

Review of the *Character Preservation (Barossa Valley) Act 2012* and *Character Preservation (McLaren Vale) Act 2012*

discussion paper

Summary

- The Barossa Valley and McLaren Vale food and wine regions are key icons of South Australia.
- The *Character Preservation (Barossa Valley) Act 2012* and the *Character Preservation (McLaren Vale) Act 2012* was commenced in early 2013 to recognise the special character of these districts and provide statutory protection from inappropriate urban development.
- The Acts are implemented through the South Australian planning system.
- Councils, government agencies and the community are key to informing the review.
- The Character Preservation Districts are separate to the Environment and Food Production Areas, however there are similarities in the legislation.
- The Acts have been successful in limiting inappropriate land divisions in the districts.
- This review is not a rezoning of land.

Introduction

The *Character Preservation (Barossa Valley) Act 2012* and the *Character Preservation (McLaren Vale) Act 2012* (the Acts) were introduced to protect the special character of the Barossa Valley and McLaren Vale.

The legislation was supported by changes to the South Australian Planning Strategy and local development plans to provide clarity about

special areas that should be protected from residential subdivision. This is important to:

- protect our valuable food producing and rural areas
- conserve our prized natural landscapes, and tourism and environmental resources
- provide more certainty to food and wine producers about their ongoing investment
- make it clear where residential growth should happen.

The legislation has been effective in protecting our vital food and agricultural land and in containing the threat of urban sprawl. Key to the legislation is the long-term protection afforded to these districts through a reduced ability to subdivide land for housing. The evidence shows that the legislation has reduced the number of residential land divisions in sensitive areas while maintaining an appropriate supply of land within townships.

The character legislation specifies that the Minister must undertake a review within five years of its commencement. As such, this discussion paper has been developed in consultation with affected councils and State Government Agencies. It contains some background and assessment of the impacts of these Acts.

We are interested in your thoughts and invite you to make a submission in response to this discussion paper.

October 2017



Government of South Australia

Department of Planning,
Transport and Infrastructure

Background


The Barossa Valley and McLaren Vale were among the first places beyond Adelaide to be surveyed after South Australia's proclamation by European settlers in 1836.

Both of these districts still have much of the character that was established in these early years.

The Barossa is still strongly reminiscent of its German heritage and McLaren Vale still boasts much of the landscape that was first farmed by the many English settlers of the region.

Yet so much is different too. The towns have grown – as have the wineries. Things that were once just a part of daily life – food and traditions – have evolved into industries in their own right. But perhaps the biggest change is how close these regions are now to our capital city, Adelaide, both in distance and in time. Once remote enough to be completely separate, modern transport and our growing city have drawn the Barossa Valley and McLaren Vale into the outskirts of our metropolitan area.

While these regions might now be closer to Adelaide, most South Australians would agree that development in these areas must maintain their fundamental values – productive agriculture and viticulture, a strong sense of heritage and culture, scenic beauty and healthy environments.



“A new, young generation of Barossa people are coming through and I’m amazed by the tightness of the Barossa community and how they respect these traditions. There is so much pride up here. And there are still small orchards everywhere.”

**Fino Seppeltsfield co-owner and chef
David Swain**

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Farmland, Fleurieu Peninsula Region. Image: SA Media Gallery

¹ Wilkinson, S, 'Fino's David Swain and other Barossa chefs on pickles old and new', The Advertiser 4 April 2017, <http://www.adelaidenow.com.au/thesourcesa/finos-david-swain-and->

[other-barossa-chefs-on-pickles-old-and-new/news-story/387025bec96336dd93264a6189461696](http://www.adelaidenow.com.au/thesourcesa/finos-david-swain-and-other-barossa-chefs-on-pickles-old-and-new/news-story/387025bec96336dd93264a6189461696) (assessed 18/10/17)
Icon made by [Freepik](http://www.flaticon.com) from www.flaticon.com

Enacting Character Preservation legislation

The tourism, agriculture and food production industries are all major employers in our State and contribute billions of dollars into the State economy. The Barossa Valley and McLaren Vale food and wine regions hold particular significance in these industries and are recognised worldwide as iconic South Australian destinations.

Populations are increasing and cities worldwide are losing valuable food production lands to housing placing upward pressures on fresh food prices. In view of these trends, the South Australian Government took action in 2011 to prevent similar consequence here.

In particular, the emergence of inappropriate development within the Barossa Valley and McLaren Vale regions and the ever increasing threat of urban sprawl saw the need to introduce greater protection for the two districts. In November 2011, a Ministerial Development Plan Amendment made changes to zoning to prevent inappropriate development in the districts while legislation was put in place.

