27 November 2019

Mr. Michael Lennon
Chairperson, State Planning Commission
GPO Box 1815
ADELAIDE SA 5001

Dear Mr Lennon

Consultation submission - Planning and Design Code

We refer to the recent release of the Planning and Design Code (the “Code”) by the State Planning Commission (the “Commission”), for public consultation. This submission is made jointly by the Berri Barmera and Renmark Paringa Councils, and the District Council of Loxton Waikerie.

In doing so, we sincerely thank and acknowledge the excellent assistance of Leif Burdon and other Transition Management staff of the Commission in helping to explain and educate us on the proposed Code. Our submission is outlined under the following headings.

Consultation period

As outlined in our letter of 3 October 2019, the three Riverland Councils collectively wish to express their very strong disappointment in the 2 month consultation period and response timeframes offered to Phase Two Councils.

We will not repeat the contents of that letter except to reiterate our serious concern at the lack of time offered to our communities to respond on such a complex and important matter, noting that other areas of the state were afforded five months to review and respond.

That being said, in the limited time available to us, we provide the following comments on the Code. In doing so, we have not been able to, nor should the Councils be required to, undertake a detailed audit of all of the Code policy, assessment tables or legal interpretation of the many and complex array of permutations resulting from a brand new Code, a new Planning System and new related Act and Regulations.

Implementation date

The Riverland Councils are scheduled for the Code and the new Planning System to be implemented on 1 April 2020 – many other parts of the State will go live on 1 July 2020.

We implore that the Commission allows the Riverland Councils to go live at 1 July 2020 – this will provide an additional three months (as given to many other Councils) to review and be trained on the new SA Planning Portal (the “Portal”), which is pivotal to the engine room of the new system, and to set up internal and external systems for the operation of the new system. There also needs to be more lead-time to enable the public and external users of the Portal to be educated and trained. The enormity of this task and the education required cannot and must not be underestimated, especially given that the Portal is not yet ready and no training or education on the operation of the Portal has yet commenced.

In terms of the Portal and the Commission’s aim to make it an all-encompassing public information portal for property, land and development matters, we urge the Commission to make the links to title searches and related title documentation (Land Management Agreements, Heritage
Agreements, Encumbrances and the like) freely available to the public via the SAILIS website and at no cost to the public.

It is also vital that the Commission makes the Portal user friendly, and relevant as it relates to the Riverland, having a Regional Assessment Panel with one appointed Assessment Manager across three separate and independent Councils.

In fairness, notwithstanding we were only afforded two months to comment on the Code, we implore that the Commission extends our implementation date to 1 July 2020.

**General policy modules**

**Climate Change**

There is much greater need for real and meaningful recognition of climate change issues and water preservation policy in the Code.

Presently the Code generally relies on motherhood policy, but real and measureable policy is required to mandate (not just promote) better building ESD principles, water retention and reuse, wastewater retention and reuse. By way of example, we consider that the Code should ensure that less reliance is put on people accessing and using mains water as a default position – it should be mandated to capture roof-water for reuse, not in tiny mandated tanks under the Building Code but with large domestic tanks (25,000-50,000 litre tanks can be easily placed on dwelling lots) and large commercial tanks for commercial, industrial and business uses. If we are serious and genuine about our water future and a good future world, we need more than tokenistic attempts to change people’s building and site design outcomes.

There is also need for better demarcation of bushfire risk areas and impacts of drought and climate change – we note the Commission plans to review bushfire risk areas in the next few years, but this should be given a higher priority and be reviewed annually.

**Design in Urban Areas**

We support the policy in DTS 17.1 of the Design in Urban Areas module that promotes residential accommodation with a ground finished floor level 300mm above the top of the kerb level of the primary street. This is an important site design as it relates to drainage management.

We also support the policy in DTS 18.2 and 19.1 on promoting urban design features, but these should be further expanded to place a stronger emphasis on good design outcomes. We also support the range of open space design options. It is recommended that Schedule 8 of the new Regulations be expanded to require applicants to provide a statement of design justification.

