

Attention: Expert Panel
Planning System Implementation Review

Via email: DTI.PlanningReview@sa.gov.au

Dear Expert Panel,

I am pleased to hear that the Planning System is under review and for the opportunity to provide comment, as to how the system could be improved for better community outcomes.

I have a number of recommendations for improvement, based on my experience with the current planning system.

Please refer to my comments in the following attachment.

Thank you for the opportunity to provide comment.

I trust that you will take these comments on board.

Yours sincerely

James John Russo B.Ed., Dip.T.



13 December 2022

Attachment 1: Planning Review Comments

1. Planning, Development and Infrastructure Act 2016 Discussion Paper

This discussion paper currently states the following:

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- *Regarding requests to ensure additional forms of development are notified, the Commission continues to support the principle that development which is envisaged in the zone should not be subject to notification; except where either acceptable standards of built form or intensity are exceeded, and/or the development is likely to result in substantial impacts on the amenity of adjacent dwellings located on land in another zone.*

Recommendation:

- The 'substantial impacts on the amenity of adjacent dwellings' can only really be determined by the person next door and those living within the neighbourhood, who will need to live with the development. Notification should therefore still be undertaken, whether it meets the zone requirements or not. Consideration just by the zone is too broad and doesn't take into consideration individual circumstances and local context.
- People have a right to be informed of development changes in their neighbourhood and to be able to appeal a decision, whether the proposed development meets envisaged zone requirements or not.

This discussion paper asks us to consider a few questions as follows:

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- *What type of applications are currently not notified that you think should be notified?*

Recommendation:

- All applications should be notified. This makes the process more transparent. The community want to know what's happening in their local area. This would improve the planning system.
 - If you are a neighbour or within close proximity of a development (e.g., across the road), and you will be able to see the proposed development from next door, this should trigger notification and appeal rights to you.
- *What, if any, difficulties have you experienced as a consequence of the notification requirements in the Code? Please advise the Panel of your experience and provide evidence to demonstrate how you were adversely affected.*

Personal Experience:

I wanted to appeal a decision but was told that I couldn't, because the developed was 'deemed to satisfy' the zone requirements. I should be able to have a say.

Previously you could go to a council meeting and have a say. Under the new planning system, the council has no say and the community have no say.

'Planning meetings' are now held instead of 'council meetings', for developments to be progressed.

Planning Meetings – The State Government have changed the law, saying that a

quorum is comprised of three. The State Government can currently pass any decision on a quorum of 3 people at these planning meetings. This is completely unfair and allows the State Government to have complete control over everything.

On every planning meeting, (which is held once a month), there are four state government members on the committee and only one council member. This is not equal. There is nothing fair and equitable about this system. A quorum set up like this in any other system in SA, would not be considered fair and equal. A quorum is always made up of half plus one for equal representation on committees before making a decision.

Suggestion for improvement: There should be 3 council members and 3 state government members for planning meetings. This would be a fairer system. A quorum would then be made up of 4 people. In order for the quorum to proceed, you would need to have at least 2 state government representatives and 2 council members for the quorum to proceed with any decision.

At the moment, no-one has any say. The State Government controls everything. I went to a council meeting for a development behind me in October 2021. There were only 3 people on the panel and no one could complain about the decision being made.

I submitted a letter objecting but on the night was told I couldn't ask any questions about what constituted their quorum. They wouldn't answer me and said I had to ask the council the following day.

In general business at a council meeting, normally you could ask anything, but they told me I had to ask council the next day. Council was not even aware, they had to look it up. The system has been set up so that no one can veto anything.

The system seems to be rigged by the State Government. Four in favour of the government. No-one can object. We need the old system back, where the council has a say about what happens in their own local area, not where the State Government is making these decisions.

At the moment the State Government puts in place four of their members on a planning meeting, with one member for each of the council. There is no way you can veto anything. Everything is rushed through. The council is currently only allowed one member.

The State Government members have total bias towards the builder in all proposed developments.

If someone has provided a written objection, it should be sufficient. They shouldn't have to attend in person too, for it to be considered valid at the planning meeting. It should not be overlooked. People should not have to object in person for it to be considered valid. I later found out that people weren't showing up to the planning meeting after submitting a written objection, because they knew how the new system worked and that they had no say.

The planning system doesn't allow you to have a say about what's happening next door to you. There is no freedom if the State Government votes on everything.

The planning system seems to have been amended to be completely in favour of the people developing at the expense of the community.

Recommendations: Have a quorum where the majority is two thirds for it to be passed (3 state government and 3 council members). Two thirds have to agree for it to be passed. This is a fair and equitable and correct system for a quorum to be based on.