The *Character Preservation (Barossa Valley) Act 2012* and the *Character Preservation (McLaren Vale) Act 2012* (the Acts) came into operation in January 2013. These Acts provide further weight to development policy by providing statutory protection from inappropriate urban development (such as residential development within primary production areas or development which is at odds with the desired character of a town) in the Barossa Valley and McLaren Vale character preservation districts. This legislation was inspired by similar legislation protecting the Napa Valley in California.



The core objectives of the legislation is to ensure that the special character of the two districts is recognised, protected and enhanced while providing for the economic, physical and social wellbeing of the communities within the districts. It restricts the creation of additional allotments for residential development outside of township boundaries to halt urban sprawl to the north and south of Adelaide’s built-up area, thereby seeking to provide for continued viable farming and primary production activities.

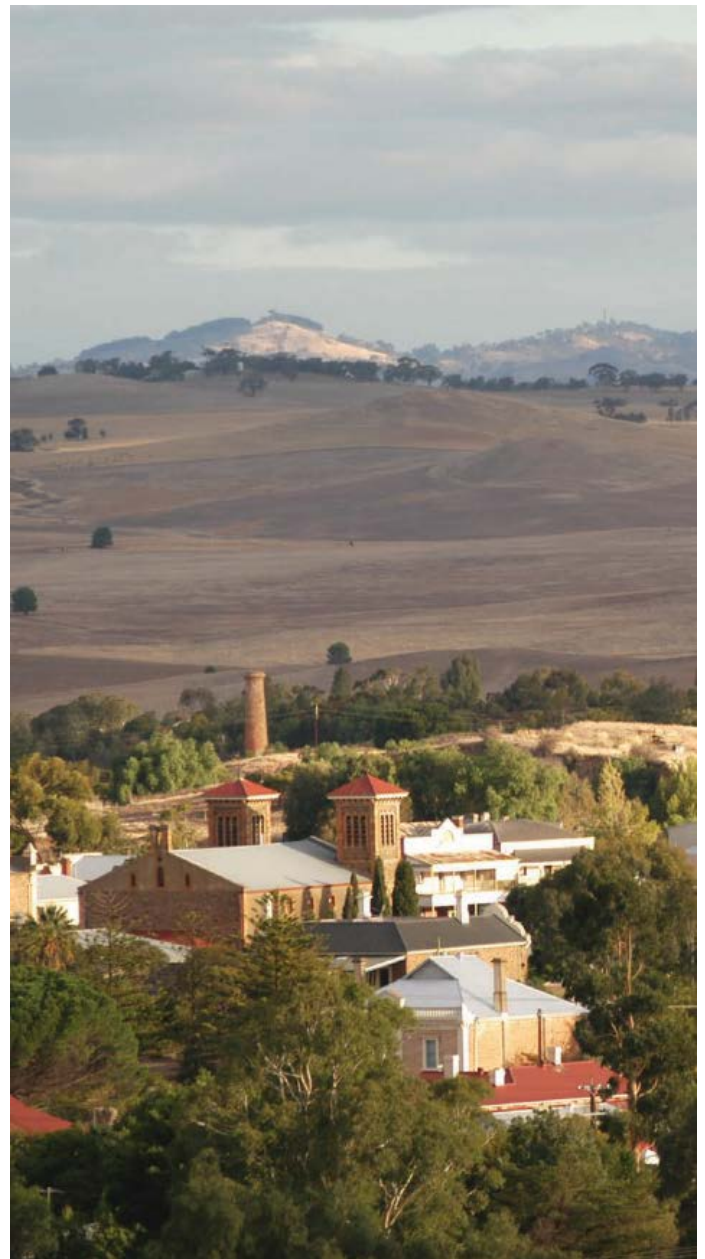


Image: Don Brice

² Government of South Australia (2015), Premium Food and Wine from our Clean Environment Action Plan – Update 2015, Primary Industries and Regions SA, Adelaide.

In December 2013 the South Australian Planning Strategy was amended to reinforce and reflect the intention of the Acts.

To support the implementation of the legislation, local development plans were also amended to include the 'Character Preservation District Overlay' which largely reflects the identified character values in the Act.

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The Barossa tourism sector has 70+ cellar doors, 40+ dining venues and 100+ accommodation providers, the McLaren Vale also has 70+ cellar doors, numerous dining venues and approximately 50 accommodation providers

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“We pride ourselves on having places like the Barossa, the Adelaide Hills and McLaren Vale all within an hour's drive of Adelaide”

**Tasting Australia Creative Director
Simon Bryant**

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What are the character values of the district?

The Acts recognise the importance of the following character values of the each district:

- (a) the rural and natural landscape and visual amenity of the district;
- (b) the heritage attributes of the district;
- (c) the built form of the townships as they relate to the district;
- (d) the viticultural, agricultural and associated industries of the district;
- (e) the scenic and tourism attributes of the district.