We also recommend that more flexible options be provided for good urban design outcomes for upper level windows for two storey dwellings, and not just relying on minimum window sill heights.

Guiding policy for minimum dwelling site frontages coupled with a restriction for 50% site width policy for garages, makes it difficult for design outcomes that require double garaging – which is most often the case in rural areas – better policy is needed to address such.

**Design in Rural Areas**

We query Design in Rural Areas DO 1(c) which refers to integrated landscape design, noting that some practical application of such is needed in drought affected areas.

We also query Design in Rural Areas DTS/DPF 10.1, where it is considered a total dwelling window area of 2 square metres facing the primary street is generally inadequate. This policy also appears irrelevant to and disrespectful to rural areas, where dwellings in the main do not face a street as they are often sited on large rural holdings. This type of scenario which appears to be township or street lot based development is replicated throughout the Code for rural type areas.

We support the policy in PO 19.1 of the Design in Rural Areas module as it relates to need to enclose the sub-floor space beneath transportable dwellings – but we seek that the policy be amended to have wider application to all types of elevated buildings not just dwellings.
Interface between Land Uses

The Code needs to retain current Development Plan policy relating to buffer setbacks for dwellings from horticultural activities and vice versa, so as to minimise impacts from sprays, dust and noise - taking into account vegetated buffers, the nature of adjoining development, prevailing winds, topography and physical barriers.

The DTS/DPF 2.1 policy needs to anticipate Sunday trading in regional and rural areas.

Wastewater

A significant issue for the Councils is to ensure there is better consideration given to the assessment of onsite wastewater systems at a development application stage. This is often overlooked by private certifiers - in such cases this puts Councils and land owners in a difficult position when having to resolve building siting and design issues post a Development Approval stage.

It is therefore imperative, that the Code policy be amended to place a stronger requirement for onsite wastewater to be assessed at a development application stage, and that Deemed to Satisfy and Performance Assessed assessment tables be strengthened to ensure development approvals are not issued in advance of detailed wastewater assessments by qualified wastewater engineers.

In relation to the above, based on our liaison with the Wastewater Management section of SA Health, it has been noted that the Code makes reference to ‘South Australian standards for wastewater management and disposal’ and ‘South Australian Standards’. It is recommended that the Code has a consistent reference to the SA Health’s On-site Wastewater Systems Code and the CWMS Code.

Code Zones

Caravan and Tourist Park Zone

Given the clear intent of the Caravan and Tourist Park Zone, it is unusual that cabins, caravans, caravan annexes, and other standard forms of development are not listed within the Deemed to Satisfy or Performance Assessed pathways, unless we assume they are captured under the definition of Tourist Accommodation. Unless this matter is clarified and/or addressed, it will mean proposals would be Performance Assessment and require notification, which appears to be against what the Zone is seeking to achieve.

We also note that Land Division is Restricted in the Zone, but seek that an additional exception applies for boundary realignments.

It is considered that greater policy guidance is required at a Zone level for ancillary type light industrial activities in the Zone, especially noting that Light Industry is to be Performance Assessed.

Conservation Zone

We support the overarching use of a Conservation Zone as it applies to most of the River Murray areas.

However, we seek that the Visitor Experience Sub Zone be applied to the Zone, so as to promote Tourist Accommodation and investment into key areas – this will need further thought as to the applicable areas possibly during the second generation of the Code.

The Conservation Zone treats all forms of Renewable Energy Facilities as Performance Assessed, rather than Restricted. This is of concern as it relates to wind farms and large scale solar farms (not small scale solar), as most of the Conservation Zone applies to sensitive areas along the River Murray and designated Conservation Parks. It is noted that the Significant Landscape Protection Overlay has not been applied to the Conservation Zone in the Riverland, meaning that Overlay PO 1.2 that restricts wind farms and large scale solar farms would not apply.
We raise issue with the rationale for what is listed as Restricted development, ala a Petrol Filling Station is Performance Assessed, a Wind Farm is Performance Assessed, yet a Dwelling is Restricted.

Policy should be riverine reference based, not just coastal based.

