

20 February 2020

Mr. Michael Lennon
Chairperson
State Planning Commission
GPO Box 1815
Adelaide SA 5223

Dear Mr Lennon.

Friends of Willunga Basin and Friends of Port Willunga Submission on Draft Planning and Design Code – Phase 3

This submission on the Draft Planning and Design Code – Phase 3 has been prepared for and is endorsed by the respective committees of the Friends of Willunga Basin and the Friends of Port Willunga.

Both of our groups are long-standing not-for-profit incorporated organisations dedicated to preserving the environment, agricultural land use, biodiversity, beauty and significant heritage values of Port Willunga, its Aldinga Historic Township gateway and the Willunga Basin region in general. Both groups strongly support considered and orderly urban development and planning that incorporates strong heritage and environmental policy.

We thank the Commission for the opportunity to make comment on this important planning document and look forward to working with the Commission and the City of Onkaparinga (CoO) to ensure that the final version of the Code is a document that **truly reflects and aligns ‘like for like’** with the City of Onkaparinga’s current Development Plan, while reinforcing State Government legislation, including legislation relating to Character Preservation and the Environment and Food Production Area (EFPA).

We note that current development plan policy has evolved over many decades of activism and community consultation since the 1960s, when the Hills Face Zone (HFZ) was first introduced, and that many planning initiatives including the HFZ, integrated water resource legislation, the Urban Growth Boundary, Character Preservation legislation and the EFPA were the first of their kind in Australia. We are proud of our respective roles in supporting that long history of planning policy innovation.

As poorly-resourced community groups, we appreciate Minister Knoll’s recent decision to delay implementation of the Code although, as further expressed below, we believe that further delay in the system ‘going live’ will be required. We echo the many community groups across the state who simply have not had the capacity to review the draft Code thoroughly in the given time frames, especially given the enormous size of the draft code PDF document, the numerous anomalies, and current awkward table format version of the proposed eplanning system.

We have therefore relied heavily on the City of Onkaparinga’s own analysis and submission – with which we are in broad agreement – and on the advice of an independent planning consultant, to highlight what we believe are the key issues needing to be addressed from a Willunga Basin perspective. These are as follows:

1. Carry Over of Desired Character Statements

We support Desired Character Statements being carried over into the Code. Built over decades, Desired Character Statements provide sophisticated local contextual detail which articulate community expectations, while also supporting legislative requirements for Character Preservation, the maintenance of place character (and resistance of homogenisation), particularly with regard to the historic townships contained within the McLaren Vale Character Preservation district: (Port Willunga,

Aldinga, Willunga, Kangarilla and Clarendon). This approach will also support the stated intent of the Code to provide a “like for like” policy transition, without compromising the underlying structure or operation of the Code. We believe the current omission of the Desired Character statements, to coin an old phrase, results in the baby being thrown out with the bathwater.

2. Township Zones and need for Sub Zones

For similar reasons – and noting that not a single Policy Area in the current CoO Development Plan has made the transition to the Code – we support existing policy areas and precincts being transitioned to subzones to recognise unique land use or character differences, particularly with regard to the tourism destination township zones of Port Willunga, Aldinga, Willunga, Kangarilla and Clarendon. We support the CoO recommendations for the Clarendon and Willunga townships based on recent policy consultation with those communities, in particular increasing allotment sizes in the current Residential and Residential Foothills Zone to reflect the community’s expectation and existing character, possibly through the application of a Residential Neighbourhood Zone with TNVs.

3. General Neighbourhood to Residential Neighbourhood with TNVs

We recommend that both our non-sewered and high/medium bushfire risk rural township residential areas adjacent to the (historic) Township Zones be changed from a **General Neighbourhood** to a **Residential Neighbourhood Zone** with TNV’s for larger minimum lot sizes/frontages. This will ensure enough space to accommodate on-site waste-water management systems (septic tanks) and bushfire design criteria, will mitigate against the loss of significant trees on account of smaller subdivisions being allowed (particularly in Willunga) and will better retain the existing rural and beach-side character of Willunga and Port Willunga in particular. This would apply to the residential area of Port Willunga north of the Willunga Creek Linear Park, and residential areas in Willunga outside the Township Zone but under septic systems and/or where bushfire is an issue. (Note this is slightly different to the CoO recommendation of making these areas Suburban Neighbourhood Zones with TNVs – and, indeed that a ‘Township Neighbourhood’ zone might be more even appropriate in rural localities which are clearly not suburban *per se*.)

