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**Submission on the Draft *Planning, Development and Infrastructure (General) (Development Assessment) Variation Regulations 2019***

Our key concern is the extent of urban tree canopy, noting the significant loss of trees and their canopy in the private realm over the last 25 years.

As stated in a recent assessment by the City of Unley,

*The 30-Year Plan for Greater Adelaide (2017)* outlines key directions to create a greener city through an increase in green cover by 20% across metropolitan Adelaide by 2045. This represents an increase from 26% to 31% for Unley... Council cannot achieve current targets on public land alone (see Ryan, K, City of Unley, *Tree Canopy Cover Assessment 24/9/18*).

Our particular concern is that the Act and draft regulations appear to encourage the removal of tree canopy on private land in urban areas. This is at a time when the community is being advised to prepare for climate change. In South Australia, a particular concern is of extended heat waves.

Recent work undertaken by Resilient East – a consortium of Councils in the east and centre of Adelaide – has highlighted the critical importance of tree canopy in cooling our suburbs. (Refer to page 55 of the Resilient East Regional Adaptation Plan of June 2016 as one example). Without adequate tree canopy, it is difficult to see how our community will adapt to extended heatwaves.

In this submission, our group highlights the impact of the draft regulations and the Act on regulated and significant trees – a key subset of the trees in our suburbs – to highlight this issue of concern.

One of the Sections of the Act refers to the removal of a regulated or significant tree viz Section 127 of the Planning Development and Infrastructure Act 2016:

4. *Subject to subsections (6) and (8), if a development authorisation provides for the killing, destruction or removal of a regulated tree or a significant tree, the relevant authority must apply the principle that the development authorisation be subject to a condition that the prescribed number of trees (of a kind determined by the relevant authority) must be planted and maintained to replace the tree (with the cost of planting to be the responsibility of the applicant or any person who acquires the benefit of the consent and the cost of maintenance to be the responsibility of the owner of the land).*
5. *(5) A tree planted under subsection (4) must satisfy any criteria prescribed by the regulations (which may include criteria that require that any such tree not be of a species prescribed by the regulations).*
6. *(6) The relevant authority may, on the application of the applicant, determine that a payment of an amount calculated in accordance with the regulations be made into the relevant fund in lieu of planting 1 or more replacement trees under subsection (4) (and the requirements under subsection (4) will then be adjusted accordingly).*
7. *(7) For the purposes of subsection (6), the **relevant fund** is—*
  1. *(a) unless paragraph (b) applies—an urban trees fund for the area where the relevant tree is situated;*
  2. *(b) if—*
    1. *(i) an urban trees fund has not been established for the area where the relevant tree is situated; or*
    2. *(ii) the relevant authority is the Commission or an assessment panel appointment by the Minister or a joint planning board,*  
*the Planning and Development Fund.*
8. *(8) Subsections (4) and (6) do not apply if—*
  1. *(a) the relevant tree is of a class excluded from the operation of those subsections by the regulations; or*
  2. *(b) the relevant authority determines that it is appropriate to grant an exemption under this subsection in a particular case after taking into account any criteria prescribed by the regulations and the Minister concurs in the granting of the exemption.*

One of the sections in the draft regulations which are under discussion addresses the requirements of Section 127 of the Act and makes particular mention of regulated and significant trees viz Section 65:

**65—Regulated and significant trees**

(1)

For the purposes of section 127(4) of the Act, the prescribed number of trees is—

(a) if the development authorisation relates to a regulated tree—2 trees to replace the regulated tree; or

(b) if the development authorisation relates to a significant tree—3 trees to replace the significant tree.

2. (2) For the purposes of section 127(5), the following criteria are prescribed:
  1. (a) the tree cannot be a tree within a species specified under regulation 3F(5)(b);
  2. (b) the tree cannot be planted within 10 metres of an existing dwelling or an existing in-ground swimming pool.
3. (3) For the purposes of section 127(6) of the Act, the amount payable will be \$x for each replacement tree that is not planted.

Two factors are of concern in this section of the draft regulations:

- **the number of replacement trees to replace a regulated tree which is removed (two) and a significant tree (three).** Our Council Area (Unley) has seen the loss of regulated and significant trees at a frightening rate in the past five years. This issue cannot be solved by mandating the planting of a token number of replacement trees. It is impossible to accept that the loss of one of these trees, in some cases over 200 years old with extensive canopies, and pre-dating European settlement, can be compensated by two or three new small trees. There will never be an adequate compensation for the destruction of one of these large trees which contribute so much to the environment and amenity of our community.
- **the distance from a swimming pool or dwelling of ten metres is far too large.** Many (perhaps most) blocks in Adelaide would not be able to meet this criterion. Certainly none of the half-blocks created by subdivision of existing house blocks in Adelaide (most of 400 sq. metres or less) would be able to meet this criterion. For all intents and purposes, this statement is tantamount to saying “plant no replacement trees”. We recommend that this criterion be simply removed from the regulations.

We have three recommendations:

- Critically re-evaluate the figures of 2 and 3 trees in Section 65 of the Draft Regulations. These require closer and more specific attention to detail with regard to numbers of trees, plant species and plant suitability in order to come nearer to an equitable compensation for large tree loss.
- remove the requirement for replacement trees in Section 65 of the Draft Regulations to be a nominated distance from a dwelling or swimming pool.
- extend the idea of importance of maintaining tree canopy throughout the Draft Regulations.

We would like to discuss this issue with you in person and can be contacted on [REDACTED].

Yours sincerely

Anne Wharton, Save Unley Trees

Peter Croft, Grow Grow Grow Your Own

Warren Jones, President, FOCUS (Friends of the City of Unley Society)

c/o Anne Wharton  
[REDACTED]  
[REDACTED]  
[REDACTED]

30<sup>th</sup> January 2019.