

Community Alliance SA Inc.

Engaging for Reform



Submission to the Parliamentary Environment, Resources and Development Committee re Phase 3 and full activation of the Planning and Design Code

9 May 2021

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Introduction

Community Alliance SA Inc. (CASA) is an umbrella organisation for over 33 resident and community groups from Adelaide and other areas of South Australia, whose aim is "To Put People back into Planning and Development in SA". CASA has been involved with the planning reform process since its inception and has consistently engaged with state government as it supports the aims of the process in principle, namely to "provide consistency, clarity, certainty, transparency and accessibility for all".

The objectives of CASA as outlined in its Constitution are as follows:

1. To campaign for ethical and transparent governance including the provision of genuine information to communities.
2. To lobby for reform of planning, development and related legislation to ensure participative decision making with real community engagement.
3. To lobby for sufficient resources for reform of compliance and enforcement of relevant legislation, regulations and procedures.
4. To act as an advocate for residents' associations and community groups in South Australia.

We also acknowledge and support submissions by the Conservation Council of SA Inc., the National Trust of SA and the Environmental Defenders Office who are all non-government entities who share our lack of political affiliations.

It is acknowledged that the Phase 3 Code activation addresses a number of planning issues to provide more detailed additional content including: new residential zones and sub-zones; improved demolition provisions in heritage zoning; and technical improvements to the five platforms that comprise the on-line functionality of Code information.

There remains a significant number of content for correction, clarification or improved clarity and outstanding policy issues in need of improvement. Given the complexity of the online portal and functional accessibility it is impossible at this stage to comment extensively.

Main areas of community concern include:

1. Code contents and legibility.
2. Loss of inclusive democratic processes within the state-wide Planning system.
3. Inadequate community consultation on revised policy statements prior to replacement of previous planning system by Phase 3 activation.
4. Assessment processes, specifically: State Planning Commission Assessment Panel meeting procedures and decision-making processes; Council Assessment Panels meeting procedures and decision making processes; and Accredited plan Managers - delegations and Performance Assessed determinations.
5. Built Heritage - State and Local provisions.
6. Climate Change issues.- urban canopy cover and tree protections

A table of Issues, Comments and Recommendations summarise aspects of the planning system and Code for review.

1. Code Contents, PDI Act & Regulations

Issue	Comment	Recommendations
<p>The activated system is now live and in use. Further on line testing and changes will affect developers, applicants, council staff and communities across the state. Ongoing amendments will occur as the system and Code content is tested in real time.</p>	<p>With new content in the form of additional zones, subzones, overlays, there is little stability or sense of certainty in the system.</p> <p>There is a need to further integrate content for easier portal access.</p> <p>need for better integration of access to relevant provisions</p> <p>progressive amendments to the working Code has resulted in a rush of applications under the former planning system where policies are clearer.</p> <p>Local government planners are dealing currently dealing with two planning systems and heavy work loads</p> <p>With respect to policies for climate change, heritage and urban design, the community has not had an opportunity to become familiar with many of the amendments and expanded content found in the activated Code.</p>	<p>Review of Code structure and functionality to reduce complexity</p> <p>clearer paths of accessing information ie better integration of scattered provisions into Code content</p> <p>Policy lacks statements of desire future outcomes to guide new development.</p> <p>The SPC and the Minister needs to ensure that future versions of the Planning and Design (P&D) Code address all the issues raised in the many submissions made throughout Phases 1, 2 and 3 regarding errors, omissions and inconsistencies and difficulty of interpretation before any informed community comment can reasonably be invited or expected.</p>
<p>Online accessibility issues include difficulty for the older generation who are within a population that is in a generational transition from print based information to on line access information . Because of this, they are discriminated against by lack of print based Code versions and the lack of face to face communications,</p>	<p>Given the undertakings of the legislation and Commission to consult widely on a "<i>more efficient and usable system</i>",¹ there has been little effort made to address the fact that communities have not had a chance to understand the additional content of the Code (eg additional zones, subzones, and design policies) until Phase 3 activation.</p> <p>Accessing online information is not simple and training/familiarisation in real time has been affected by</p>	<p>dating versions of Code as changes occur.</p> <p>Covid safe training sessions be provided in real time for seniors</p> <p>Retain the help desk assistance for the public to access the portal, including a</p>

¹ SAPC P&DC in the Outback-Technical Advice Report, p2 (Practice Direction 2 Consultation on the preparation of a designated instrument 2018)

Issue	Comment	Recommendations
	<p>COVID rules. There has been a lack of community training on how to use the online platform. People have not found the new system simpler, clearer and more transparent.</p> <p>The current online arrangements of content across different platforms and SAPPAs and Code structures presents significant barriers to members of the community successfully and efficiently making sense of the new planning system.</p>	<p>service for ethnic communities</p>
<p>Code contents: Procedural – Public Notification Public notification of development proposals is found under procedural matters within zone content, overlays or within the general policy of the Code, requiring advice to properties within 60 metres and a notice on-site, but with no third-party appeal right.</p>	<p>It appears that only development exceeding policy provisions of the zone will be notified, meaning envisaged development that has not existed in Development Plans before, will not be notified, eg 2 storey dwellings up to 9 metres in Neighbourhood Zones, 5 storey mixed-use building up to 18.5 metres in the Urban Corridor Main Street Zone etc.</p>	<p>Reassess public notification requirements for new and introduced policies that will not be notified.</p> <p>Given the new content introduced into the Code, the current planning regulations need to be revised to:</p> <ul style="list-style-type: none"> • Restore a more balanced level of development proposals which receive public notification. • Take into account the impacts of new land use and developments not only on adjoining owners but the communities likely to be affected in a much wider area. • Prohibit proposals which are seriously at variance with code policies being dealt with as Category 2 type developments. • Restore the appeal rights of third parties to what they were under the 1993 planning legislation.
<p>Restricted development exceeding maximum areas can be assessed by SCAP</p>	<p>There is no limitation on the extent of exceedance</p>	<p>Full Category 3 notification and Appeal rights to third parties should be re-instated for restricted developments.</p>
<p>Affordable Housing and other overlays are contrary to Suburban Neighbourhood and similar residential zonings that acknowledge consideration of existing residential amenity.</p>	<p>Overlays taking precedence over zoning and sub-zoning should not negate the intent of the zone to maintain local amenity and character.</p> <p>Some overlays are applied based on geographic aspects which are not relevant for rural country towns.</p>	<p>Review the use of overlays that negate the intent of the zone</p> <p>Remove superfluous overlays from residential zonings</p>
<p>Technical Note Variations (TNV)</p>	<p>Located on SAPPAs, not the zone</p>	<p>Integrate relevant TNV details within Code content to assist access.</p>