4. Non-residential Developments in Residential and Township Areas

We support reductions in maximum floor areas permitted in our rural townships for commercial, retail, warehouses and industrial land uses taking the performance assessed pathway.

We also support the containment of general commercial and retail activity in towns such as Willunga and McLaren Vale to appropriate locations through the use of a Township Main Street zone or similar.

5. Historic Area Overlay and Historic Area Statements

We support inclusion of prescriptive and numerical characteristics within the Historic Area Statements to assist with the assessment of new development within Historic Areas. We also support inclusion of pictorial guidelines (currently Table Onka/7 in Onkaparinga Development Plan) for development in a Historic Area or of a State or Local Heritage Listed Place.

6. Primary Production (proposed Rural) Zone to Peri-Urban zone (with better name)

We support the continuation of the Character Preservation District legislation and its provisions, and suggest this could be further reinforced with a Significant Landscape Protection and/or Scenic Route overlay.

It is noted a TNV of 16 hectares will be applied in the proposed new Rural Zone, however land division proposing less than this will be performance-assessed, which is a major shift in policy (as this situation is currently ‘non-complying’) and is of real concern to our groups.

Contemplation of a second dwelling on an allotment is also at odds with existing policy.

FOPW and FOWB strongly oppose both of these shifts in policy and recommend adoption of a mechanism that discourages departure from either the minimum allotment size or the development of second dwellings on existing allotments. We see both of these new policies as a ‘sneaky’ policy change that is not in the spirit of either a ‘like for like’ transition nor of the Character Preservation legislation.

We note that evidence-based research undertaken by PIRSA and others show both these policies would result in the undermining and erosion of agricultural production, the primary purpose of the zone. This would be in conflict with the Productive Economy aspirations of the Code.

It is also noted that a Peri-Urban Zone is proposed within the draft Code which seeks smaller scale and less intense development than the Rural Zone. On this basis, we consider the current Primary Production Zone contained within the Willunga Basin and Character Preservation district would better align with the Peri-Urban Zone policy (subject to name change to better reflect priority primary production land-uses, as recommended by the CoO).

7. Non-complying vs Restricted development vs Performance Assessed Development

It is of considerable concern to both our groups that the Code has no equivalent to the current ‘non-complying use’ designation and that it is not clear how applications which would have caught in this net will be dealt with beyond the seemingly opaque ‘Restricted Development’ and ‘Performance Assessed’ processes. As to the notion of a proposal being ‘seriously at variance’ with the zone provisions, it is entirely unclear how such outliers will be captured and dealt with. The discontinuation of the requirement for concurrence between local and state authorities on such outliers is also a concern, especially with regard to applications previously deemed non-complying in sensitive rural and historic locations.

8. Tourism Development Policy

We support greater clarity on the meaning of ‘tourist development’ and ‘tourist accommodation’, together with appropriate policy and design guidelines.

9. Hills Face Zone

We support the application of the Significant Landscape Protection Overlay over the HFZ and stronger prevention of accumulative effects of insensitive and inappropriate land uses that do not maintain or improve its conservation and/or heritage values.

We share the CoO’s concern that the Code provides limited design assessment criteria regarding built form, massing and siting for development in a sensitive and natural area and that inappropriately scaled buildings could result in much greater and more frequent cut and fill than is allowed by current restrictions.

10. Open Space Zone

We strongly recommend the draft Code policy be expanded to align with the objectives of the current Open Space Zone, which refer to its preservation, conservation, larger allotment areas, greening and cooling and the amenity benefits of open space. We support inclusion of the CoO’s existing policy and support inclusion of a restricted list of land uses and the application of the Significant Landscape Protection Overlays.

11. Aboriginal Heritage

We highlight that there is no mention of any policies regarding Aboriginal heritage or culturally significant sites, despite their inclusion in State Planning Policy 7. This is also a gap in the current planning system, with there being no mechanism for formal referral relating to Aboriginal cultural matters and the protection of Aboriginal heritage, despite the wide-reaching effect of the Aboriginal Heritage Act 1988, which all developers are bound by. We support the CoO submissions in this regard.

