



The Barossa Council

MINUTES OF THE SPECIAL MEETING OF THE BAROSSA COUNCIL

held on Tuesday 18 February 2020 commencing at 10.30am in the Council Chambers, 43-51 Tanunda Road, Nuriootpa

1.1 WELCOME

Mayor Bim Lange declared the meeting open at 10.31am.

1.2 MEMBERS PRESENT

Mayor Bim Lange, Deputy Mayor, Leonie Boothby, Crs John Angas, Tony Hurn, David Haebich, Russell Johnstone, Don Barrett, Dave de Vries, Cathy Troup, Kathryn Schilling, Richard Miller

1.3 LEAVE OF ABSENCE

1.4 APOLOGIES FOR ABSENCES

Cr Carla Wiese-Smith

MOVED Cr Hurn that receive the apology from Cr Carla Wiese-Smith.

Seconded Cr Boothby

CARRIED 2018-22/38

2. DEBATE AGENDA

2.1. DEBATE AGENDA – DEVELOPMENT POLICY

2.1.1

PLANNING AND DESIGN CODE – PHASE 3 CODE AMENDMENT – ANALYSIS AND KEY SUBMISSION RESPONSE

(B3624)

Author: Paul Mickan, Principal Planner

MOVED Cr Boothby that Council:

- (1) Notes the report and endorses the key messages to be included in its submission on the Phase 3 Code Amendment;
- (2) Authorises the Chief Executive Officer to finalise the submission and for this to be submitted to the State Planning Commission by 28 February 2020;
- (3) Commits to ongoing collaboration with the State Planning Commission, through the Department of Planning, Transport and Infrastructure to formulate policies which

recognise and protect the unique character of the Barossa whilst also allowing ongoing sustainable development;

(4) Requests that Commission re-engages with Councils and the community prior to final approval of the Code Amendment; and

(5) Seeks a deputation with the Minister for Planning and State Planning Commission to discuss Council's key concerns with the Code Amendment.

Seconded Cr Johnstone

CARRIED 2018-22/39

PURPOSE

To receive and endorse a high level overview of the State Planning Commission's Phase 3 Code Amendment together with key messages to deliver in Council's submission. The report recommends that Council notes and adopts the analysis and key messages with delegation to the CEO to finalise the submission.

REPORT

PLANNING REFORMS RECAP AND CODE CONTEXT

Expert Panel and State Government response

The planning reform program commenced in 2013 with appointment of an 'Expert Panel on South Australia's planning system' (Expert Panel) which released its Final Report in December 2014. The State Government released a subsequent 'Response of the South Australian Government to the final report and recommendations of the Expert Panel on Planning Reform' in March 2015 which set the framework to implement the various reforms.

The key features of the planning reform program are:

- new legislation in the form of the *Planning, Development and Infrastructure Act 2016* (the PDI Act) which is being progressively "switched on"
- Creation of the State Planning Commission (the Commission)
- State Planning Policies
- New assessment pathways and relevant authority structure
- Accredited Professionals Scheme
- An electronic planning system including online lodgement and application management
- A single state-wide planning rule book, the Planning and Design Code (the Code) to replace all Development Plans

Code implementation

The Code is being implemented in three phases:

- Phase 1 ('outback' areas including coastal waters): commenced operation 1 July 2019. To confirm, the Code is already in place in those areas
- Phase 2 (Rural/Regional Council areas with population below 10,000) - Code content will be introduced by the Phase 2 Code Amendment. Consultation on this amendment closed in November 2019 and following an announcement on 7 February the Commission's intent is to now implement this in July 2020.
- Phase 3 (Larger Regional Councils and Greater Adelaide Councils including The Barossa Council): Code content will be introduced by the Phase 3 Code Amendment. Consultation on this amendment closes 28 February 2020 and following an announcement on 7 February the Commission's intent is to now implement this in September 2020.

Consultation challenges

Consultation on both Code Amendments has understandably been complex and challenging which is not surprising given the fundamental shift from a multitude of hard copy Development Plans to a single electronically-based Code.

Unfortunately, interpreting and understanding the Code 3 Amendment (the Code Amendment) has been equally complex and challenging, even for planning practitioners, not made easy with a 3,031 page Code Amendment, a 1,229 page Council-specific document (which confusingly contained Zones, Overlays and General Development Policies which will not apply to The Barossa Council); and numerous guidance and fact sheets. Parallel to the Code Amendment the Commission also consulted on multiple discussion papers.

