This is a substantial increase from the current maximum of 8 metres and will result in increased overshadowing and loss of amenity. We submit that the current requirement of 8 metres be maintained in all residential areas.

4. Commercial Development in Residential Areas

Under the new Code shops, offices, and educational establishments will be allowed in existing residential areas, which will adversely impact traffic, parking, noise, neighbour's amenity, and the character of suburbs. This Society is of the view that this is unacceptable. All uses which are currently non-complying in our residential areas should be "restricted development". Alternatively, a new zone should be created purely for residential land use.

5. Historic Areas

The term "representative building" has the potential to mislead. It infers that current Contributory Items are only of "representative" value, rather than each being of individual historic value as a significant member of the historic collective group, irrespective of their form or design. We suggest instead using the term "Contributory Building" or "Nominated Building".

6. Public Notification

The draft Code should reflect current Development Plan policy with respect to the notification to neighbours and the public. The Code should include notification for all development that increases development intensity (urban infill), including additional dwellings on the site, multi-storey development, earthworks where new dwelling is located 600mm above ground level, development on the boundary and change of use from residential to non-residential. The Code should also mandate for the public notification of any removal of regulated and significant trees.

7. Tree Canopy and Climate Resilience

The draft Code facilitates larger developments, the easier removal of trees on both private and public land, increased infill development opportunities, increased number of street crossovers, and reductions in minimum site areas, site coverage and setbacks. This will result in a significant reduction in canopy cover, habitat loss and climate resilience. The requirement to plant a reasonably sized tree as part of a proposed development should not be circumvented by paying money into a tree fund as this would allow the erosion of tree canopy in that specific location. Requirements for minimum tree planting size and ongoing maintenance should be written into both Code policy and conditions of approval.

The Society is aware that there is, already, a significant amount canopy destruction across Adelaide demonstrated by heat maps that show increases in ambient ground temperatures, particularly in summer.

The proposed tree sizes for blocks over 800 square metres are inadequate. It should not be possible to plant either 1 x 8 metre tree or 2 x 4 metre trees or 4 x 2 metre trees. It should be one 8 metre tree, and this should not be negotiable. 2 metre trees are not trees – they are large shrubs. The problem with removing mature trees is amongst other things, the canopy and habitat removal that comes with doing so. 2 and 4 metre trees do not provide the canopy necessary for cooling streets and homes.

Removal of regulated and significant trees should be publicly notified.

Increase minimum requirements for deep root zones and for garden areas.

Favour permeable paving and gravel over traditional paving for driveways and outdoor living areas adjacent gardens.

Better define good design to ensure that homes are not only affordable to buy, but affordable to run. This should be done by mandating:

Deep eaves (no box gutters!)

Solar water service with electric backup (this can use battery stored solar down the track as this becomes more prevalent – and it is only a very short matter of time before it does!)

Larger rainwater tanks

Garden areas mandatory at front and rear of house and gardens at the side of the house do not count as garden space unless they are a minimum of 1.5 metres deep. Reason – narrow beds at the side of a house and against a Colourbond fence are not happy and healthy gardens where plants can grow and thrive. They add little to the amenity of the surrounding area.

These are service areas essentially to access the back of a house and are not used by garden or amenity space by residents. This are should not count as garden if it is not big enough in reality for a garden to be grown there. Otherwise, people are cheating!

The State government's biodiversity policy is meant to underpin all of this, so please be more prescriptive about what can be grown in urban areas. Mandate to favour:

Evergreens over deciduous – where block size and passive heating/cooling allows for it

Natives over exotics

Plants native to the Adelaide region rather than imported species (e.g. Queensland Brush Box, Jacaranda) from interstate. (A great resource for information on this is *The Native Plants of Adelaide, Returning the vanishing natural heritage of the Adelaide Plains to your garden*, Phil Bagust and Lynda Tout-Smith, Urban Forest Biodiversity Programme 2005)

Vegetation should reflect the local biodiversity and provide habitat and food for native animals, insects and birds.

Tree net inlets – make these mandatory in all new developments and bring in a government subsidy for existing homeowners to put them in. (This may require legislation as the verge is council property, but this can be done if there is the political will for it.) This would ensure

the survival of street trees, as their survival would no longer be totally dependent on them being watered by homeowners. Tree net inlets are a cost-effective technology, providing a good ROI. They also take stormwater containing nutrient pollutants that would otherwise end in the sea with consequent effects on algal growth and destruction of sea grasses.

8. Private Assessment and Certification of Development

The use of private certifiers for development should not be allowed without appropriate checks and balances, including bringing private certifiers within the purview of the Ombudsman, and or ICAC. We are most concerned about the increased use of private certifiers. Private certifiers should not be allowed to sign off on “minor variations”. Applications either meet criteria or they don’t. Any application that does not meet criteria should have to be assessed by a Council.