12. Native Vegetation Overlay, State Significant Native Vegetation Overlay and Hazards (Flooding) Overlay

We support the CoO submissions under the above (Item 12) headings.

13. Bushfire Urban Interface Overlay

CoO's recommendation to change the proposed General Neighbourhood Zone to the Suburban Neighbourhood Zone with TNV's for larger minimum lot sizes and frontages could be better accommodated with a change to the **Residential Neighbourhood Zone** with TNV's instead, especially with regard to those zones adjacent (historic) Township zones.

14. Tree Canopy: Significant Trees and Space for New Trees in New Development

We are concerned that the uniform application of reduced allotment sizes in many localities will inevitably result in the loss of more Significant and Regulated Trees, an outcome which is inconsistent with recent government policy initiatives (eg Greening Adelaide and the CoO's concomitant policy), which aim to preserve and increase tree canopy cover as part of climate change adaptation and to mitigate against the creation of heat sinks in urban areas. We urge that the significant environmental assets that Significant Trees represent be recognized by the Code and those provisions applied to ALL zones. In particular we support the need for allocation of space for tree root zones for the planting of new trees and retainment of existing trees in any new development.

15. Advertisements and Signs

We agree new Code policy should be strengthened to accommodate a range of design criteria for advertisements which reference the character of an area, either rural or urban in nature. The effects these signs have on the rural landscape and township streetscapes by way of design elements and their possible siting to avoid damage and/or excessive pruning to existing trees or the obstruction of views or areas of high amenity must also be considered. Assessment criteria for guidance in design and form of signs, particularly for sites or buildings of historical significance or heritage value, have also been omitted and need to be included to maintain a 'like for like' transition.

Conclusions

Once again we make the point that in the short space of time allowed for its review, it has been challenging for professionals to understand the Code and its on-ground effects, let alone lay people.

We therefore thank you for extending the implementation deadline but, consistent with the spirit of the Community Engagement Charter, urge you to allow the draft Code, amended after consideration of all submissions, to be further reviewed by Councils and community members before it is implemented.

The failure of the Commission to respond to all feedback to date, along with the numerous errors and anomalies still in evident in the draft Code as we undertake this submission, makes allowing time for a second review an imperative if the community and the development industry is to have trust in eventual successful implementation of the Code.

In a more general sense, we contend that the draft Code allows the pendulum to swing too far from the centre in terms of the stripped-down policy settings it proposes. If the current Development Plan is too complex or heavy handed, then we suggest that the draft Code applies too light a touch in its approach to development planning.

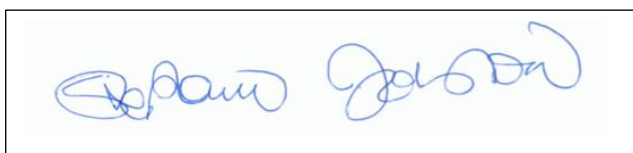
The failure to clearly define a transparent process for the assessment of Restricted Development or development that is Seriously at Variance with the Code is a case in point. Efficiency and productivity should indeed be hallmarks of a modern planning system, but these attributes should not come at the complete expense of community wishes and desires and the heritage values and landscape characteristics evolved over 180 years and longer.

For all of these reasons we request:

- amendment of the draft Code in a manner which is consistent with the points set out above and with the CoO's submission on this matter;
- full and comprehensive testing of the Planning and Design Code before it goes live to identify significant unanticipated and/or inappropriate policy changes, errors, missing content and/or unintended consequences to allow for required policy amendments;
- additional consultation with community groups on changes to the Planning and Design Code arising from Phase 3 submissions, through circulation of and consultation on a second draft of the Code;
- that the Commission ensures every South Australian is notified of the changes proposed to their property to meet the PDI Act and Community Engagement Charter;
- the opportunity to test the effect of the proposed Code in the ePlanning system (as originally proposed for in the announced transition process); and
- that the Commission provide adequate time to prepare for the full implementation of the changes in order to secure community confidence in the transition process.

We trust that you find this feedback constructive and that, along with the City of Onkaparinga's submission, it will lead to amendments to the Code as it applies to the Willunga Basin and environs, with additional policy where there is agreement that policy gaps exist, or amendment is required.

Yours sincerely,



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