



28 February 2020

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## **Re: Draft Phase 3 Planning and Design Code**

The Conservation Council of South Australia (Conservation SA) welcomes the opportunity to make a submission.

Conservation SA is an independent, non-profit and strictly non-party political peak body organisation representing around 60 of South Australia's environment and conservation organisations.

Conservation SA has been a strong advocate for the protection of native vegetation and biodiversity and the promotion of a more sustainable South Australia since 1971.

We have been actively engaged in the planning reform process since it began in 2013, contributing to formal and informal consultations over the last 6 years, and working extensively with interested member groups.

The creation of the Code is a major defining milestone of that process.

Many of our member groups have also been heavily engaged and have prepared their own submissions in response to the Code. We support the submissions of our member groups: the Nature Conservation Society of South Australia, Community Alliance, and the National Trust. We also endorse the responses of the Healthy Parks Healthy People leadership team, the Environmental Defenders Office and Water Sensitive SA.

There is a strong consistency from these organisations and agencies about the positive and negatives of the draft Code, including: concerns about the consultation process and level of control for local communities, the complex and often confusing structure and terminology, small but positive steps in the areas of climate change, biodiversity, native vegetation and Water Sensitive Urban Design, concerns about heritage and character preservation, and the need for greater emphasis on tree protection.

A summary could be: support for the overall intent and a number of important shifts; yet, in many areas the detail is deficient to allow communities and groups to understand the real impact on their neighbourhoods and surrounding areas, and in other areas there is real concern that these new planning rules are actually a step backwards.

The broader (and most important) question is: will these new planning rules enable the community to prepare appropriately for our rapidly changing climate?

Whilst again acknowledging a number of important improvements, we believe this Code does not sufficiently set us up for success. Therefore, more work is required.

Our member groups have described in detail a range of recommended changes and improvements in their submissions, which we support. As a result, this submission will instead suggest opportunities around the process of engagement and emphasise important cross-cutting themes.

### **Getting the process right**

The planning reform process was predicated on a fundamental shift: that community would be engaged earlier in the process at the stage when rules were being created, rather than when housing and infrastructure were developed using those rules.

The theory was that if community members had a greater opportunity to design their neighbourhoods and identify preferred activities, they would be less likely to oppose developments when they were rolled out (lessening bitter battles) and people would gain greater control over the places in which they lived.

The process was therefore to 'front-load' consultation to the rule setting stage; the trade-off was reduced rights and involvement when physical development occurred.

While laudable, this was a flawed premise.

It defies the innate human tendency of many to only engage in planning matters when it immediately and directly affects their neighbourhood.

But even if you accept this premise, it is essential that genuine, sustained and appropriate consultation occurs *now* to ensure the rules are fit for purpose, match community vision and secure broad community support.

The Planning & Design Code is arguably the most influential set of state planning rules. This is the time of its creation. The community was told this would be a 'once in a generation' overhaul. So, we have engaged in good faith in making sure the rules are the best that they can be.

However, the engagement has been hampered in the following ways:

- 1) As the Code deadline has approached, there has been a gradual shift in emphasis away from this being a 'once in a generation' overhaul of the rules (the policy content), to a comprehensive overhaul and concurrent roll out of an enormously complex ePlanning system (the process of implementing the rules) that alone would require huge consultation and investment of time and resources by the community and planning professionals to understand.
- 2) Yet, there *have* been a number of significant changes in rule content (many of which are welcome) as well. But not everything has been changed. In fact, the rhetoric at times has been that this has been essentially a 'cut and paste' process of importing the old planning rules into an updated system and technology (with new terminology and structure), with the potential for new generations of the Code in the future.
- 3) So, the community has been left genuinely confused: is this the promised time for them to comprehensively reset the rules, or not? If this is a time for overhaul, who decided which changes will occur now, and which ones can wait?

Alongside this confusion, the community has also faced a moving target.

Despite the desire to simplify the planning process, the Code is an incredibly complex document to interpret, with new policy, concepts and terminology.

There have been frequent delays in the release of critical policy stages, shortening time and capacity to respond. When the original draft Code was released it was riddled with errors and poor drafting and formatting – not surprising given the scale and size of the document.

But again, the community has been unsure whether the mistakes were genuine oversights, or (as some of the rules *are* changing) an intention to change policy.

We acknowledge the Department has worked hard to respond by releasing an Update Report part-way through the consultation period, but, with the enormous challenge to navigate the new ePlanning system (when elements of it became available) the underlying confusion remains as to which policy areas are changing.

We also acknowledge that the Planning Minister has agreed to a short deferral in Code implementation. This is welcome, but the proposed three-month deferral is simply not long enough.

The concerns with the Code go far deeper than a struggle by local government to get up to speed with the new ePlanning portal. More fundamentally, what has been lacking in the Code consultation process has been a genuine, community focused discussion exploring what we want our streets, towns, neighbourhoods and regions to look and feel like in the future.

