



**Conservation Council
of South Australia Inc**

**Submission to the
Planning Review and the
Draft Residential Code.**

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Terms of Reference

CCSA have produced this public submission in response to the release of the State Government's Planning Review '*Better Planning Better Future*' community consultation pack, incorporating a six page 'Planning Reforms 2008' document and an accompanying Draft Residential Development Code (RDC)¹.

Executive Summary

CCSA has a long history of involvement and interest in planning and urban development issues. Previously CCSA's Planning Working Group has met with the Planning Review team led by **Professor Jennifer Westacott** and has also written to the Minister on the necessity to retain an **Urban Growth Boundary (UGB)** arguing strongly against the proposed expansion of it.

That opposition was predicated on the knowledge that we are facing an uncertain future in respect to climate change and peak oil in a carbon **and** water constrained world. Life on the periphery of Adelaide is likely to become increasingly expensive, both economically and environmentally. Sustainability will increasingly become a major focus of government policy and societal aspiration.

The Planning Review has the potential to help transform Adelaide into one of the world's leading sustainable cities, but the recommendations in their current form will not achieve this end. CCSA is concerned that some reforms may lead to negative outcomes in terms of loss of open space, impacts on native vegetation and biodiversity, local character and amenity.

CCSA sets out a number of principles it believes the Planning Review should adhere to and makes a number of recommendations to ensure the streamlining of the legislation does not lead to negative environmental,, social or economic outcomes.

These recommendations centre around

- streamlining assessment and approvals
- biodiversity and native vegetation
- standards the code should contain
- site coverage, increased residential densities and open space
- heritage

¹ Planning SA 2008

Preamble

The **Conservation Council of South Australia Inc (CCSA)** is the peak conservation body for South Australia, representing over 55 of the State's environment and conservation organisations.

CCSA is an independent non-profit, non party-political, community based organisation which provides resources, advice and representation for the SA environment movement, and which leads many of the key conservation campaigns in SA.

CCSA is known for its success in developing long term community development, education, and on-ground environmental restoration programs.

CCSA regularly liaises with Local, State and Federal Governments, Government agencies, media, educational institutions, NGOs, unions, industry, business and other groups on matters relating to the environment and social justice.

As a community organisation, much of what CCSA achieves is through a large network of skilled volunteers from all walks of life – for its office, on-ground, governance and campaign activities.

CCSA is committed to a healthy environment for South Australia.

Introduction

CCSA believes that the overriding imperative of the planning system should be to facilitate the transition to urban development that is environmentally and socially sustainable, self-reliant in water and power and that minimises and recycles its own waste. Likewise, CCSA believes that the primary goal of any reform of the **RDC** should be to promote **ecologically sustainable development (ESD)**.

In CCSA's view, the **Draft Residential Development Code (RDC)** promoted by **Better Planning Better Future** does not achieve this. It is instead focused on streamlining procedures and removing 'red tape'. Reducing bureaucratic impediments to enable the fast-tracking of development approvals, or removing the need for approval, raises some serious questions about the adequacy of the protection to the community, neighbours, biodiversity and native vegetation.

Since European settlement, Adelaide has traditionally expanded across the Adelaide plains as a low density, primarily single-storey city. Up to the present, this has been 'business-as-usual', but this form of development is no longer sustainable, or appropriate in a carbon and water constrained world. As it stands, neither the proposed RDC, nor existing Australian Building Codes are sufficiently focused on delivering the sustainable outcomes that are needed.

CCSA also expects that further community consultation will take place to develop:

- Regional Land Use Frameworks;
- Lists of zones/policy areas where the residential development code will apply in relation to new dwellings; and
- Similar codes for dwellings currently exempt from this particular code: namely: residential flats, apartments and group dwellings
- Criteria for what is considered '*high value*' need to be determined with respect to conservation and agricultural land under the planning reforms 2008 document.

Given the State Government's stated intentions to take control from local councils to develop **Transit Oriented Developments (TODs)** across Adelaide, this is even more important.

The RDC makes various statements that demonstrate commendable aspirations, however there is no reference to how these will be achieved. How, for instance, will the proposed RDC achieve '*liveable new communities developed with built-in water and energy efficiencies and which limit our carbon emissions*'?

CCSA considers that the RDC needs to operate in tandem with Building Codes to increase significantly the energy and water efficiencies of all new dwellings and significant renovations.

With the addition of our feedback below, it is hoped that the RDC will better achieve its stated goals.

1. Streamlining Assessment & Approvals

CCSA is concerned that the proposal to streamline approval processes does not undermine existing protection of biodiversity and habitat and that it actively addresses the need for our built environment to adapt in the face of climate change, peak oil and water shortages.