2. Summary Paper PDI Act

This summary paper currently states:

Page 1

- *The current system provides for notification of development applications through the public register, the PlanSA portal and by requiring notified developments to have a sign on the land, which links to the PlanSA portal through a QR code.*

I support this. I think it should be applied to **all** developments, whether the development is envisaged in the zone or not. This would provide a more transparent and community focused planning system. If you can see the proposed development from next door, you should have to let your neighbours know about the development proposed to occur, even if it's just a shed. No one should be prevented from being able to complain about the proposed development. No development should be exempt from notification if it impacts your property / or is visible from your property.

One of the people in my neighbourhood came home to his fence being pulled down to facilitate the neighbour's garage being built on the boundary. He had no say in this because the development was considered to comply in the zone. He had no say when his fence was taken away and the neighbour built a garage on the boundary of his property. It was 'deemed to satisfy' development and therefore he had no say. He eventually moved house because he was fed up that he had no say. He was not allowed to complain about his fence being pulled down by the neighbour.

The new garage (due to the height), and two storey development next door shaded his solar panels. As it was considered 2 hours of sunlight was still on the area, it was considered that he had sufficient sunlight. It was deemed by the council that there was no overshading because he still had 2 hours of sunlight. This is completely unacceptable and this policy needs to be reviewed.

Recommendations:

- Review the 2 hours sun light provision. This is not sufficient for it to be considered that you are not negatively impacted by the development. This could also be addressed, by allowing notification and allowing the neighbour to have a say.
- You should only be able to build on the boundary if both neighbours agree to it.
- Notification should be a requirement where it involves building on the boundary, and a right to appeal the decision.
- Notification should be a requirement if you can see the proposed development from your property, and a right to appeal the decision.

3. Summary Paper Character and Heritage

This summary paper currently states:

Page 1

- *...including local policy that reflects the important elements of an area through the use of Historic Area and Character Area Statements (i.e., era, built form, architectural styles, street patterns etc.) that underpin the Overlays.*

Recommendations:

- Consider how infill impacts home owners who have development built around them.
- Consideration needs to be given to providing opportunities for people to age in place or remain in their local community in smaller dwellings, within single storey development, without being boxed in on all sides, with higher density development (e.g., 2 storey dwellings being built on the sides surrounding them).
- I understand that there is a need for infill development and in some cases that means townhouses and 2 storey developments will occur in what were typically single-story home suburbs.
- If development is allowed in these suburbs, for example, if a single-story dwelling exists on an allotment and development occurs around them (e.g., 2 storey development), it should be limited.
- If it has at least 2 adjacent landowners who have built 2 storeys, it should not be allowed any further than this. Otherwise, it impacts local character and can leave the person in the single storey dwelling feeling boxed in, losing significant amounts of private open space, and loss of natural light and sun to garden areas.
- It's one thing to create high density infill spaces where people can choose to live there.
- It's another thing to expect the community to live in these spaces, who don't currently live in these environments, to be expected to live like this, by boxing them in through development around them.

4. Summary Paper Trees

This summary paper currently states:

Page 1

- *It is proposed that council areas that currently have less than 30% tree canopy cover should try to increase their canopy by 20%. Council areas that currently have more than 30% tree canopy cover should keep the current level with no net loss until 2045. At present it seems unlikely that the 30 Year Plan target will be met.*

Recommendation: Some street verges are very long and only have 1 street tree. There could be 3 street trees planted on some verges to try and increase coverage.

Page 2 - Public Realm Tree Planting

- *The Panel believes that there is opportunity to explore the funding options available to councils for public tree planting and maintenance, to encourage the planting of more substantial trees that will make a significant impact on the future urban tree canopy.*

Recommendation: Yes - Look at suburbs who could use some increased greening and fund councils to implement this.

Page 2 - Tree Canopy

- *What are the implications of master planned/greenfield development areas also being required to ensure at least one (1) tree is planted per new dwelling, in addition to the existing provision of public reserves/parks?*

Is it enough? What happens if they die?

Page 3 - Tree Protections

- *What are the implications of introducing a crown spread protection, to assist in meeting canopy targets?*

What if it is a troublesome species and it's blocking a drainage system nearby? Crown spread may be harder to determine. Need to consider local context.

Page 3 - Urban Tree Canopy Off Set Scheme

- *If the fee was increased, what are your thoughts about aligning the fee with the actual cost to a council of delivering (and maintaining) a tree, noting that this would result in differing costs in different locations?*

Agreed – the fee should be increased, aligning to actual cost to council of delivering and maintaining a tree – using the highest cost estimate.

5. Summary Paper Infill

This summary paper asks the following question:

Page 2 - Design Guidelines

- *Do you think there would be benefit in exploring alternative forms of infill development? If not, why not? If yes, what types of infill development do you think would be suitable in South Australia?*

Recommendation: Good design would not box people in who have infill development built around them.