The removal of the 5-day limit for assessment should be removed. The idea of deemed consent is really a sop to developers and should have no place in planning abhorrent and has no place in planning. It is inherently unrealistic to expect Councils to assess applications and to check those approved by private certifiers from a smaller income base than they have previously had. Undoubtedly rates will have to increase to cover these costs.

Part 2: Heritage

1. The Society supports the Planning Minister’s decision that Contributory Items currently designated as such in Development Plans be rolled over into the Planning and Design Code and notes that strong community views have been listened to.

2. We question whether it is necessary to change the name from Contributory Items to Representative Buildings in the Code. Representative Buildings are those which contribute to the historic character of a clearly defined historic area. “Contributory” as a term is a more accurate assessment of the value of the place within the area. The term “contributory Item” has been used in SA since at least 2001. Furthermore, it is a term recognised elsewhere in Australia, for example in a range of LGAs in NSW and Victoria.

3. It is of concern that “Representative Buildings” are not referred to anywhere within the Code Policies! They are only spatially identified in the South Australian Property and Planning Atlas.

4. The Planning and Design Code is a standardisation of the separate Council Development Plans into a single state-wide policy. Inevitably that has resulted in a lot of detailed specific instructive policy being replaced by generic simplified policy. There are limited opportunities to create bespoke policies in particular council areas. This is particularly concerning in the heritage area.

5. Historic Area Overlays- these are very generic and lack substantial detail on how new development should be undertaken and therefore will have little *gravitas* at the time development assessment decisions are being made.

6. The Historic Area Statements should contain instructive policy on how new development within Historic areas can be undertaken. Within many current Development Plans that is done through Desired Character Statements. These have proven to be especially useful to both developers and the assessing authorities and the ERD Court under the current system. The proposed Historic Area Statements are deficient in that they provide some detail about what is there at present but are of limited assistance in the development assessment process.

7. The Society understands that guideline documents will be prepared to supplement the Historic Area Overlays and Statements. Common Style attributes Guidelines are meant to supplement the Statements with respect to common architectural attributes for identified styles and periods of development e.g. typical roof pitch, materials and detailing of Victorian villas. Design Advisory Guidelines will also be prepared which will provide details on how to achieve the roof form with the prevailing characteristics of the historic area. It is of concern that these guidelines are not yet available.

8. Such guidelines will clearly be important to the development assessment process. Details of this type are presently found in many existing Development Plans (often in the tables to the back of the Plans). A complete and comprehensive period of public consultation should include the draft guidelines without which it is very difficult to consider and comment on the efficacy of the Historic Area Overlays and Statements.

9. We are also concerned about the extent to which planning authorities and the ERD Court can have regard to such guidelines (which are not part of the Code) when making their development assessment decisions. Planning authorities have to assess a development against the relevant provisions of the Planning Rules. (102(1)(a)PDI Act. "Planning Rules" are defined to be the Planning and Design Code, Design Standards prepared by the Commission relating to the public realm or infrastructure or any other instrument prescribed by regulations. The 'public realm' means parks and other public places and streetscapes'. The documents being drafted are described as 'guidelines' not as 'design standards. Are they "Practice guidelines' under s43? If so, they do not have to go through a public notification process nor be open to public input. They also do not seem to be something the Planning authority is required to consider as part of its development assessment function. The key details should be available for public comment. The community Consultation process is deficient if they are not.

10. The Society is supportive of the amendments which have been made in the Revised version of the Draft Phase 3 code to change the Demolition Policy contained in the Historic Area Overlays although we are still of the opinion that a clause such as that currently found in the Norwood Payneham and St Peters Development Plan relevant to the demolition of contributory items is stronger and more appropriate. We believe the policy provision should specifically refer to Representative Buildings or at least clarify that it applies to them.

11. We are disappointed that the level of protection of State Heritage places from demolition appears to have been weakened in the State Heritage Places Overlay by Performance Outcome 6.1. Demolition of State Heritage places was non-complying under the Development Act and development plans under that Act.

12. We remain concerned about the lack of time given by the State Planning Commission to try and comprehend the latest version of the Code that is almost double the length of its predecessor. The information we need to digest is not yet complete because we await the Common Style Attributes Guidelines and the Design Advisory Guidelines. Further time to comment on those Guidelines when they become available must be made available.

13. Finally, the Expert Panel had recommended that there be one single piece of legislation dealing with all levels of heritage places in South Australia. That has not happened. Other recommendations of the Expert Panel have also been ignored. Similarly, the recommendations of Parliament's Environment, Resources and Development Committee inquiry into heritage have not been addressed.

Part 2 of the Society's submission relies heavily on comments provided by the National Trust of South Australia and the Society endorses, unreservedly, those comments.

Conclusions

Unless the above issues are addressed and the revised draft Code is amended to reflect these concerns, there will be an unacceptable loss of local character and amenity not just in the City of Mitcham, but across all LGAs in Metropolitan Adelaide. in my neighbourhood.

The Mitcham Historical Society respectfully asks that its submission be given your full consideration.

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Mitcham Historical Society Inc

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