



COASTAL
ECOLOGY
PROTECTION
GROUP Inc
*community caring
for local dunes*

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Environmental Organisation endorsed as a
Deductible Gift Recipient.

SUBMITTED VIA COMMUNITY ALLIANCE S.A.

Mr Michael Lennon
Chair, State Planning Commission
Department of Planning, Transport and Infrastructure

Email: DPTI.PlanningEngagement@sa.gov.au

Dear Mr Lennon,

SUBMISSION: Draft *Planning Development and Infrastructure Regulations 2019*

The Coastal Ecology Protection Group is a Registered Charity that has an objective of protecting and enhancing the interests of the natural coastal environment of metropolitan Adelaide, including preserving the integrity and ecology of the coastal sand dune system.

It is therefore with concern we note on page 119 of the Draft Planning Development and Infrastructure Regulations 2019 the exclusion from the definition of 'development' under the new Draft Regulations, of a "recreation path" where undertaken by the Crown, a council or other public authority.

The current *Development Regulations 2008* were only recently amended, in January 2017, to exclude works associated with a "recreation path" from the definition of "development". This was during the course of the CEPG's judicial review proceedings related to a proposed recreation path from Grange to Semaphore with the proceedings contained in the judgment *COASTAL ECOLOGY PROTECTION GROUP INC & ORS v CITY OF CHARLES STURT*.

In that Judgment Justice Blue held that "In making the April 2016 and January 2017 path decisions, the Council failed to have regard to a mandatory consideration, namely environmental considerations (at [620] and [633]) and the path decisions are consequently unlawful (at [654])."

Without this review and judgment and under the amended *Development Regulations 2008* the path would have built as proposed, would not have been assessed and approved as development, and the Coastline and Dunes would have suffered the environmental and planning consequences.

The fact that both concrete paths and boardwalks have a significant impact on the environment was accepted by Justice Blue, during the aforementioned judicial review, based on the expert witness testimony of Dr. Vic Semeniuk who provided both written and oral evidence to confirm that both concrete paths and boardwalks create significant environmental damage. A copy of his written report submitted during the trial can be found here.

<http://cepg.org.au/ewExternalFiles/Final%20Report%20of%20Dr%20Vic%20Semeniuk.pdf>

You can therefore understand our concern to see the proposed wording in your draft which states that under Part 2 Schedule 4 Exclusions from definition of development...

“20 – Recreation paths

1. (1) The following development undertaken by or on behalf of the Crown, a council or other public authority:
 1. (a) the construction, reconstruction, alteration, repair or maintenance of a recreation path (including in a coastal area within the meaning of Schedule 9 clause 1);
 2. (b) any ancillary development in connection with such a path, including—
 1. (i) excavation, importation of fill and other earthworks; and
 2. (ii) footings and other support structures; and
 3. (iii) landscaping; and
 4. (iv) the installation of—
 1. (A) safety features; and
 2. (B) directional signs, information boards, lighting, seating, weather shelters, rubbish bins or other street furniture.
2. (2) In this clause—

recreation path means a path that—

 1. (a) is under the care, control and management of the Crown, a council or other public authority; and
 2. (b) is open to the public for walking, cycling or similar recreational activities, without payment of a charge,

and includes a boardwalk. “

The exclusion of “recreation paths” and “boardwalks” will permit potentially significant environmental and planning consequences (which according to evidence accepted by the Supreme Court can be serious) and under the proposed regulations these paths will never be subject to proper environmental and planning assessment under the PDI Act, never consulted via formal public notification processes to neighbours (again, via the PDI Act) and may have impacts that will be entirely uncontrolled.

We strongly believe that based on the evidence seen in the above case that “recreation paths” as described in Part 2 Schedule 4 Paragraph 20 be removed from its classification as being declared “not to constitute development”

We look forward to a seeing this removed in the final text.

Yours Faithfully

Coastal Ecology Protection Group