These character values, along with the special character of each district, are defined in more detail in the Addendum.



Yalumba Winery – Historic Door, Yalumba Winery, Angaston, Barossa Region. Image: SA Media Gallery

³ Government of Australia – Austrade 2013, 2013 Investment and Regulatory Reform Report Card, <https://www.austrade.gov.au/Australian/Tourism/Policy-and-Strategy/Infrastructure-and-Investment/regulatory-reform>
Icon made by [Freepik](https://www.freepik.com) from www.flaticon.com

⁴ Llewellyn, M, 'Zest for life: try South Australia's best food and wine at Tasting Australia', Good Food 3 April 2017 <https://www.goodfood.com.au/travel/food-experiences/zest-for-life-try-south-australias-best-food-and-wine-at-tasting-australia-20170403-gvc6f8> (assessed 18/10/17)

Why are the Acts being reviewed?

Both Acts became operational on 18 January 2013. Within the Acts, Section 10 specifies that the Minister must undertake a review the Act within 5 years of commencement.

The Department of Planning, Transport and Infrastructure is preparing the review on behalf of the Minister for Planning. After public consultation on this discussion paper, a Review Outcomes Report will be provided to the Minister for his consideration before it is tabled in Parliament.



Image: PIRSA

What does the review cover?

Section 10 of the Acts specifies that a review must be undertaken that includes an assessment of:

- the state of the district, especially taking into account the objects of the Act and any relevant provisions of the SA Planning Strategy;
- the family, social, economic and environmental impacts of the Act;
- the impact of the Act on local government in the district; and
- any steps that have been taken or strategies that have been implemented to address any negative impacts of the Act.

The feedback from councils, government agencies and the community are key to informing the review.

How are the Character Preservation Districts different to the Environment and Food Production Areas?

The Environment and Food Production Areas (EFPA) are similar to the Character Preservation Districts in that they ensure that areas of rural, landscape, environmental or food production significance are protected from urban encroachment. The EFPA is established through section 7 of the *Planning, Development and Infrastructure Act 2016* and has similar wording in relation to limitations on land division to the Character Preservation Acts.

A key difference in the Character Preservation Acts is that they seek to retain the 'special character values' of each district. This wording is intended to ensure that the special character of each district is considered and protected, over and above restrictions on land divisions. While the EFPAs do not apply to townships, townships are within the Character Preservation Districts (see map on page 13).

How are these Acts implemented?

While the Character Preservation Acts interact closely with the *Development Act 1993*, the provisions found in these Acts are additional to those in the *Development Act 1993*.

The legislation is also recognised in the South Australia Planning Strategy, which provides more detail to the Acts by providing rationale and policies specific to the Objects of the Acts and informs changes to development policies.

Councils should ensure that development plans contain policies that align with the Planning Strategy. The development plans of all affected councils have been amended so that the local rules around planning and development reflect the objectives of the Character Preservation Acts and the Planning Strategy. These changes ensure that the 'rulebooks' for planning and development in each district seek the achievement of the core preservation objectives of the Acts.

The Character Preservation Acts however, effectively prohibit the creation of additional allotments for residential purposes in that the Acts state that an associated application must be refused and no appeal rights apply. These legislative provisions are much stronger than what can be achieved through local development plan policies.



Angove Winery McLaren Vale, Chalk Hill Road, McLaren Vale, Fleurieu Peninsula Region. Image: SA Media Gallery



Image: PIRSA

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d'Arry Osborn of d'Arenberg Wines said the protection gave him peace of mind, knowing the McLaren Vale will continue as a famous wine and tourism region close to Adelaide, rather than being swallowed up in Adelaide's suburban sprawl

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⁵ Crouch, B, 'Legislation to protect agricultural regions of McLaren Vale, Barossa Valley from urban sprawl now in place', *The Advertiser* 18 January 2013, (<http://www.adelaidenow.com.au/news/south->

[australia/legislation-to-protect-agricultural-regions-of-mclaren-vale-barossa-valley-from-urban-sprawl-now-in-place/news-story/12299c1c27979c7ed27b2c078a4e23bc](http://www.adelaidenow.com.au/news/south-australia/legislation-to-protect-agricultural-regions-of-mclaren-vale-barossa-valley-from-urban-sprawl-now-in-place/news-story/12299c1c27979c7ed27b2c078a4e23bc) accessed 9/10/17)
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How is it envisaged that these Acts be implemented in the new planning system?

The *Development Act 1993* will be replaced by the *Planning, Development and Infrastructure Act 2016* (PDI Act) in stages over the next few years.