The release of a series of discussion papers is no substitute for a deeper community conversation that allows members of the community to explore alongside fellow citizens the tension between infill development and heritage and tree protection, or how we will keep an ageing population in their homes, or how will ensure our homes and streets are ready for a rapidly changing climate.

This ‘vision’ piece is as an essential part of building trust in a such a wide-ranging reform of our planning rules. And it is the real opportunity that comes with a deferral in the roll out of the Code.

We strongly urge the Minister, Department and Planning Commission to pause the process and spend time engaging the community with their vision for the future of their suburbs and towns, as was originally promised in 2013.

Alongside this important process, the Code needs to head back out for a second round of community consultation to ensure broad community support, and all necessary fine-tuning has been done.

Failure to do this will ensure ongoing community and business frustration, resistance to necessary infill development, stalled development, a collective failure of individuals and institutions to prepare for the challenges ahead, and a further breakdown in trust in government.

### **The challenge of infill development**

Conservation SA strongly supports further infill development to consolidate our settlements and stop further sprawl.

However, there is strong evidence that densification, when implemented poorly, can have major impacts on public health and wellbeing. In particular, the loss of the urban tree canopy is a

significant factor in creating urban heat island effect and a range of physical and mental health impacts. Equally, protection of places of heritage importance, as well as a focus on character, is vital.

It is critically important we have a genuine and broad community discussion about how we can make infill development and positive densification work.

### **Climate change**

While we strongly welcome a range of measures that intend to respond to a changing climate, including WSUD and tree canopy cover, climate change needs to more clearly articulated and prioritised throughout. It is notable and surprising that the words 'climate change' are not specifically referenced in this version of the draft Code.

The draft Code does not reflect the urgency of the need for climate mitigation, adaptation and resilience. Now and in the future land use choices will be fundamentally affected by increasing hazards, health impacts and threats to critical infrastructure. We urge the adoption of a risk-based approach to hazard management, particularly from threats such as flooding, coastal inundation and bushfires.

This summer season's catastrophic fire events have emphasised the need to seriously consider more radical changes in planning and design to keep citizens safe.

### **The importance of trees**

We are deeply concerned about the sustained loss of tree canopy cover across metropolitan Adelaide. In particular, larger established trees.

Whilst the tree planting policy is strongly supported as a positive strategy of the Code, replacing an existing mature tree with one or even several young trees does not account for the many years of inadequate canopy cover as the tree grows. In addition, climate change is adversely affecting the ability of trees to grow and mature, emphasising the value of already established trees.

We are unclear whether significant trees under the current definition will have the same level of protection under the Code. There is no separate Significant Tree overlay and we are concerned that the regulated tree policy appears to have been consolidated within a single Regulated Tree Overlay with no higher order of policy relating to the proposed removal of a regulated tree that is a significant tree.

Regardless, the proposed criteria for a tree damaging activity that is not to be undertaken with other development does not reference the current test that "all other reasonable remedial treatments and measures must first have been determined to be ineffective". The omission of this requirement, at least in respect of significant trees, would result in a severe weakening of the current level of protection. This must be addressed.

We recommend a significant strengthening of protection for significant, regulated and other mature trees in this version of the Code, not a weakening.

### **Native vegetation**

We support the introduction of the Native Vegetation Overlay and the State Significant Native Vegetation Overlay as these overlays will lead to a more co-ordinated implementation of current legislative settings for protecting native vegetation under the Native Vegetation Act 1992 and associated regulations.

However, we urge you to consider the improvements suggested by NCCSA in their submission.

### **Private vs open space**

As further infill development occurs, we recommend the inclusion of triggers to ensure the reduction of private open space is suitably compensated by an increase in useable, public, open, green space in the vicinity of where the loss of private green space is occurring.

### **Transport**

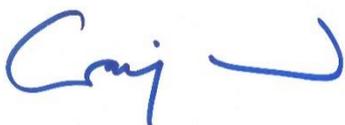
Further consideration is required re the transport needs of high infill suburbs. Currently, cycling networks remain disjointed and disconnected across the metropolitan area, and public transport provision is inadequate. Investment in more walking-friendly streetscapes is required.

### **Water**

We strongly support the recognition of the importance of integrating Water Sensitive Urban Design (WSUD) principles and rainwater harvesting into the Code. However, stronger consideration of WSUD deemed to satisfy criteria for non- residential development, and development of varied forms and scales should be applied. Also, we encourage a broader consideration of all aspects of integrated water management, including waterway ecology, into a single policy applying to all development.

Should you require further information about any aspects of the above, please contact Craig Wilkins on [REDACTED] or [REDACTED]

Yours sincerely



Craig Wilkins  
Chief Executive