Approximately midway through consultation the Commission released Draft Historic Area Statements and Draft Character Area Statements for affected areas, and in acknowledgement of errors in the document also released a 2,200 page updated classification tables which needed to be read alongside the original 3,000+ page document.

Update Report

To its credit, the Commission released an Update Report on 23 December 2019 in response to concerns raised to date during consultation (refer [Attachment 1](#)). The report attempts to allay concerns regarding spatial application of zones, transition and loss of local policy, use of outdated information (e.g. flood mapping), 'out of centre' retailing, and residential zoning. While it commits the Commission to some changes, for others it only flags them for review, albeit this is to be done in consultation with Councils and others. Unfortunately in respect to many of our local policies that have been lost we still don't know if these actions are errors or deliberate policy shifts and accordingly Council's submission needs to individually address each of these policy changes.

Character preservation context

It is important to note that the Barossa region will continue to have special recognition in the planning system through the character preservation legislation, the Planning Strategy addendum, and more recently through the *State Planning Policy 21 Character Preservation (Barossa Valley) Act 2012*. The Commission therefore has an obligation to ensure the Code specifically recognises, protects and enhances the district's legislated special character. Accordingly, the Code Amendment has been analysed in this context.

KEY SUBMISSION MESSAGES

A high level analysis of the Code Amendment is contained in [Attachment 2](#).

The following are the key messages to be included in the submission:

1. The **Code structure is logical** and the 'one-stop' location of administrative definitions, land use definitions, and agency referral triggers will assist with development application administration and assessment. Inclusion of a number of contemporary land use definitions and the 'includes/excludes' approach will assist with assigning the right assessment pathway; however the Code would benefit from additional definitions and more additions to the 'include' and 'exclude' columns to avoid doubt over future change of use within a use class.
2. Widespread concern exists regarding the **complex consultation process** and the numerous errors and missing information in documents. The Commission is urged to use the extended implementation period to re-engage with Councils, practitioners and the community following its review of submissions. Engaging in this manner would help restore public confidence in the process and ensure the Code and other associated tools such as the e-planning solution are fit for purpose.
3. The Code is not a like-for-like transition and **significant policy shift will occur** with the majority of existing local policy not carried forward. These local policies are largely contained in desired character statements, policy areas, precincts and concept plans, were prepared by, and in consultation with, local communities and have helped shape the unique places we have, in some cases across multiple generations. The adopted Code process also represents a **missed opportunity for change**. The Barossa Council was open to change and had been instructed to use the Code transition process to implement significant policy

changes arising from previous strategic planning projects but was not given the opportunity to follow this path.

4. A number of proposed zones will facilitate retailing activity where it is currently not envisaged, at a scale which will impact on existing town centres, and which has potential to see land set aside for industry used instead for retailing.
5. Long standing **policies for dwellings in rural areas have been poorly transitioned**. This aspect also represents a missed opportunity for Council to implement previously identified minor policy amendments to address concerns with existing policies; however Council acknowledges the time that has elapsed since the last policy review and will re-engage with its rural communities regarding this important issue. In the meantime it believes the assessment pathway that best matches the current process is for dwellings on undersized allotments to be Restricted Development in the respective zones and precincts with the exception of dwellings on specified smaller allotments.
6. The proposal to include parts only of the Barossa in a **Peri-Urban Zone** or similar is not supported, with the **need for a separate zone questioned**. Application of the proposed zone to only part of the Barossa Valley character preservation district but not to any part of the McLaren Vale character preservation district is inconsistent and illogical. Land use should be addressed through the Rural Zone, water quality aspects be addressed through the relevant catchment Overlays and character preservation aspects addressed through the Character Preservation District Overlay.
7. Significant policy shifts that facilitate reduced lot sizes and frontages in several townships will result in metropolitan-scale development that is out of character with the established Barossa village and township scale and which will undermine the intent of the character preservation legislation. Council acknowledges that potential may exist for higher density and infill development within the larger townships however believes such change should only take place in consultation with each local community, not through standardised metro-focussed policies applied to regional townships.
8. The Code adopts a metro-focussed naming convention. Application of a 'Suburban Neighbourhood Zone' to townships is confusing in that they are not suburbs of metropolitan Adelaide. A return to former naming conventions or a review of the new names is recommended.
9. Very few developments are listed as "Restricted Development" in each zones which potentially could lead to inappropriate development. Existing Development Plan zones list various land uses that are clearly inappropriate in the relevant zone and which need to follow a more rigorous assessment and procedural process. Adopting a completely alternative approach where these uses are Performance Assessed Development is considered risky.
10. The proposed mix of assessment pathways, overlays, and public notification policies is anticipated to see a less streamlined system with longer processing times, more applications requiring full planning assessment, more applications requiring public notification, and more applications being determined by assessment panels. This outcome is at odds with the intent of a simplified planning system.