Once fully implemented, the *Development Act 1993* will be repealed and the intention is for the PDI Act to streamline the development application process and result in a clearer assessment path for applications within South Australia.



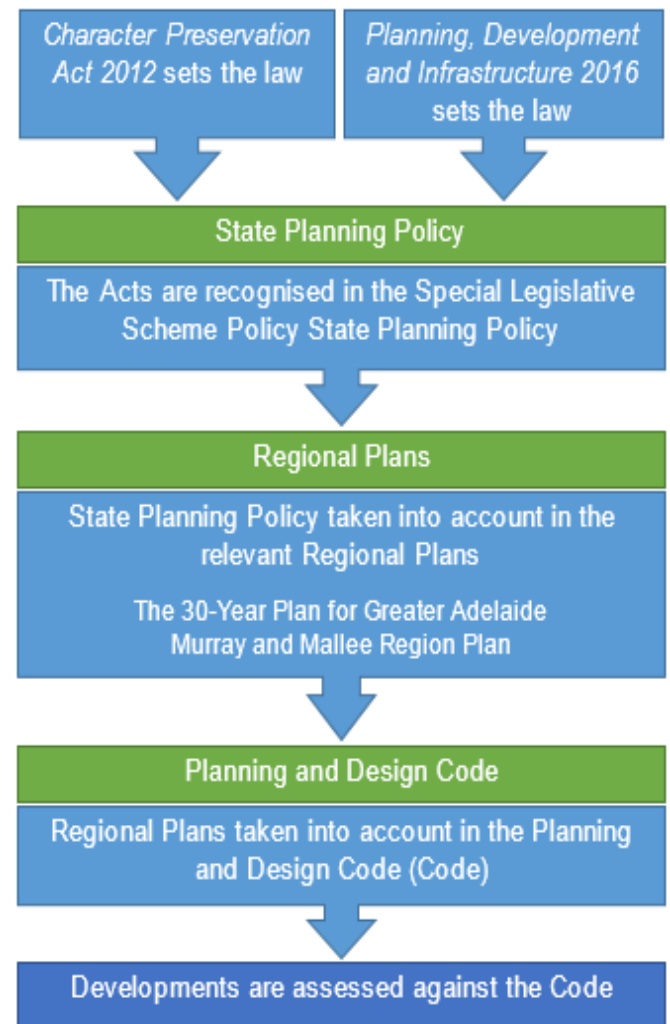
The passage of the *Planning, Development and Infrastructure Act 2016* begins the biggest overhaul to South Australia's planning system in over 20 years.

A more efficient and effective planning program promises to shape the future of South Australia, revolutionising the way planning decisions are made.



Image: DPTI

It is envisaged that the Acts will be interpreted in the following way:



The Planning and Design Code is a central piece of the new legislation, which will replace the current 72 local development plans with one Code. The preparation of the Code will enable the ongoing improvement to planning policy for Character Preservation Districts and other areas to ensure contemporary zoning is in place for South Australia.

The state of the districts

The Acts have been successful in ensuring development enhances the special character of the two districts and restricting land division in inappropriate areas. So much so, that restrictions on land divisions were extended to a much wider area, through the EFPAs in April 2016.

In the majority of instances, land division to create additional allotments for any purpose were and continue to be non-complying, and the Acts have made it harder for additional lots for 'lifestyle' housing to be created.

New dwellings

A variety of factors may have influenced the change in the number of approvals – e.g. demand, availability of allotments, economic forces, but when comparing the five years prior to the introduction of the Acts (restrictions in place as of late 2011 in the interim DPA) and five years since, the number of new dwellings built outside townships in the Barossa Valley District has reduced by just over 40% in the rural living areas and just over 10% in the rest of the district.

Barossa Valley District		
Dwellings built	Rural Living Areas	Outside Townships & Rural Living Areas
Total 2007-11	42	84
Total 2012-16*	24	74
Difference pre/post Act	-43%	-12%

*January to June 2016 only – Data source: DPTI

In the McLaren Vale District, the number of new dwellings built outside townships has reduced by around 28%.

McLaren Vale District	
Dwellings built	Outside Townships
Total 2007-11	94
Total 2012-16*	68
Difference pre/post Act	-28%

*January to June 2016 only – Data source: DPTI

Land divisions

Land divisions within the districts have seen a much more significant drop. New allotments created outside of townships halved in the Barossa Valley District and dropped by just over 30% in the McLaren Vale District.