Issue	Comment	Recommendations
Adelaide Park Lands Zone	<p>Content lacks acknowledgement of heritage values and National heritage listing.</p> <p>The Minister for Heritage has advised that a Conservation Plan is a pre-requisite for state listing. Listing should not be contingent on the preparation of a Conservation Management Plan, but undertaken once the significance of the item is included on the State register of Heritage Areas.</p> <p>Currently there is one mention of trees under Performance Assessed development and that is Tree Damaging Activity, with no guidance provided regarding the subject.</p> <p>Being a Crown asset, public awareness of changes to the Adelaide Park Lands should be notified; maintaining not only public right of access but to protect the open space and passive recreational values of a city destined to grow up, rather than sprawl.</p>	<p>Committee consider recommending acknowledgement of the historical value within the zoning providing public notification for built form developments.</p> <p>Recommend Minister for Planning & Minister for the Environment expedite listing as a State Heritage Area and City of Adelaide and State Heritage Branch then proceed to prepare a Conservation Plan responsive to existing comprehensive studies of the Adelaide Park Lands</p> <p>Protection of existing trees including historical plantings be acknowledged as an integral part of the Adelaide Park Lands, with policies reinforcing their retention</p> <p>Remove exemptions for state agencies re significant and regulated trees pursuant to Schedule 14 in the regulations.</p> <p>Review the Category 1 status of the Park Lands Zone to enable community input into development proposals on what is public land. Categories 2 and 3 should apply to notification for appropriate development.</p>
State Parks	<p>More generally formal notification should be provided for all parks within the state considering the public interest and substantial investment provided by park volunteers who may not live within the distances stipulated for notification.</p>	<p>Reinstate public notification of development applications involving tourism and accommodation for areas outside of areas designated for same.</p>
Conservation Overlay	<p>CASA's previous submission raised the zoning of land inclusive of the Ratalang Basham Beach Conservation Reserve. The land is of significance to the Ngarrindjeri people. The zoning between coastal beach and the main east west link between Middleton and Port Elliot designates tourist accommodation and Agricultural Infrastructure zones. Suitable overlays may include Aboriginal Culture or Conservation to ensure planning policies establish the area's significance.</p>	<p>Policy content to acknowledge Aboriginal Conservation Reserves in the Code, bringing it in line with the official protocols of acknowledgement of Aboriginal occupation past and present as a mark of respect for indigenous people as traditional owners of the land.</p>

Issue	Comment	Recommendations
	The cultural significance of the land needs to be identified and considered for future planning.	This issue is of community interest and a response has not been evident by the SPC prior to or during Phase 3 activation in March 2021.
Comprehensibility	To assist public understanding and legibility of Code content	<p>Following glossary of terms as part of relevant overlays is suggested:</p> <ul style="list-style-type: none"> • DO = Desired Outcome • PO = Performance Outcome • DTS = Deemed To Satisfy • DPF = Designated Performance Feature

2. Loss of inclusive democratic processes within the state-wide Planning system

CASA agrees with Local Government Association findings that:

“the Planning and Design Code reduces the public notification requirements, with significantly more land uses being classified as ‘Deemed to Satisfy’, and therefore not requiring notification. In addition, the appeal rights of third parties have also been significantly reduced, with only restricted developments being subject to third party appeal rights. Notification is an important tool for informing and engaging with communities and the provisions relating to public notification should enable this communication in both metropolitan and regional contexts”.

Issue	Comment	Recommendations
<p>Local Councils have been marginalised in the new planning system via implementation of new system. There has been little participation initially, with a top down approach by the SPC and DPTI staff towards local council planners and public, although improved communication prior to and during Phases 2 and 3 when activated as errors became apparent in processing,</p>	<p>Significant increased costs to local government with the state requiring e-planning fees linked to council annual valuations of development</p> <p>The breakdown for 2020/21 for the e-planning distribution:</p> <p>Group A Development value >\$100M=\$59,100</p> <p>Group B Development Value> \$50 M &<\$100M =\$18,300</p> <p>Group C Development Value > \$10 M & <\$50M =\$6,100</p> <p>Group D Development Value < \$10 M=\$0</p> <p>DA lodgement fee is \$177.00 which goes to the State.</p> <p>There will be significant operational costs for each council in aligning existing electronic systems with the final state planning portal, staff training costs, legal costs, accredited professional services.</p>	<p>Review and provide a more equitable sharing of costs between local and state governments, considering the role of councils in providing facilitation of planning reforms systems and legal requirements.</p>
<p>Council Assessment Panels (CAP) replaced Development Assessment Panels (DAP)</p>	<p>The recomposition of the CAPS appears to have been a top-down state change and it is unclear whether CAP approval rates were affected statistically to warrant the changes.</p> <p>Advantages of previous 3:4 ratio of Elected Council Members to Professionals included:</p> <ul style="list-style-type: none"> • Council minority membership on CAPS as a component of planning authority 	<p>Review composition of CAPS, new regional RAPS membership to retain local government representation in balance with professionally accredited members on a 3 to 4 basis in the case of CAPS.</p>