Please refer to the attached Murraylands and Riverland LGA submission that relates to overarching River Murray aspects of the Code.

**Employment Zone**

There is an error in the Employment Zone, where General Industry is marked as Restricted yet Special Industry is not – this should be corrected and be drafted the other way around.

The Employment Zone identifies Consulting Rooms and Office in the Deemed to Satisfy assessment table, yet they are not envisaged uses in the principal land use DTS 1.1 – this anomaly should be addressed.

Given the high intensity activities envisaged in the Zone, there is a lack of guiding policy for the assessment of such land uses.

**Infrastructure Zone**

The Zone lacks policy guidance for a wide range of anticipated public infrastructure – this not only poses an issue for assessment with lack of policy, but also means that many of the envisaged developments identified in DTS 1.1 in the Zone must be publically notified – this seems to be at odds with the aim of the Code.

**Neighbourhood Zones – equivalent of Residential Zones**

We note that the current Development Plan Residential Zones would become the General Neighbourhood Zone, or a Suburban Neighbourhood Zone or a Housing Diversity Neighbourhood Zone in the Code – these are essentially Residential Zones with scope for allied community services and facilities in the main.

In the context of Riverland towns, 200-300 square metre allotments for detached dwellings and other forms of dwellings in a General Neighbourhood Zone is far too small, and also poses issues with regard to ability of Council infrastructure services – there is also no specific investigations provided by the State Planning Commission with regard to infrastructure audit capability assessment for such an increased density, demand and supply for such allotments. Given the above, we seek that the General Neighbourhood Zone is altered to a Suburban Neighbourhood Zone with inclusion of the current townships dwelling lots size criteria (in the Residential Zone – Development Plan) via the Minimum Allotment Size Technical and Numeric Variation Overlay. This approach will allow us to retain our current Development Plan policy and to further consider possible options for higher density housing as part of the Riverland’s upcoming Growth Strategy that would guide possible future Code Amendments at that time.

Further to the above, we seek that the Housing Diversity Neighbourhood Zone (a higher density Zone in the Code that provides for net residential density of up to 70 dwellings per hectare or 142 square metre lots net) be deleted – this should be replaced with a Suburban Neighbourhood Zone with a Minimum Allotment Size Technical and Numeric Variation Overlay that reflects the Councils current Development Plan density policy for the Medium Density Policy Area.

We also seek that Industry be Restricted Development within these residential areas, as such developments are not considered to be compatible with residential living and is not orderly or sound planning. Unique cases can then be considered via a Restricted Development assessment pathway.

In the Suburban Neighbourhood Zone, there is a confusing format issue on page 1085 of the Code for a detached dwelling in the Performance Assessed table. That is, there is a page break at the bottom of page 1085 and it is unclear to the reader as to whether or not the semi-detached dwelling policy on the following pages also applies to a Detached dwelling - if so there needs to be a PTO type reference in the detached dwelling column, or if not there is a significant level of policy detail lacking for a detached dwelling in the table.
There is also a drafting error in the General Neighbourhood Zone, where it references the Suburban Neighbourhood Zone in point (b) of the Notification procedure table – this error appears to be replicated in the Housing Diversity Neighbourhood Zone notification procedural table.

**Open Space Zone**

Given the intent of the Zone, there is a lack of guiding policy for the assessment of land uses. We also query the absence of any Restricted Development in the Zone, given the general conservative development nature of the Zone.

**Recreation Zone**

As part of the 2012 Riverland Better Development Plan initiative, the Riverland Councils had specific residential, tourism accommodation development and land division policies embedded into the Development Plans – this was in order to promote and facilitate tourism based economic development in association with the existing golf courses, without prejudicing the overarching intent of the Zone. It is important that the Recreation Zone in the Code retains the existing Development Plan policy content; otherwise the Code would be a retrograde step. This could be addressed by a simple amendment by expanding the types of activities in PO 1.2 and by the inclusion of a Sub-Zone.

Minor ancillary structures such as toilets and general recreation facilities should have a Deemed to Satisfy pathway within the Recreation Zone – the same should apply in the Open Space Zone.

