

South Australian HERITAGE COUNCIL

DEW-D0006513

29 November 2019

Mr Michael Lennon
Chair, SA Planning Commission
Department of Planning, Transport and Infrastructure
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Dear Mr Lennon

Phase 2 - Draft Planning and Design Code

The South Australian Heritage Council (the Council) appreciates the opportunity to provide comment on Phase Two of the Planning and Design Code.

It was beneficial for Council members to have a preliminary discussion about the draft policies at a recent meeting. Council thanks Mr Allan Holmes, SA Planning Commission and Ms Anita Allen, Department for Planning, Transport and Infrastructure for attending its meeting of 31 October 2019.

Comments from the Council are provided below for your consideration.

Statements of Heritage Significance

- There are 2300 State Heritage Places (SHP) registered in the South Australian Heritage Register. Of the 2300, approximately 1500 State Heritage Places do not have confirmed Statements of Heritage Significance.
- The South Australian Heritage Register is the point of truth for description or notes relating to State Heritage Places and State Heritage Areas as per section 14 of the *Heritage Places Act 1993*.
- Council agreed that the Statements of Heritage Significance are a critically important resource for decision making that will be linked to the Planning and Design Code and that the resourcing implications are substantial for all SHP to have a Statement of Heritage Significance.

- Related to the above, the Council seeks clarity on how Statements of Heritage Significance are to be integrated into the Planning and Design Code after it is operational.

State Heritage Areas

- There are 17 State Heritage Areas in South Australia, each with a confirmed Statement of Heritage Value. Delegates of the Minister for Heritage use these Statements when assessing the impact of development proposals on the heritage values of an Area. Further, the community and property owners use these statements to understand the heritage values of an Area. Online access to these statements is recommended, through the planning portal.
- The 17 Statements of Heritage Significance for State Heritage Areas are generally well written and appropriate. Council suggests that the 'table' approach suggested to record heritage/ character attributes of an Area is not appropriate for State Heritage Areas and consideration should be given to producing a detailed Statement of Heritage Significance and schedule of heritage attributes contributing to that significance, as recently drafted as a trial by Heritage South Australia.

Extent of Heritage Listing (curtilage, allotments)

- A State Heritage Place is defined by Certificate of Title (CT), not building footprint. Therefore, proposed development within that CT, or where it affects the setting of the CT is the trigger for referral under the current Development Regulations. Does the mapping associated with the Planning and Design Code recognise the Certificate of Title or the place/building as the 'development site'?
- Council has concern about the impact of future land division on State Heritage Places. Council believes there is a need for a legal instrument to prevent the incremental impact of land division on State Heritage Places.

Demolition Control

- Council suggests that the test for demolition needs further interpretation.
- Several Local Councils do not have a non-complying trigger for demolition. The eight Councils that do have demolition as a non-complying trigger include the majority of State Heritage Places.
- Council seeks guidance on the definition of 'irredeemably beyond repair'.
- Council seeks some clarity on the SA Atlas. Council recommends that it picks up the Certificate of Title associated with the place (not just the physical structure of the place).

Heritage Guidelines

- Council was pleased to note in discussions with Ms Allen that the Code provides an opportunity for consolidating or linking to information sitting outside of the Code (existing State Heritage Area development guidelines is an example).
- It was noted that some of the Design Guidelines are in Development Plans and others are not.
- Council seeks some clarity on Guidelines as they relate to State Heritage Places. State Heritage Places are diverse in nature and therefore it may be difficult to prepare overarching guidelines applicable to all of them.
- When the Code is fully electronic, Council notes that links can be added to Heritage Guidelines to make them easily accessible to planners.

Development in the Vicinity

- It is noted that the Code has a 'visible from the public realm' test which means that development not visible from the public realm does not require referral to the Heritage Minister. Council seeks clarity on the philosophy behind this public realm test, and seeks further discussion about it before commenting further.
- Council queries the mechanism that picks up development that is adjacent to a State Heritage Place or State Heritage Area. Is there one? If so, where and how does it work? If there is no mechanism, Council strongly proposes there should be one.

The Planning Portal

- It is noted that consultation on the Code is occurring in the absence of the Electronic Planning Portal. This Electronic Planning Portal needs to be made available for review / testing as soon as possible to better facilitate community engagement on the Draft Code. On this point, Council suggests that DPTI develop and communicate a contingency plan if the electronic system is not online in time for 1 July 2020.
- Council seeks advice from the Planning Commission about the process required to amend the Code after it is operational. This is critical to the ongoing success of the Code assuming that errors / upgrades will be necessary to such a transformational planning tool.
- When the source material about a State Heritage Place originates from Heritage South Australia, the Council would like an assurance that this data is automatically updated into the Code.

Fees for Owners of Heritage Places

- Council notes there may need to be some work done on when the Heritage Minister's component of referral fees will be waived for development

applications that are not going to impact on State Heritage values, but still require a referral (a shade sail is an example).

- Council notes that there is an additional cost to owners incurred by having to demonstrate that something is complementary to heritage. Council believes this should not apply.
- Council discussed the need for some guidelines around waiving of fees for certain works to a State Heritage Place. It was suggested that development fees are waived if it relates to works that are of a 'minor' nature.

Resources to Operate the Code

- Council recommends the re-instatement of State and Local Heritage Advisers in the field to assist property owners / assessing planners as well as funding by Government to facilitate this.
- There is typically a need for professional advice in relation to development of State Heritage Places given the complex nature and variety of State Heritage Places.
- It is noted that the Outback Community Authority has limited planning expertise and is not resourced to prepare development applications for State Heritage Areas. In out-of-Council unregulated areas – a dedicated person in DPTI needs to be available to provide advice to proponents.
- Council noted that the level of information about the heritage value of Local Heritage Places is variable, bringing further resource implications if the system is intended to rely on it.

Other Issues

- It is noted that the Heritage Minister will have power of direction in relation to development (rather than advice as is the current situation).
- In the new system, referral to the Minister is mandatory unless it is deemed 'minor'. It is important that 'minor' is clearly defined and the Heritage Council is happy to work with the Planning Commission to ensure this work is done.
- Council notes there is currently no power of direction on Crown developments and this will continue under the Planning and Design Code.
- Clear definitions of 'heritage' and 'character' are needed. It is agreed that the use of the word 'historic' should be avoided so as not to cause confusion.

The Council is pleased to note that Mr Michael Queale, Heritage South Australia will continue working closely with the DPTI in finalising the Planning and Design Code.

Thank you for providing the Council with an opportunity to comment on Phase 2 of the Draft Planning and Design Code. We trust that our suggestions are useful in the finalisation of this important planning change for South Australia.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Keith Conlon', with a long horizontal flourish extending to the right.

Keith Conlon

Chair, South Australian Heritage Council