Issue	Comment	Recommendations
	<p>membership resulted in improved understanding of planning procedures for elected councillors</p> <ul style="list-style-type: none"> ● Conflict of interest policy was strict. ● Professional members were appraised of local issues by councillors when determining applications strictly with DP policies. ● Professional expertise outnumbered local representation on CAPS – the Chairperson also being of professional status with a casting vote. ● The arrangement demonstrated the balances involved in a democratic process inclusive of local input. 	
Crown Land Development On-site Notices	The QR Code shown on site notices does not work. Help Desk unaware of problem	Check whether this has been rectified and comment period adjusted?
<p>Division 2: Online Planning Services and Information; Section 54 (1) Protected Information</p> <p>The ability of the Minister on the advice of the Commission to issue a direction prohibiting, restricting or limiting access to any document, instrument or material on the SA planning on the grounds of confidentiality or privacy; (b) commercial value or sensitivity or (c) safety or security or (d) any other matter prescribed by regulations., via a notice in the Government Gazette.</p>	<p>With the emphasis on the Planning Portal for main access to Code content in terms of transparency of information and an extensive suite of supporting materials and documents, the two sections provide a wide range of vague discretions and eliminates any possibility for any enquiry into why content is prohibited, restricted or subject to limited access</p> <p>Limited access is potentially discriminatory and is contrary to the notion that the Code is available to all people as a democratic process.</p> <p>The removal and prohibition of content may negate prior development decisions made in good faith by users of the system</p>	Committee to consider whether this is consistent with PDI Act, s.44.
PDI Act, Section 55 Freedom of Information Act does not apply to or in relation to a document (within the meaning of the Act) that is received, created, or held under this Division.	The provisions add to the uncertainty and vagueness of Code content and the accuracy/reliability of its method of online access. This appears to be contrary to the expectation and intent of the new planning system to provide a	<p>Committee to consider consistency of procedures with reference to PDI Act, s 44.</p> <p>This tends to negate the concept of Freedom of Information Access as a democratic right.</p>

Issue	Comment	Recommendations
	simple, more transparent, and unified system.	

3. Inadequate community consultation and contribution to revised policy statements prior to Phase 3 activation.

CASA is encouraged by the range of matters reviewed with the good intentions of the SPC, but is deeply concerned over community engagement to date. With the activation of the Code now replacing prior Development Plans the following have compounded the lack of access to new content as detailed in table below.

Issue	Comment	Recommendations
<p>Community Consultation process through Phases 1-3 contrary to PDI Act s.44²</p>	<p>The release of the first draft of the Code was incomplete, riddled with mistakes, omissions of content and completely dysfunctional due to on line content. The SPC Chair acknowledged the draft had been released prematurely.</p> <p>Further submissions regarding Phase 2 corrections prior to its activation were not all responded to.</p> <p>A number of valid comments on improving the content have not resulted in SPC improvements in Phase 3</p> <p>This has led to considerable disillusionment over the process which was supposed to be serially improved throughout the 3 phases of drafting and correcting content.</p> <p>Community and NGOs raised omissions regarding Phase 1 policies for the Outback, mapping mistakes and issues around conservation overlays relating to existing parks and reserves which were not comprehensively corrected.</p>	<p>Section 44 of the Community Engagement Charter be considered regarding the lack of community access to draft policies prior to activation of the Code.</p> <p>The current planning regulations need to be revised to:</p> <ul style="list-style-type: none"> • Restore a more balanced level of development proposals which receive public notification • Consider the impacts of new land use and developments not only on adjoining owners but the communities likely to be affected in a much wider area. • Review designation for development applications that may prove seriously at variance with code policies being dealt with as Category 2 type developments – reinstate the right to challenge decisions that are disputed.
<p>Lack of Community Training opportunities for new online portal</p>	<p>Leading up to the time of Code 3 activation, the SPC listed a series of technical workshops online for planning and building professionals and referred to community workshops on planning policy and design being prepared. On checking the SA Planning portal</p>	<p>Provide Code access training for community</p>

² PDI Act: s. 44 Community Engagement Charter

The following principles must be taken into account in relation to the preparation for amendment of the charter:

- (a) Members of the community should have reasonable, timely, meaningful and ongoing opportunities to gain access to information about proposal to introduce or change planning policies and participate in relevant planning processes;
- (b) Community engagement should be weighted towards engagement at an early stage and scale back when dealing with settled or advanced policy;
- (c) Information about planning issues should be in plain language, readily accessible and in a form that facilitates community participation.