There also needs to be greater clarity in the Zone as to when land division scenarios would and would not be contemplated.

**River Murray types Zones**

Please refer to the Murraylands and Riverland LGA submission on the overarching River Murray aspects of the Code. In addition to the more detailed Murraylands and Riverland LGA submission, we reinforce the following matters:

- **Acid Sulphate Soils**
  
  We query the basis of inclusion of new mapping of Acid Sulphate Soils, noting that there is no Statement of Investigations that explains these new inclusions into the Code.

- **AHD levels**
  
  The Code does not currently carry forward Development Plan AHD levels in zoning policy in the Code. The current Development Plan AHD level policy needs to be included into the Code, via suitable Overlays, TNVs or data layers.

- **Flood mapping**
  
  We note that the 1956 flood mapping of the River Murray Flood Plain (that exists in the Development Plan) is not present in the Code. What exists in the Code is a River Murray Flood Plain Overlay, but that area appears to be based on the current River Murray Water Protection Area (or by some other rationale) and not the flood plain. The River Murray Water Protection Area is not the defined 1956 flood plain and is a much larger geographic area defined more so for environmental management and referral purposes. The 1956 flood plain mapping in the Development Plan shows the extent of the flood that occurred in 1956 and is specifically used for flood hazard assessment. The 1956 flood mapping is crucial to ensure the proper assessment of site constraints and to avoid inappropriate developments occurring in potentially hazardous areas – the mapping must be reinstated in the Code. The name of the River Murray Flood Plain Overlay must also be altered as it is misleading.

  The areas of Renmark within the flood levee protection area should be excluded from the flood mapping.

- **River Murray Flood Plain Overlay**
  
  Township, urban areas and caravan park Zones should be excluded from the River Murray Flood Plain Overlay Area, so as to avoid minor Deemed to Satisfy developments from being tripped in
performance assessed – the status quo of the current system should prevail and the new planning system should not be more of a burden with additional red tape.

We support the Flood Resilience policy in the River Murray Flood Plain Overlay – but we question how a planning authority can best manage the proliferation of pumps under DTS 7.3.

**Rural Zone**

We urge the reinstatement of the Councils’ land division minimum allotment sizes, boundary realignment criteria, allotment date and size criteria to establish dwellings, or indeed to excise existing dwellings where existing policy supports this approach.

**Envisaged development**

DTS/DPF 1.1 should be amended to include a wider list of envisaged uses and associated performance assessed criteria so that appropriate land uses are not inadvertently overlooked. Some land uses which are not contained within this provision but should be included, are, wind farm, waste facility, stock slaughter works/abattoir, renewable energy facilities, workers accommodation and caretaker dwellings.

**Greenhouses**

DTS/DPF 3.1 limits a greenhouse to 250 square metres. Commercial greenhouse developments are usually considerably larger than 250 square metres. We seek that there be no floor area limit on the size of greenhouses, and each case be considered on a performance basis – this is the approach stated in the Rural Horticulture Zone, and we see no valid reason to apply a different criteria/approach in the Rural Zone.

**Rural Industry**

DTS/DPF 4.1 limits industry, storage, warehousing and transport distribution activities to a floor area of 250 square metres and allotments at least 20 hectares. The floor area and minimum allotment size are both considered problematic and not realistic for rural/agricultural areas. The 250 square metre floor area should be increased and that some consideration be given to having separate Deemed to Satisfy and Performance Assessed criteria for floor areas. The 20 hectare minimum allotment size is considered too large, and may “lock out” smaller primary industry businesses from developing such facilities. Again, consideration needs to be given to having separate Deemed to Satisfy and Performance Assessed criteria for allotment sizes.

**Secondary dwellings**

DTS/DPF 5.2 requires that a secondary dwelling on an allotment is “located on an allotment not less than 40 hectares in area”. This size requirement is considered unworkable and will inhibit the implementation of secondary dwellings as envisaged by PO 5.3. Furthermore, the term secondary implies a second dwelling only, whereas PO 5.3 promotes more than one dwelling in the case of farm hands, managers residences and aging in place – the term secondary dwelling should be replaced with the term more than one dwelling.