The Assessment process should remain thorough:

- CCSA does not support streamlining planning assessment processes to the extent that thorough and careful planning is compromised.
- CCSA is concerned that these proposed reforms should not lead to negative outcomes for native vegetation and biodiversity.
- Nor should they lead to an overall net negative impact on amenity, character or heritage values of an area.

In reference to greater independence of the development assessment process via Council **Development Assessment Panels**, we recommend that it is a requirement that such panels have a minimum level of expertise in environment/NRM and biological conservation fields to ensure the needs of these areas are adequately represented.

Planning Reforms 2008 comment:

- There is a need for improvement in the way agencies are consulted in the development assessment process, ie improved integration.
- There should be more requirements around greenhouse gas emission control, in particular for large projects.
- Section 48E in relation to major developments and section 49(17) relating to Crown developments should be repealed.
- On the issue of joining parties to environmental actions, the present test for joinder should potentially be expanded, for example to others who don't have a "special interest" as defined by the Courts.
- The rights to bring a third party appeal should possibly be expanded, for example in special cases to those who did not put in a representation as a result of Category 3 notification and certain Category 2 matters.
- In relation to notification of development applications under section 38 of the *Development Act*, consideration could be given to broadening the scope of such notification, particularly in relation to category 2 developments.
- Generally, the provisions relating to opportunities for public participation and notification could be reviewed to consider broader opportunities, particularly under the development plan amendment and review processes.

- Coastal development needs much stronger regulation (either by reform of the *Coast Protection Act* or through development plan amendment).
- The EPBC Act should be amended to include further triggers such as developments which produce a certain level of greenhouse gas emissions.
- Any bilateral assessment agreement should ensure that the proper procedures for assessment are maintained, in particular that they be at least the equivalent of the requirements under the *Commonwealth EPBC Act* and that procedures under the *State Development Act* such as the major development procedures not be used.

2. Native Vegetation and Biodiversity

It is noted that within the **Industrial Land Strategy** document the Environmental Protection Authority (EPA) legislation is highlighted, while the *Natural Resources Management (NRM) Act 2004* and other legislation related to environmental protection and management are not. Within this document, land banks for industrial land are an objective and have been proposed and mapped. Similar land banks are required for biodiversity protection and enhancement if the objectives of the government's 'No Species Loss' policy are to be achieved. Similarly, land banks for quality agricultural land are also needed. These should be developed simultaneously with industrial land banks envisaged and not be an afterthought.

In reference to **land division** applications – these should be referred to the Native Vegetation Branch for review in the first instance, to ensure no further loss of urban biodiversity occurs prior to any subdivision decision being made.

Redevelopment of community based land use, eg 'neighbourhood zones' and any development that threatens significant trees and associated native vegetation should be considered non-complying and be included in the criteria for Category 3. This would ensure appropriate levels of community consultation and environmental review early in the development assessment process.

The Planning Reforms 2008 proposes the Government will set aside high value conservation and agricultural lands to ensure they are protected properly and experience minimal impact. There is however no explanation for how this will be achieved. Criteria for what is considered 'high value' need to be determined. CCSA believes that adequate community consultation should be incorporated into such determinations.

The statement also neglects the putting aside of land for local revegetation projects such as the State Government and community-supported '**Urban Forests**' program, as well as land that needs to be put aside for stormwater harvesting, storage and treatment. Maintenance of land that is set aside also

needs to be considered to ensure it is 'protected properly' – but there is no explanation for who will be responsible for this maintenance.

The residential code should refer to these high value conservation and agricultural lands eg in Appendix A, 2nd column from the left and pertaining to outbuildings, fencelines, dams and pool development applications.

In addition, although Section 1.3.2 refers to significant trees (p6), these should also appear in the tables in **Appendix A**.

eg second column from the left, add in:

all except - sites containing significant trees and associated native vegetation;

and

all except - sites along the coast line.

CCSA believes that development should not be allowed to proceed in areas:

- at risk of climate change-induced sea level rises of more than 1m and
- where native vegetation exists along the coastline that is of high conservation significance for either existing habitat or habitat regeneration or enhancement.

With respect to the Government's planning reforms in general, the following comments are made:

- Policies for protection of native vegetation (NV) should be transparent and give priority to protecting biodiversity. Native vegetation must be protected at a local level as well as at a regional and statewide level.
- The Native Vegetation Council should be given prescribed body status within the Development Act.
- Rezoning/subdivision should be conditional to land undergoing biological assessment to determine if there is significant native vegetation on site (for example, significant trees, habitat, species listed under EPBC Act etc).
- Developments proposing to remove significant native vegetation should be Category 3 and 'non-complying'. Developers should be required to demonstrate that all avenues have been explored to retain native vegetation on site.
- The provisions of the *Native Vegetation Act 1991* should not be overruled by urban zoning. Plans to reduce concurrences and referrals in relation to NV are of concern and action must be taken to ensure entire swathes of NV cannot be cleared at the subdivision stage.