Issue	Comment	Recommendations
	<p><u>only one</u> workshop was identified as a community workshop. This was to guide members of the public in lodging an application for development and how to track the development application. This falls far short of the overall planning reform intent to engage with the community on policy to remove the need for the public to comment on new development proposals and significantly reduce third party appeal rights except in exceptional circumstances.</p>	
<p>The Code contents online lack consistent headings, table of contents, and canvass an alphabetical list of developments, with a table listing numerous overlays, policies by number, and are divided between different categories as assessments.</p>	<p>A key targeted word search device would enable searching through the different layers more quickly and efficiently. It may also reduce the risk of missing important information.</p> <p>Nor can people approach council planners in the current situation as local government planners are on a rapid learning curve with heavy volumes of development assessment applications, both pre and post transition to the current system, needing to be assessed.</p> <p>Part of the problem is that changes proposed have not been presented comparing existing zoning and Overlays are difficult to locate and access.</p> <p>In terms of the information to the Committee from DPTI about approval statistics of improved processing times under the Code, is this time inclusive regarding validation of application details?</p>	<p>Consider how to make the Code better understood by members of the community</p>
<p>The authors of the new planning legislation seemed to have adopted the view that only neighbours should be given public notification rights but there are many instances of development, for example mobile phone towers, tall apartment buildings and certain commercial uses which have wide neighbourhood spill over effects. Local community groups have strong expectations that these types of development should be given public notification</p>	<p>The current state of the e-planning system is unworkable for many members of the public, especially for the elderly to the point of generational discrimination. This is compounded by:</p> <ul style="list-style-type: none"> • Online video guides on how to access the system, which lasts for a couple of minutes and is a complicated quick overview of how to access the system and drop-down icons to find details of zoning (no access via a table of 	<p>Portal access be improved</p> <p>Training opportunities to be provided for the community</p> <p>Colour coding should be revised to facilitate the unambiguous distinction between different zones. Colours should be bold and clear and there should be the opportunity to change colour schemes to cater for users with varying degrees and types of colour blindness.</p>

Issue	Comment	Recommendations
<p>because of their wider geographic impacts.</p>	<p>contents and page numbers visibly incorporated into the link.)</p> <ul style="list-style-type: none"> • No key to terminology and function provided within the Code (e.g., PO, DTS etc.) initially • The zones are colour coded in varying shades of colours etc. that are hard to distinguish on line and particularly hard to ascertain from the key, which also has to be accessed via a click down separately. 	

4. Assessment Processes

Public notification and planning appeal processes

CASA agrees with Local Government Association findings that: *“the Planning and Design Code reduces the public notification requirements, with significantly more land uses being classified as ‘Deemed to Satisfy’, and therefore not requiring notification. In addition, the appeal rights of third parties have also been significantly reduced, with only restricted developments being subject to third party appeal rights. Notification is an important tool for informing and engaging with communities and the provisions relating to public notification should enable this communication in both metropolitan and regional contexts”.*

Performance assessed decisions

Major studies undertaken of performance planning systems interstate and overseas indicate that they have been a major failure. The performance planning system currently operating in SA is exhibiting all of the same problems which have been identified in these other planning jurisdictions including:

- a lack of certainty and transparency
- inconsistent decision making
- strong feelings of injustice
- high levels of confusion
- major administrative burdens
- excessive levels of complexity
- undue developer influence
- development proposals not being dealt with in a wider strategic context (spot rezonings)

Issue	Comment	Recommendations
Classification Tables: Public notification enables planning decisions aware of local knowledge and contextual input by locals, with attention drawn to specific and inherent potential impacts. This can add valuable review and improvement to design outcomes.	It would assist if the Planning Portal provides a comprehensive list of new provisions and standards that have been introduced.	Review provision of Category 2 and 3 notification rights.
Planning Managers' decisions under delegations	<p>Related to hierarchy of accredited levels of planners and building inspectors under the Accreditation Board stringent requirements</p> <p>A Planning Manager (PM) is the relevant planning authority for a wide range of development applications and includes delegation to planning staff of lesser types of development. PMs when exercising power to determine whether or not a variation from the performance assessed policies is minor or reconsideration of variation of a</p>	Where the decision is that performance assessed development applications do not need to be notified the assessment manager is to neighbours the AM should document details of (a) site inspection date and (b) relevant aspects of minor variation on the DA file.

Issue	Comment	Recommendations
	<p>planning condition is minor consequence and can be removed are examples.</p> <p>Regulations are able to vary the discretionary delegations as well.</p> <p>Discretionary powers are extensive, via regulations, and are not evident to the community.</p>	<p>To improve the transparency of Code and assessment processes, regular updates on progressive changes to the regulations be accessible to the community via the SA Planning portal and in available in hard copy in public libraries.</p>
<p>State Council Assessment Panel (SCAP)</p> <p>PDI Act, s. 107 (2) (b) and (c) is relevant when determining whether an application is seriously at variance with Code provisions</p> <p>SCAP meeting procedures</p>	<p>Decisions by the SCAP have been subject to public criticism based on the perception that the Commission has failed to take into account whether an application subject to performance assessment is seriously at variance when assessed on its merits.</p> <p>The situation is not helped by the SCAP meetings determining an application in private, after the gallery listening to representations is cleared.</p> <p>The problems currently being experienced with performance planning could be eliminated if the not seriously at variance provisions of the Planning Act were properly applied, if they were also applied to the restrictive categories of development and some form of redress was made available in the legislation if they're not.</p>	<p>In view of public concerns over the changes involved and increased loss of confidence in the planning process by the community, review of SCAP meetings procedures is recommended</p>
<p>There is also a major concern that many applications being submitted to SCAP and local decision making bodies are being dealt with as Category 2 developments where notification is only provided to adjoining neighbours.</p>	<p>Public concern expressed recently regarding planning decisions currently being made through the application of performance planning processes being contrary to s,107 in the PDI Act, which requires performance assessed decisions to not be seriously at variance with planning policies in the Planning and Design Code. This is a discretionary decision by the Planning authority.</p> <p>Given the activated Code provides great flexibility of interpretation of performance guidelines, it is considered important that decisions involve regard to s.107</p>	<p>Recommend the notification rates of classification of Category 2 and 3 be reviewed by the Minister with respect to S.107 provisions, and public comment be possible during the review process prior to December 2021.</p>

5. Built Heritage

Code content for state and local heritage has been highly contentious over the past five years and was only more recently resolved with the transitioning of contributory items from Historic Conservation Zones within former development plans. The community is vocal in objecting to the demolition of both listed and unlisted buildings that exhibit design and materials of age and distinction.