Barossa Valley District		
Land divisions - new lots by year lodged	Rural Living Areas	Outside Townships & Rural Living Areas
Total 2007-11	68	15
Total 2012-16	24	7
Difference pre/post Act	-65%	-53%

Data source: DPTI

McLaren Vale District	
Land divisions - new lots by year lodged	Outside Townships
Total 2007-11	21
Total 2012-16	14
Difference pre/post Act	-33%

Data source: DPTI

Land supply

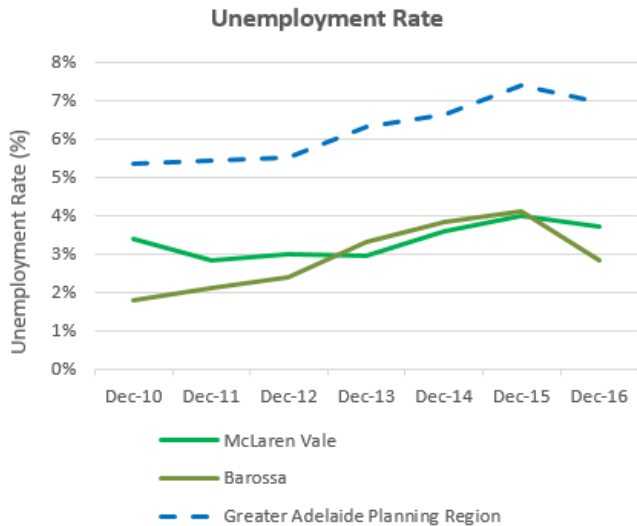
Providing sufficient land supply is important in driving the economy and maintaining housing prices. Our most recent land supply estimates indicate that there is around 18-20 years land supply within the townships of the Barossa and McLaren Vale region (as of June 2016). Land supply is regularly reviewed, with the next due around mid-2018.



Fox Creek Cellar Door, McLaren Vale, Fleurieu Peninsula Region. Image: SA Media Gallery

Unemployment

Unemployment rates show the districts* have a lower rate of unemployment when compared to the Greater Adelaide Planning Region (GAPR). The unemployment rate trend has generally been consistent with the GAPR trend over the past 7 years (see below graph).



*Note: as the data is only available at the SA2 level and do not match the Character Preservation District boundaries, the most relevant SA2s have been used to demonstrate the overall trend within the areas. Data source: Australia Bureau of Statistics

What are the family, social, economic and environmental impacts of the Acts?

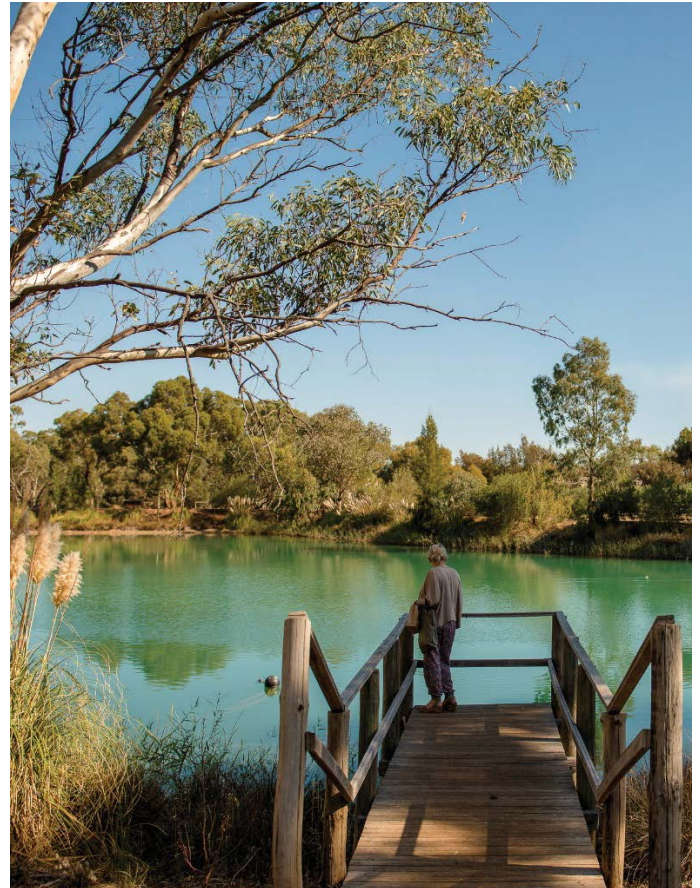
The following impacts have been identified through consultation with councils and agencies, but further insight will be gained through submissions on this discussion paper.

Family and social

When the Acts were first introduced, there was a perception amongst some people in the community that the Act will prevent or alter development outcomes. However, in most cases, this has been unfounded. In most areas, the Acts did not introduce any further restrictions to those that were already in place in the council Development Plans.

There is limited awareness about the Acts and this is leading to misunderstandings in the community about the intent and reach of the Acts.

The objective to preserve scenic and landscape beauty in Acts is in line with Development Plan policies which require such character and amenity considerations and are therefore not adding to the costs of finishes and materials utilised in development.