A draft submission framework is contained in [Attachment 3](#). The submission will expand on the above messages and will be accompanied by detailed analyses and recommendations as indicated in the framework.

FUTURE PROJECTS

As indicated, Council was not given the opportunity to implement various recommended outcomes from recent strategic studies through the Code. The Code analysis has also identified additional matters for review such as additional flood hazard mapping.

If Council wish to continue with previously identified changes or new initiatives they will need to be implemented through future Code Amendment(s) (currently known as Development Plan

Amendments). Below is an initial list of future projects which Council will need to prioritise and fund accordingly:

- Re-review of dwelling policies in rural areas (update and review previous work undertaken as part of the *Rural Areas and Character Review*)
- Review township lot sizes, densities and building heights
- Update existing flood hazard mapping where necessary (Nuriootpa, Tanunda, Stockwell and Mount Pleasant)
- Undertake new flood hazard mapping for towns and areas not currently covered by mapping

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

- 1: State Planning Commission *Planning and Design Code Phase Three (Urban Areas) Code Amendment - Update Report*
- 2: High level Code analysis
- 3: Draft submission framework

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



Natural Environment and Built Heritage



Community and Culture



Health and Wellbeing



Business and Employment

Corporate Plan

- 1.1 Facilitate planned and appropriate development of our townships and district to maintain the character of townships and rural landscapes and to preserve properties and sites which have historic significance.
- 1.3 Work with community and State Government to manage township boundaries and growth within them to ensure development is planned and appropriate whilst ensuring opportunities for population growth and tourism development.
- 1.6 Apply development policies to protect places of environmental value and significance.
- 1.10 Ensure development policies are responsive to current trends through an active development policy review/amendment program.
- 1.11 Provide transparent, efficient and effective development assessment processes and regulatory activities.
- 1.12 Build and maintain relationships with other levels of government to ensure development strategies are responsive to regional needs and issues.
- 2.12 Ensure that development policies are responsive to housing needs (affordability and diversity of housing choice)
- 5.4 Participate in initiatives, or advocate for, investment in creative industries and cultural tourism.
- 5.5 Contribute to tourism industry capacity building through the facilitation of tourism infrastructure development, including eco and recreational tourism.

Legislative Requirements

Planning, Development and Infrastructure Act 2016

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Financial

The financial impacts of the Code are unknown and will be influenced by a number of factors including:

- numbers of applications received
- percentage of applications assessed by external Accredited Professionals
- number of applications to be decided by the Barossa Assessment Panel and in turn the number of meetings required
- number of reviews, appeals, deemed consents

Other impacts could result from increased inspections and compliance. The impacts will require constant monitoring with adjustments made as required.

Resource

Council will need to allocate appropriate funds for future strategic review and flood mapping projects. It is possible that external funding might be available for the flood hazard mapping but that would be subject to future State or Federal grant programs.

A risk assessment is being applied which will also identify what resources may be needed to allow smooth transition to the new system for Council.

Risk

With any new system there is an element of risk arising from new processes. Staff have applied a risk analysis to the whole reform process which has identified areas for attention and monitoring.

COMMUNITY CONSULTATION

The Commission was responsible for consultation on the Code Amendment.

10. NEXT MEETING

Tuesday 17 March 2020 at 9.00am.

11. CLOSURE OF MEETING

Mayor Lange declared the meeting closed at 10.37am

Confirmed at Council Meeting on 17 March 2020

Date:.....

Mayor:.....