Character Overlays should include mapping of Contributory items, public realm attributes to be acknowledged and be progressed with input from appropriate council nominated, policy planners, architects and landscape architects.

Part of the problem is the inability of the Commission to adequately transfer existing policy established over time by a number of local councils and to provide adequate guidance for future development, including an effective demolition policy protective of listed state and local buildings.

The designation of Character Overlays will be able to identify contributory items within a streetscape with less rigor regarding retention and protection. A descriptive table of the relationship of street and subdivision design, placement and character of buildings within the Character Overlay should be supported by a statement of desired development outcomes above the table describing the extent and nature of a Character.

Improvements to Code content is essential and should include a Desired Future Character statement to assist future development within the Historic Area Zone or sub-zone responsive to location within the state.

Issue	Comment	Recommendations
<p>Code Amendments It is unclear how the community's opportunity for input will occur into the Code through a code amendment in an historic area overlay.</p>	<p>The Code Amendment Toolkit³ indicates that in the next 12 months, the State Planning Commission intends that Code Amendments will be prepared and led by private proponents rather than by the Chief Executive of the Attorney General's Department. No new Regional Plans have been established under the PDI Act, and the existing 30 Year Plan does not provide sufficient guidance for the spot rezonings which will occur through Private Code Amendments.</p>	<p>No new Private Code Amendments should occur until a new Regional Plan has been established for Greater Adelaide</p> <p>The Minister consider community engagement opportunities for community members to familiarize themselves with private proponent Code Amendment procedures and clarification on how they may be involved in the amendment process</p>
<p>In Historic and Character area overlays – the development</p>		<p>Policy content required to include reference to regulated buildings,</p>

³ SA Planning Portal: Who can amend the Code? The Code amendment toolkit provides further information. Members of the community cannot but proponents can –

Issue	Comment	Recommendations
approval process requires reference to Heritage Area Statements and Technical Note Variations (TNV).		their status, and include consistent development policies to encourage retention or appropriately located and scaled replacement buildings.
While contributory item lists are now in the P&D Code as “Representative Buildings” there is no clear reference to these and they have no visibility in the code itself, only in the SAAPA mapping platform. There are no linkages to the schedules can only be found in the SAAPA mapping platform).	<p>The only references to Representative buildings in the Code are the administrative definition and an indication in the Historic Area Statements that they exist.</p> <p>Nothing explains what Representative Buildings mean, there is no Code definition, and no policy makes references to representative buildings. A descriptive table of physical attributes of a Historic or Character Overlay is needed to provide more guidance for future development.</p>	The overlays need to provide TNVs or alternatively advise where these can be found in SAPPAs and improved policies.
Performance assessed policies are currently sufficiently vague and flexible to be subject of varied assessment by a range of public and private accredited professionals who may have no understanding of the context and historic attributes of the area, given the lack of Desired Future Character (or equivalent) statements missing from the Code.	<p>The content of the Code for Historic Areas should balance the flexibility of assessment outcomes with the provision of a Desired Future Character statement as part of improving Code content</p> <p>Use of performance assessed policies elsewhere in Australia and overseas have proved inadequate and problematical.</p> <p>The balance between flexibility and certainty is a central issue to planning reform and consequently where performance assessed decisions have been used, changes have been provided with Desired future Character content to guide appropriate development</p>	<p>Improve the policy within the Historic Area Overlay for demolition states:</p> <p>Buildings and structures should not be demolished in whole or part, unless they are</p> <ul style="list-style-type: none"> (a) structurally unsafe and/or unsound and cannot reasonably be rehabilitated. (b) inconsistent with the desired character for the policy area (c) Associated with a proposed development that supports the desired character for the policy area. <p>Enable the addition of a Desired Future Character statement that provides appropriate development outcomes within either the Zone or the Heritage/Conservation overlays.</p>
Demolition	<p>It is erroneous to consider the changed facade of a local or state heritage listed building might be grounds for demolition</p> <p>The earlier policy regarding demolition relied on facadism as a quality that cannot be subsequently replaced if no longer original.</p> <p>Reinstatement of the front of a building can result in increase in</p>	<p>Demolition policy to state:</p> <p>Buildings and structures should not be demolished in whole or part, unless they are:</p> <ul style="list-style-type: none"> (a) structurally unsafe and/or unsound and cannot reasonably be rehabilitated; (b) inconsistent with the desired character for the policy area; and (c) Associated with a proposed development that supports the desired character for the policy

Issue	Comment	Recommendations
	value and consistency with the desired future character of a Historic Area	area.
<p>Heritage Area Statements:</p> <p>A robust HA statement should incorporate design performance measures that are inclusive of all buildings within the area.</p> <p>Heritage policies are still poorly written, incomplete and ineffective. Generic policies and performance assessed processes are not sufficient for good heritage protection.</p> <p>Heritage policy framework is split into multiple parts/ layers which are confusing.</p>	<p>There is still a big information gap in the inadequate Heritage Area Statements, and these have removed previous Development Plan information.</p> <p>It is vitally important that the flexibility of performance assessment content be guided by a Desired Future Statement to provide guidance to applicants about future development proposals.</p> <p>There is no reference to historical context, nor any guidance for appropriate future development provided via a desired future character statement or similar content. Therefore, the heritage protection and management is much less effective. This is despite sustained requests to the SPC when draft Heritage Area Statements were sent to councils (but not publicly consulted upon) for feedback.</p> <p>Scattered content between SAPP and Code leads to lengthy periods of searching for all users of the system</p>	<p>Heritage Area Statements providing contextual history information and clearer guidelines for new developments with inclusion of statement of Desired Future Development.</p> <p>Review placement of information into a more coordinated manner to provide the community with successful access to relevant information.</p>
Historic Area Guidelines	The Historic Area Guidelines are very simplistic, generic, and hard to apply in context, and generally not useful. They have not been the subject of any consultation and are considered not useful in the approvals process. They are generally inconsistent with local intent and are very limited and meaningless. Consensus among planners is that there is no support for the use of these guideline documents. These are not referenced in the Code.	Heritage guidelines need to be the subject of public and local government consultation, and improved.
State Heritage Areas and State Heritage Places	The Historic statement content is anticipated to be reflective of the historical basis for listing and provide clear guidance regarding the historical, physical and cultural	