Maggie Beer's Farm Shop – Lookout over lake, Pheasant Farm Road, Nuriootpa, Barossa Region. Image: SA Media Gallery

Economic

There has been no clear upturn or downturn of particular industries since the introduction of the Acts. Development applications and growth have continued in line with market trends.

There has been continued growth in these regions from a tourism perspective. Statistics on the tourism regions of ‘Barossa’ and ‘Fleurieu Peninsula’ provided by the SA Tourism Commission show a steady increase in average nights spent in, day trips to, overseas visitors and expenditure in the regions over the past 10 years (see graphs below⁶). No specific impacts of this legislation have been identified by the SA Tourism Commission.

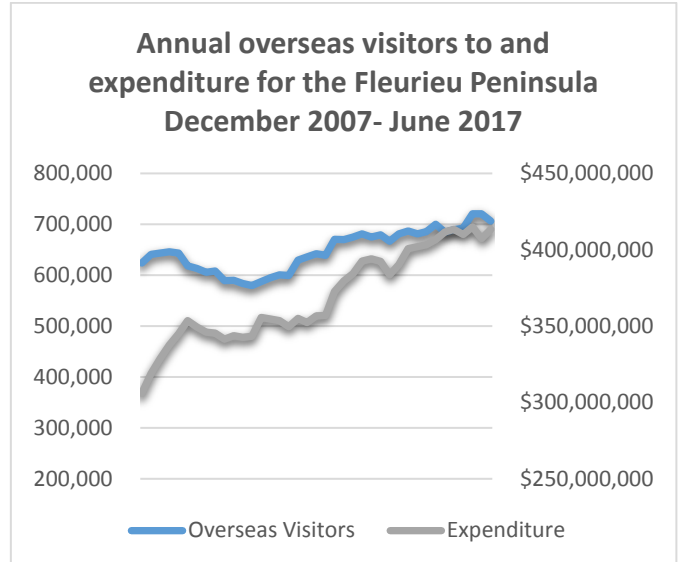
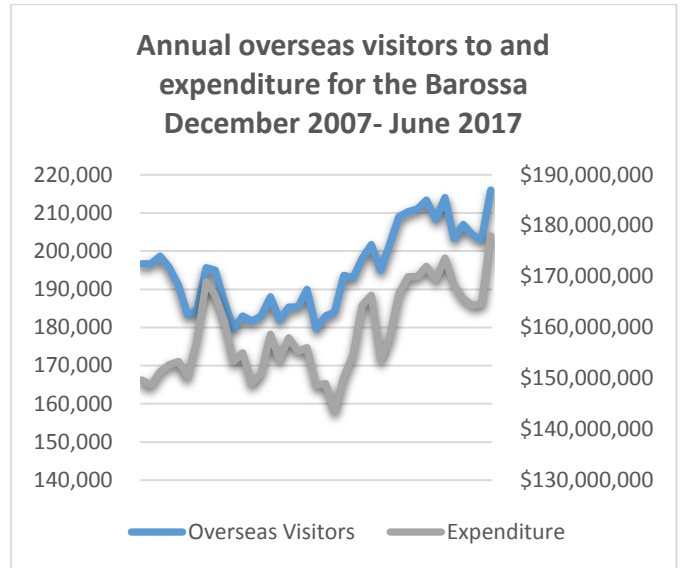
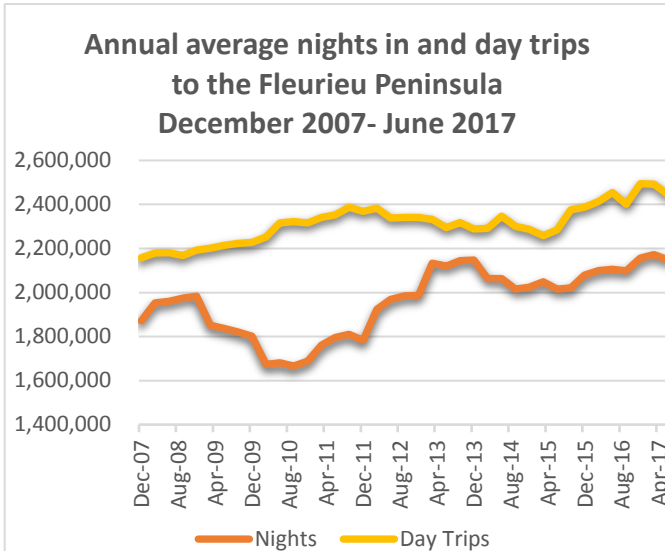
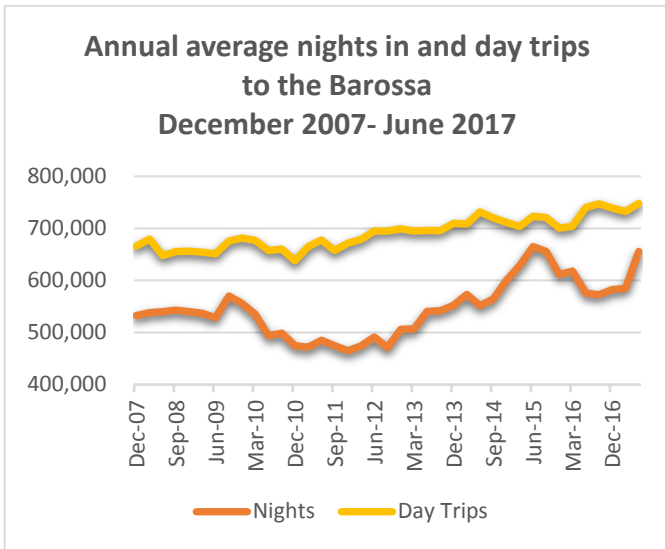