6. Summary Paper Car Parking

Page 1

The Panel does not consider that it is either reasonable or practical to increase the current requirement for two (2) off-street car parks for homes of two (2) or more bedrooms.

Does this include sufficient space for turning around where required? I am familiar with battle-axe allotments being developed with space that is supposed to be for two on-site car parking spaces, but because the turning circle is not sufficient, those cars that would be parking on site all end up parking on the street. This is particularly of concern on rubbish collection days, when looking for a suitable spot to put your bin.

Less cars on the street means easier cycling, which is one of your priorities to increase other modes of transportation. Therefore, if dwellings were appropriately designed to cater for car parking on site, this would help with safer streets and less congestion on the streets.

When designing developments, they need to adequately cater for the following:

- sufficient space for two standard vehicles to be side by side to allow for entering and exiting the vehicle comfortably; and to
- ensure sufficient space for turning around (particularly with battle-axe allotments), as part of these developments.

In some cases, the development (battle-axe allotment in particular), is so tight/narrow that no-one parks in the driveway, as they are at risk of hitting the fence all the time when trying to reverse out. Must consider traffic management plan to make sure the drive pathways are actually usable.

Congestion on the street is also currently occurring from garages being used for storage rather than car parking. Plan developments with sufficient space so that

congestion is not your outcome.

Consider how the design of new development can be better designed to meet all these requirements as this would reduce congestion on the street. We don't want to resort to 'No Parking' signs on streets, because of congestion on the streets.

7. Planning and Design Code Discussion Paper

Infill Policy

- Consideration needs to be given to providing opportunities for people to age in place or remain in their local community in smaller dwellings. Not everyone wants to live in a 2-storey place or be surrounded by it.
- Review requirements around what is considered a suitable size parcel of land for infill development. Does it really provide sufficient space for all those good design outcomes (e.g., private open space, tree planting and designing houses to enable good parking on site, to help keep landowners from parking on the street, to avoid negatively impacting the streetscape)?
- In my neighbourhood, there was a landowner who included his open verandah as part of his 12.5% open space provision in both his dwellings. This should be reviewed so that it is not considered as part of the 12.5% open space. You should be able to see the sky for it to be considered 'open space'. Down the track the verandah will likely be enclosed which will not meet the 12.5% open space area requirements as part of the original development.
- The older double brick homes are better insulated and don't require the same cooling during the day and night. Modern developments are made of light weight material, which are not well insulated. They often have an integrated all in one air conditioning system (ducted air conditioning). They are very noisy. Review how this can be addressed in developments. They should have a smaller system to reduce the noise.
- For example, if building a two-storey development, must have a separate air conditioning system for upstairs and a separate system for downstairs, to manage noise impacts to adjoining neighbours. One of my neighbours has one. My other neighbour and I are both bothered by the noise. It is very annoying, especially on a still summer night. One of my neighbours has to sleep in his back room to get away from the noise of the air conditioner.

Tree Policy

- In my street I know of a developer who planted trees in the streetscape and after the development was completed, it was ripped out 2 years later.
- In my neighbourhood a two-storey development was built. It was sold with all the new landscaping. When the development was sold, the new owner ripped everything out and put white gravel in.
The owner doesn't have to comply with the previous owners planning development approval. I also know of another development in my neighbourhood, where all the landscaping was taken out and replaced with lawn.
- How do we make the new owner accountable? Only the original owner was bound by the legislation when they were developing. How do we make sure the new owner is accountable for the trees and landscaping and don't just tear it down. They don't have the same commitment to retain the 12.5% open space as part of the new development they just purchased.
- Developers seems to plant trees or provide 'open space' for the purpose of meeting their requirements to not pay a fee. Shortly afterwards, when they are not looked after, these areas are left for weeds to grow or they become paved areas. Review and consider how you can stop this from occurring.
- Consider what happens if the trees planted don't survive and two years down the track, the site that was supposed to be green space is turned into a hard paved area or just left for weeds to grow. Review and consider how this can be better managed.

Carparking Policy

This discussion paper currently states:

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- *The argument for embedding minimum car parking rates in the planning system is driven by the dominance of motor vehicles as a means of urban mobility in Adelaide.*
 - *However, there is emerging thinking that the provision of car parking spaces enables the choice to drive, and that a modal shift will not occur while there is a generous provision of car parking space within both the public and private realm. This is, at its core, a cultural issue and demonstrates a need to progressively uncouple existing car parking demand from development.*
- It's about giving people choices and not forcing one mode of transportation. Sufficient space should be given to car parking to allow visitors by car (at least 2 visitor car parks per dwelling).