Issue	Comment	Recommendations
	<p>values of areas, spatial relationships, public infrastructure, open space and landscape character, architectural details, traditional materials and relationships and guidance for future change. The latter is essential given the controls within State Heritage Areas involving built heritage apply to all development (including painting).</p> <p>A Historic statement for Colonel Light Gardens has been consulted with stakeholders including community members and will be used as a model for other State Heritage areas in SA. This is an example of better community consultation and communication.</p>	
Accreditation for heritage related content	<p>It is noted that technical skills and knowledge related to heritage conservation and preservation processes, including knowledge of appropriate building materials and techniques are not taught within South Australia, apart from conservation courses offered by the Construction Industry Training Board (CITB).</p> <p>In the absence of state based heritage skills training, the conservation courses available through the CITB should be encouraged as part of ongoing practical and technical training for tradespeople, architects, planners, and development assessors. Reference to the Burra Charter and membership of Australia ICOMOS and the CITB should be encouraged by the State.</p>	<p>Related to accredited professionals, this point could be referred to the SA Accreditation Board for consideration, to fill a void with respect to specific private accreditation for heritage related development.</p> <p>The Committee consider that an accreditation system established as part of planning reform review require accreditation standards specifically for heritage policy, assessment and advisory services from ICOMOS members as a requirement of their professional accreditation.</p> <p>The need for a heritage impact statement in every instance is queried on the basis that if the Historic Area Statements are well articulated and indicate desired outcomes, then surely the applicant and owner should be able to rely on the Code for guidance.</p>
TNVs may contradict and diminish the comprehensiveness and clarity regarding reinforcement of key historic subdivision patterns.	This issue is relevant to all zones, sub-zones and policy areas policies and will need to be checked during operation of the Code over the next 6 months	Monitor how influential TNVs are in the assessment processing of development applications for at least 6 months and be including in regular audit procedures.
The Character Overlay Assessment Provisions relate to	As there are few Deemed to Satisfy (DTS) provisions except for	1. To complement the purely descriptive nature of each

Issue	Comment	Recommendations
<p>streetscape amenity and development that complements a defined streetscape character. There is no public notification or referrals provided under Procedural Matters (PM).</p>	<p>Additions and Alterations, the Performance Outcome (PO) statements address the need for new development to address prevailing characteristics of the area.</p> <p>The acknowledgement that State and/or Local Heritage places within the locality contribute to the attributes of a Character Area is a positive aspect of the Character Area provisions.</p> <p>Inclusion of a contextual statement should provide clearer description and avoid the need for a separate Contextual Analysis report. (to improve guidance for applicants). It is noted that notification requirements are not provided</p> <p>Suggest notification be relevant for performance assessed applications, except in the case of minor variations.</p>	<p>table heading, a contextual statement emphasising streetscape values and providing insight into the intent of the Character Overlay above the table be provided.</p> <ol style="list-style-type: none"> 2. Landscaping and retention of large trees be included as a heading in the Table. 3. Public notification should occur under Procedural Matters to enable better assessment outcomes. 4. Local and state heritage places, if within the Character Overlay must be identified and referred to in mapping. 5. Demolition should not remove large existing trees- recommend reconsideration of demolition remaining complying development. 6. Accredited professionals who offer private assessment services for heritage related applications should be members of Australia ICOMOS being bound by the Burra Charter procedures, ethics and guidelines. Australia ICOMOS has set the standards for heritage professionals that are internationally recognised.
<p>The intended removal by the SPC of the current legal requirement of 51% approval by all land owners in an area proposed for heritage zoning (and/or overlay) is supported, for the process to provide approval of a new historic area is contrary to normal and broader public interest.</p>	<p>Commissions response to remove the requirement fully supported</p> <p>Impractical and expensive to implement.</p>	<p>confirmation of removal</p>

6. Climate Change and Trees

The following Issues related to the trending in our world towards higher temperatures, increased energy demands, continuing population growth, increased requirements for food, water, space, habitation, accelerating rates of species loss, and extreme weather events at a global and national scale. While the Commission issued design guidelines for urban infill shortly before final activation of the Code to improve residential amenity, the Code has been timely because planning is a vehicle to provide better policies towards sustainable development at state and local levels.

At a local and neighbourhood level, the incremental effects of continuing housing infill will only improve if urban design standards effectively address the need for healthy, safe neighbourhoods with shady streets and large treed private open spaces as well as public open space.

CASA supports the efforts of the Heart Foundation, TreeNet and similar institutions that advocate for healthy and sustainable lifestyles at the local level.

Our submission focuses on Urban Canopy cover in residential areas, which are undergoing infill and formerly deferred urban zonings at the periphery of metropolitan Adelaide and the disappearance of canopy cover which has concerned the community and CASA as a key issue for review and improvement. This section reinforces and acknowledges the CCSA submission on Phase 3 activation.