Image: PIRSA

⁶ Note: the data in the graphs is only available by region, which is wider than the Character Preservation District boundaries.

Environmental

No direct environmental impacts have been identified to-date.

More generally, interface impacts are seen in primary production areas where there are competing land uses, in particular, the use of rural chemicals in close proximity to townships/dwellings. The Acts restrict the creation of additional allotments for residential purposes outside of township boundaries, therefore helping to minimise the occurrence of these land-use conflicts.



Image: DPTI

What impacts have the Acts had on local government?

The Primary Production Zones, Watershed Protection, Rural Landscape Protection, Rural and Hills Face Zones were in place prior to the introduction of the Acts and provided some protection for these districts from residential land division outside of townships.

The Acts have strengthened the protection of the districts through a legislative framework that protects this for the longer term.

The following issues have been highlighted through meetings with the administration of local councils:

- *Increased administrative procedures*

The legislation was designed to put additional checks and balances in place for development that could compromise the values of the Barossa and McLaren Vale to occur. A higher level of assessment is therefore required and administrative processes are greater.

- *Requirement for concurrence from the State Commission Assessment Panel*

There is in some cases requirements for additional levels of decision making through the concurrence of the State Commission Assessment Panel. It is recognised that there may be opportunities to further streamline these processes, however it is intended that the legislation prevent land division for residential development outside of townships that could compromise the values of the region.

- *Ongoing policy enhancements*

Councils identified opportunities to further enhance the policies that are currently in place to protect the regions and further strengthen the assessment process.

Separate to the character preservation districts, the councils have identified opportunities to further support value adding and tourism activities. The legislation has not placed any restrictions on this type of activity and in fact clearly envisages its development. However, further enhancements to planning policy could be introduced through the new Planning and Design Code to provide a consistent policy framework across the region that supports value adding and tourism.

The Planning and Design Code may also consider other issues such as boundary realignments and interface between land uses.



Hentley Farm, Hentley Road – Corner Gerald Roberts Road and Jenke Roads, Seppeltsfield, Barossa Region. Image: SA Media Gallery



SuperCycle 2017, Eden Valley, Barossa Region. Image: SA Media Gallery



Image: Don Brice

What strategies are in place to address negative impacts?

The Planning Strategy and local development plans have been updated to provide greater clarity consistency with the Acts.

The transition to the new planning system will seek to further refine local policy relating to the Character Preservation Districts.

To support councils in the transition process, the Department of Planning, Transport and Infrastructure has assigned a 'transition manger' to each council to work with them on how the new Planning and Design Code can be implemented in their area. As part of this process, improvements to current policy can be identified.