Analysis of site and surrounds (p18) should also include the following information: 'major trees on adjacent properties' – this requires clarification of terminology and the implications of this should be stated.

3. Missing Standards.

CCSA considers that there is a clear need for additional standards to be added to those already listed in Section 1.3.3.²

These would need to include associated policy and would cover:

- standards pertaining to water efficiencies - including water infiltration and stormwater management;
- standards pertaining to energy efficiencies
- standards pertaining to land management efficiencies, eg soil and vegetation issues

Structure Plans must (not can) set outcomes and provide incentives for best practice water and energy efficiencies.

While **Regional Plans** are to have specific regional targets and strategies for water and energy efficiency, CCSA expects that these can and should also be determined for the Greater Adelaide region.

It is clear there is an overriding imperative to shift to a sustainable society, predicated upon a sustainable environment and economy. Accordingly, we need houses that will be more energy efficient, not less. Therefore CCSA believes there must be minimum requirements for the energy efficiency of houses, and that passive solar design principles should be mandatory.

Given the proposed increase in the physical footprint of dwellings on smaller blocks and overall increases in density, the capacity for infiltration of rainwater will be substantially reduced. We need to intercept and harvest as much rain and stormwater as possible, both to reduce polluted stormwater outflows and infrastructure expenditure and to enhance flood mitigation and localised water storages.

Some examples of how these could be achieved are provided below:

Water issues:

- Appropriate stormwater and rainwater harvesting guidelines should be included. The aim should be for all blocks/subdivisions to be capable of storing rainfall and stormwater *in-situ* and not releasing any stormwater into the stormwater system.
- Mandatory use of rainwater storage tanks, plumbed into laundries or toilets. These could be in-ground, utilised along fence line barriers, or as standard tanks.
- Water flows should be maintained to significant trees that remain on site within the development to prevent water stress and limbs being dropped, resulting in pressure to remove trees.
- Use of permeable paving should be mandated. This will allow water infiltration into the subsoil, which will assist in preventing excessive soil moisture loss leading to cracking, etc. It will also have important flood mitigation benefits.

² Planning SA 2008 p7.

- Approval for new swimming pools should be conditional upon rainwater tanks being used for topping-up and covers being used to reduce evaporative losses.
- All new subdivisions and major developments should be designed to minimise water consumption and maximise water reuse. Dual reticulation systems should be installed where practicable to provide recycled water for toilets and gardens.
- The Building Codes should be updated to mandate the use of water efficient technologies in all new developments, whether residential, commercial or Industrial. These might include certified water-efficient showerheads; the fitting of 'dead space' water saving valves and pressure reduction valves, the installation of 2000–5000L domestic water tanks, (with larger-capacity tanks for industry), and local, industrial-scale water-treatment and recycling technology.

Energy efficiency:

- All subdivisions should be required to facilitate passive solar orientation of all individual blocks.
- Minimum standards should apply in terms of insulation and shading of windows using eaves, verandahs and/or pergolas.
- Minimum energy efficiency standards for water heating, preferably mandating solar hot water or equivalently efficient systems.
- Mandated protection of solar access for dwellings should apply.

Vegetation and soil issues:

Site management should conserve these natural resources even during construction phases to minimise damage to vegetation and loss of soil off site. Associated policy should be developed that refers to the *NRM* and *EPA Acts* early in the planning of new residential developments. CCSA's previous comments under Native Vegetation & Biodiversity (Section 2 above) also apply in this regard.

4. Site coverage, increased residential densities and open space

CCSA is concerned that if minimum block sizes are reduced and site coverage increased, it will become all the more important that hard surfaces are permeable to allow infiltration to the soil beneath for improved soil moisture. This will benefit both vegetation and house structure in the long term.

CCSA also recommends an increase in the minimum open space requirements, to counter the effect of smaller lots. Up to 30% in areas of dense development (up from 12.5%) would not be inappropriate and would have positive benefits in terms of amenity, quality of life and physical health and wellbeing. This figure is compatible with the targets set by other bodies such as the Mount Lofty Ranges NRM Board for example, which has set a target of 30% for habitat conservation across the region.

The Industrial Land Strategy proposal that:

Better site utilisation efficiency would most likely result in less land being used to develop industrial activities, thereby making more land available for other activities...

could be explicitly redirected to apply to open space and revegetation/ restoration programs which would have numerous positive benefits in terms of habitat and biodiversity, amenity, recreation and health outcomes.

5. Heritage:

Greater emphasis in the Planing Review is needed to ensure heritage issues are sufficiently considered and are not simply addressed through the Appendix A table. CCSA supports retention of existing housing in heritage zones and other areas where it is important to preserve local character.