Issue	Comment	Recommendations
<p>Canopy Cover</p> <p>Tree policies in the activated Code do not adequately address the State Planning Policy 4-Biodiversity (SPP4), which states:</p> <p>“the planning system has a fundamental role to play in conserving biodiversity at the landscapes scale to maintain the critical function it provides. The planning system must enable the recognition and protection of ecosystems that help safeguard the prosperity, vitality, sustainability and liveability of our state. This includes mitigating the undesirable impact of biodiversity loss; helping businesses and industry capture new and emerging market opportunities and increasing our resilience to challenges such as climate change.</p> <p>The planning system has a role to play in ensuring biodiversity and associated life supporting functions are maintained and enhanced by: identifying and protecting areas of</p>	<p>Overall the draft Code did not meet the expectations of SPP4 in that:</p> <ul style="list-style-type: none"> • it did not contain an overarching biodiversity policy (eg Desired Outcome) and omits important policies included in Development Plans and the Planning Policy Library. • References to biodiversity or the full meaning and attributes of biodiversity are lacking in key zones and the new general provisions have been reduced and disaggregated to comply with the new format. 	<ul style="list-style-type: none"> • Incorporate biodiversity impact considerations raised by the above points and other submissions including Nature Conservation Society of South Australia and the Conservation Council of SA (CCSA) that biodiversity should be included in the General Policies. • The following zones: Rural, Conservation, Rural Living, Land Division in Rural Areas, Adelaide Park Lands and related overlays including Significant Landscape Protection Overlay, Regulated Tree Overlay, State Significant Native Vegetation Overlay be reviewed for improved protection existing and improved green canopy cover to counteract projected temperature increase. • Develop and implement a Critical Habitat Overlay that includes critical habitat for threatened species and

Issue	Comment	Recommendations
<p>high biodiversity value:</p> <ul style="list-style-type: none"> • ensuring development occurs in appropriate locations, is sympathetically designed and is compatible with conservation values • assessing the cumulative impact of development on biodiversity, including spatial, temporal and incremental impact • recognising and maintaining modified landscapes where land use and conservation values co-exist in a mutually beneficial way • ensuring people have access to natural places that contribute to their quality of life, health and well-being as well as providing areas for recreation. <p>When environmental values are considered early in the planning process, development in environmentally sensitive areas can be avoided and cumulative impacts are able to be better managed.”¹</p>	<p>Submissions by the Conservation Council of SA Inc. addresses these issues; however CASA is particularly concerned with the alarming destruction of mature trees on private land and where road infrastructure is involved.</p> <p>Unless the state takes more action with respect to Climate Change through the activated planning system, the baby steps provided by the Commission regarding tree planting policies will not achieve stabilising the continued loss of trees and disappearing canopy cover.</p>	<p>ecological communities listed nationally and at the state level.</p> <ul style="list-style-type: none"> • Stronger policy in relation to renewable energy to ensure further clearance of native vegetation for solar farms is avoided. • Stronger protection for regulated and significant trees, recognising that retaining existing tree canopy is not only important for biodiversity but is of highest priority given our changing climate).
<p>Trees</p>	<p>The SAPC’s Update Report on Significant and Regulated Trees states:</p> <p>“In establishing the overlay relating to regulated and significant trees, the Commission proposes to retain current assessment processes and the underlying policy intent set out in development plans across metropolitan Adelaide. Where trees declared as significant are listed in a development plan, these will be transitioned into the Code and spatially identified through mapping.”</p> <p>Regulated and Significant Tree recognition has been transitioned but the policy wording has resulted in undermining of protections, especially for regulated trees.</p> <p>Existing policy isn’t working. Over the last 10 years we have a seen a massive loss of tree cover for infill development and also for road widening and rail projects and</p>	<p>reinstate prior tested Regulated and Significant Tree policy into the Code without change.</p> <p>The Minister improve Climate Change policies that requires additional canopy cover to counter the temperature increases</p>

Issue	Comment	Recommendations
	school building. We need much stronger policies and controls	scientifically predicted in the foreseeable future.
<p>PDI Act Section 49; Schedule 14— State agency development exempt from approval</p> <p>(1) The following forms of development, other than in relation to a State heritage place or within the Adelaide Park Lands, are excluded from the provisions of section 49 of the Act:</p> <p>(v) tree-damaging activity in relation to a regulated tree— (i) that is on any land—</p> <p>(A) on which a school, within the meaning of the Education and Early Childhood Services (Registration and Standards) Act 2011, is located or is proposed to be built; and</p> <p>(B) that is under the care, control or management of the Minister responsible for the administration of that Act; or</p> <p>(ii) that is on any land—</p> <p>(A) on which a road is located or is proposed to be built or widened; and</p> <p>(B) that is under the care, control and management of the Commissioner for Highways; or (iii) that—</p> <p>(A) is on railway land as defined in Schedule 3 clause 13(5); or Development Regulations 2008—15.8.2019 Schedule 14— State agency development exempt from approval</p> <p>Published under the Legislation Revision and Publication Act 2002</p> <p>(B) is on land adjacent to railway land and is, in the opinion of the Rail Commissioner, detrimentally affecting the use of, or activities or operations on, the railway land.</p>	<p>If the state government is to take climate change seriously and reverse the relentless removal of established tree canopy, it could lead by example and remove the exemptions that have led to significant losses of trees on public land.</p> <p>The committee’s attention is drawn to Appendix 1, supplied by a resident within the community who has been involved in recording the rate of tree loss caused by the state for the public realm.</p> <p>The information provided raises a concurrent issue regarding movement systems, which are inclusive of current state infrastructure projects. The report provides graphic evidence of how relentless the state has been in the destruction of significant mature trees as well as private developers in maximising investment development with urban infill. A high level of public concern over the loss of canopy cover in SA existing and future urban areas in deferred urban zones on the fringes of Adelaide and in the Mount Barker area in particular.</p>	<p>Repeal Schedule 14 state agency exemptions regarding significant and regulated trees to address the issue.</p> <p>Planning policies to encourage infrastructure and building development to design to accommodate large shade trees</p>
Loss of tree canopy cover	CASA notes and supports the information provided by Mr Yuri Poetzel, whose submission demonstrates the loss of canopy cover loss.	<ol style="list-style-type: none"> 1. The existing tested Regulated and Significant Tree policy be transitioned into the Code without change. 2. All large trees both indigenous and non-indigenous species, whether in rural or urban