Conclusion

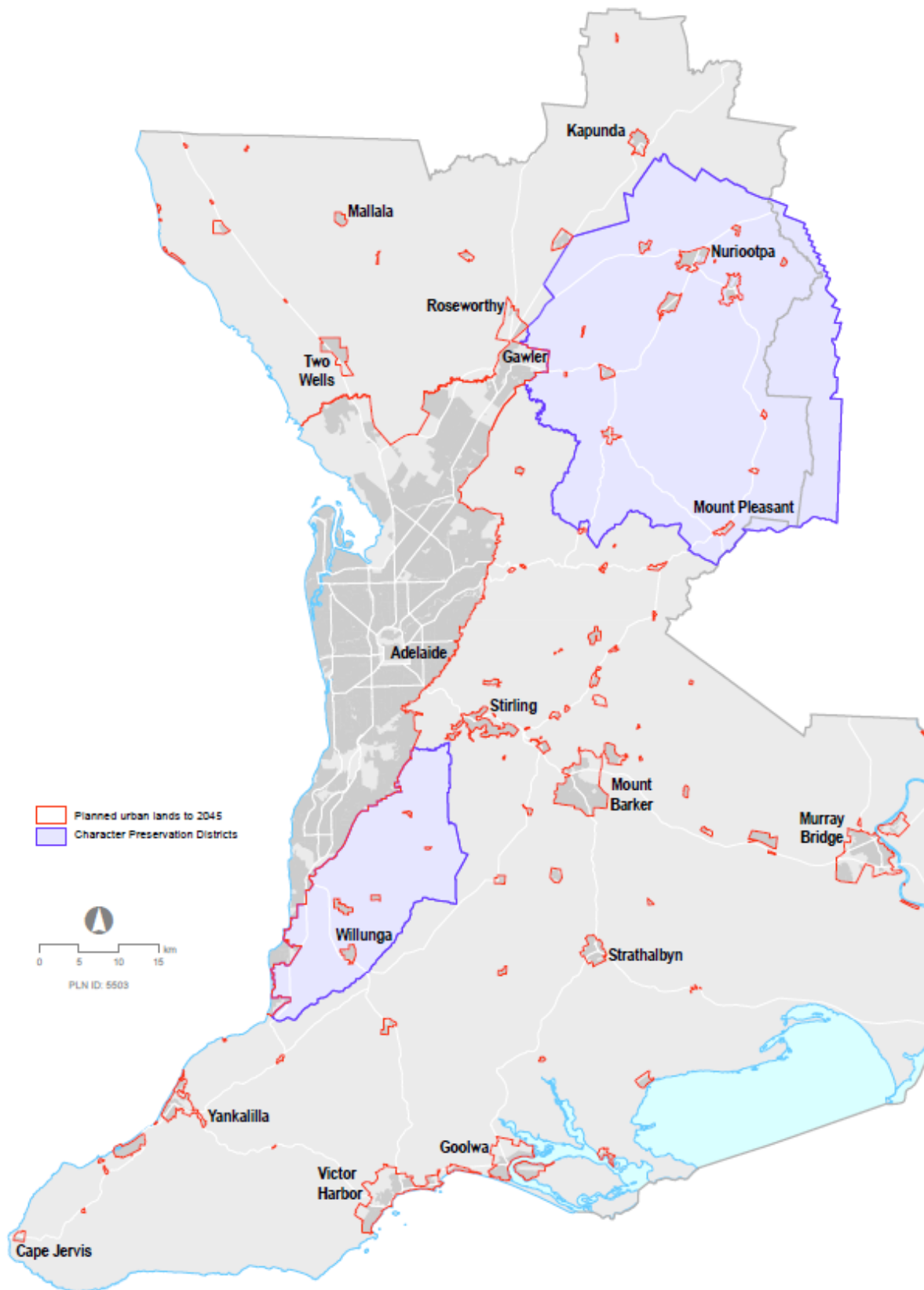
The Character Preservation District legislation provides long-term protection of the special areas of the Barossa Valley and McLaren Vale. The legislative protection is far greater than that which can be provided through local planning policy and requires legislative change through the South Australian Parliament to be amended.

While it is recognised that the legislation provides additional requirements as part of the planning assessment process, this is considered to be warranted to ensure these areas are protected in the long-term.

As part of this review process a number of policy issues have been raised. These are largely outside of the legislation itself and highlight the need to continuously review and improve planning policy for all areas.

The Planning and Design Code will provide a better avenue to achieve this in the longer term by modernising planning policy and providing improved amendment processes that enable policy to keep pace with community expectations and industry trends (e.g. changes in primary production, tourism and value adding).

Character Preservation Districts Map



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Key questions

These questions can be answered via an online feedback form, found on the SA Planning Portal.

The Character Preservation Acts aim to protect the character values of the districts. Do you think these values are being adequately protected?

Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?

Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them?

What do you consider are the family, social, economic and environmental impacts of the Act/s?

Have these Acts resulted in any positive or negative impacts on farming operations or farm business?

Do you believe any changes are needed in the Act/s?

SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?

Relevant hyperlinks:

[Character Preservation \(Barossa Valley\) Act 2012](#)

[Character Preservation \(McLaren Vale\) Act 2012](#)

District Boundaries can be viewed in the [Location SA Map Viewer](#)

Have your say

You can make a written submission at any time before the closing date, **5.00 pm on Wednesday, 28 February 2018**

- on the SA Planning Portal: www.saplanningportal.sa.gov.au/en/consultation
 - by email: DPTI.PlanningEngagement@sa.gov.au
- by post: GPO Box 1815, Adelaide SA 5001



St Hugo, Rowland Flat, Barossa Region. Image: SA Media Gallery