Issue	Comment	Recommendations
<p>9 Mapping error from Phase 1</p>	<p>It is of concern that the state government is prioritizing public infrastructure and redevelopment over protection of canopy cover.</p> <p>The targets set by the 30 Year Plan regarding an increase of canopy cover are compromised.</p> <p>It is acknowledged after the implementation of the P&D Code, an Urban Tree canopy Off-set Scheme was established. This is part of new residential infill policies provided to address water, improvements in housing design, parking and tree planting, to some extent.</p> <p>The scheme allows an applicant to elect to contribute into a fund, in lieu of planting trees as required by the Urban Tree Canopy Overlay. Designated Soil Type criteria include extreme or highly reactive clay soil types. Because of the extent of reactive soils in some council areas the exemption may undermine the Residential Infill policies.</p> <p>9 A shortfall in the extent of Conservation zone coverage of all</p>	<p>environments, should be given a true economic value and retained.</p> <ol style="list-style-type: none"> 3. All large native trees, as defined in the Native Vegetation Act, should require Council or the Native Vegetation Council decision regarding their retention. 4. A special provision be provided for the retention of Grey Box trees due to their endangered classification and the fact they often do not grow to a regulated tree size. 5. Review true valuation of mature trees to recognise that size does matter – Big trees provide the most environmental benefits. The requirement for small tree planting as part of urban infill while desirable, needs to be accompanied by better protection and retention of existing large trees in the urban environment. 6. Re the Urban Tree Canopy Offset and implications regarding the extent of Designated Soil criteria regarding reactive soils, assess how the Residential Infill policies can redress the undermining of Residential Infill policies. 7. Include DTS provision for car parks at a rate of one shade tree per 6 car parks (in car parks with more than 6 spaces) and sufficient space for watering and growth. 8. Include specific references to biodiversity protection in zones, including defining public land in relevant overlays and zones. There are a number of overlays that are related to public land that do not acknowledge the importance of long lived, large trees and their contribution to ameliorating predicted temperature rises. 9. Conservation Zone (including mapping) must be rechecked to fully cover all gazetted

Issue	Comment	Recommendations
	gazette reserves and wilderness protection area.	reserves and wilderness protection area.

1 SPP4, accessed online 20/12/2019 via Planning Portal SA.

Conclusion

The enormous drain on state and public resources occasioned by the legislative changes in the Planning, Development and Infrastructure Act 2016, and Code drafting over past several years cannot be disregarded. Therefore CASA seeks an alternative to 'ditching the Code'; with further reforms to re-establish a fairer, equitable and workable planning system for South Australia:

1. *Balancing* discretionary performance assessed policy content with the provision of local council prepared statements of *desired development outcomes* (formerly Desired Future Character statements) for all zones and subzones/policy areas;
2. Review of the State Planning Commission and its meeting procedures; amendment of legislative structures established by the PDI legislation to enable wider membership inclusive of independent and qualified heritage skills, and climate change/conservation representation
3. Ensure the identified improvements to heritage content in the Code and procedural improvements are undertaken, as recommended in this submission, with essential input from local councils and the community.
4. Re-establishment of public notification and appeal rights for third parties for developments arising from new policies introduced into the Code.
5. Reinstate notification and appeal rights for developments involving public land (inclusive of the state's parks system and Aboriginal reserves)
6. A review of residential infill development rates, to implement parking, design, water management and other amenity improvements anticipated by the Urban Infill policies in the first 12 months of activation.
7. Improved access and legibility of on line Planning SA systems
8. Opportunities for on-going Training sessions on working through the P&D Code content for community members in real time, face to face situations in a Covid safe environment.
9. Replace the marginalisation of Local Councils forming part of CAP membership from 1 back to 3 members in the CAP new planning system (on this issue the LGA has said: "*This makes SA inconsistent with all other states in Australia where a stronger role for planning for their local councils is provided for*")
10. Restrict the role of private certifiers o address the issue raised by the LGA and our members: (on this issue the LGA has said: *The LGA has previously raised concerns with the use of private certification in the planning system, specifically that the new planning system will result in undesirable community outcomes due to the loss of local knowledge in the assessment process. As it currently stands private certification could be conducted by a registered certifier anywhere in Australia*")

CASA is not alone given the content of public submissions to date. We are disappointed at the lack of response on a number of policy fronts within the Code that were communicated in previous submissions to the SPC and are concerned over the level of community angst regarding the loss of democratic rights of involvement and participation. The transfer of power to state governments, touched on in this submission, does not progress an inclusive, transparent and efficient system to regularize state wide developments in its current form.

Ideally within the initial 6 months of Code activation during 2021 changes to deliver better development outcomes consistent with points 1-8 will be possible. Re-establishing community engagement processes will restore community confidence in State governance as facilitator of a better planning system. Enabling the community to comment, provide input and when necessary query or challenge decisions the process will deliver a more equitable outcome.

Thank you for the opportunity to present to you some of the concerns the Community Alliance has regarding the new planning system and to suggest how improvements/review are needed.

Yours Sincerely

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