**Tourist accommodation**

DTS/DPF 6.3 outlines a 100 square metre limit for tourist accommodation - this should be revisited as it will limit the ability for large scale tourism development, innovation in design and developments where more than one type of tourist accommodation facility is proposed. Further, the phrase “in relation to the area used for accommodation” is not entirely clear. Whilst we read it as being the total area used for guest rooms, it could be interpreted more broadly. The phrase may also lead to confusion in developments that propose more than one form of tourist accommodation – for instance, a development that contains hotel-style rooms together with detached, self-contained tourist accommodation buildings. We recommend that this provision be reviewed and amended so that it is entirely clear and does not inadvertently discourage tourism development.
Agricultural buildings

DTS/DPF 12.1 outlines a total floor area limit of 250 square metres and minimum allotment size of 10 hectares – this provision may result in acceptable, performance assessed buildings being refused. Put simply in the context of rural/agricultural farms needing very large machinery sheds, shearing sheds, hay sheds and the like, a 250 square metre policy is not realistic and must be altered.

Again, creating separate Deemed to Satisfy and Performance Assessed criteria for agricultural buildings is considered an appropriate mechanism to “balance” the need for relatively conservative Deemed to Satisfy criteria and more facilitative Performance Assessed criteria.

Land division policy

One of the key policies applicable for the assessment of land division application is PO 1.1 of the Rural Land Division general module, which is applied to ensure allotments are suitable for their intended purpose taking into account physical characteristics of the land and the like.

However, as illustrated below, PO 1.1 of the Rural Land Division module is not called up in the corresponding Performance Assessed table – this must be included in the assessment table.

<table>
<thead>
<tr>
<th>Land division</th>
<th>[Land Division] PO 11.1</th>
<th>Land Division in Rural Areas [Design and Layout]: PO 2.2, 2.4, 2.5, 2.6</th>
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<td>Land Division in Rural Areas [Roads and Access]: 3.1, 3.6, 3.7, 3.8, 3.9</td>
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<td>Land Division in Rural Areas [Infrastructure]: 4.2, 4.3</td>
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<td></td>
<td>Land Division in Rural Areas [Minor Land Division (Under 20 Allotments) - Water Sensitive Design]: PO 7.1, 7.2</td>
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</table>

PO 1.1 not called up!

Dwelling excisions

Land division dwelling excisions may, under the Dwelling Excision Overlay, be allowed regardless of when an allotment was created, and where multiple ongoing excisions could occur over time. We urge the Commission to include date criteria into the Code (i.e. the date of the authorisation of the Code) or some other method to avoid unwarranted repetitious use of this policy.

Frost fans

Frost fans are an important element of horticultural activity in the Riverland – the Code needs to include policy with regard to such types of activity, both as an envisaged form of development, but also to address interface, visual and noise aspects. The same would apply to the Rural Horticulture Zone.

Rural Horticulture Zone

Similar observations to that of the Rural Zone are applicable to the Rural Horticulture Zone, mainly due to the similarity of the two Zones.

Given this similarity, we question why there needs to be two Zones, and suggest the Code would be better served with one Rural Zone or possibly with a Horticulture Sub-Zone.

We also note that there is a double up/duplication of the Performance Assessment Table in the Rural Horticulture Zone.

Rural Living Zone

We raise concern that policy within the Zone limits outbuildings to 100 square metres and five metres in height – this is far too restrictive and is not respectful of the needs of rural communities. There is need for additional policy in Rural Living Zones to ensure use of pre-colour treated materials for sheds and to promote alignment of sheds off of side and rear lot boundaries.
Industry needs to be identified as Restricted within the Rural Living Zone.

Please refer to Council specific matters, as addressed in Section 5 and 6 of our submission, for more rural living matters.

**Solar farms and renewable energy facilities**

**Solar farms**

No detailed criteria are provided in the Rural Zone for large scale solar and battery storage facilities. Given that many such facilities are being developed in areas that are proposed as part of the Rural Zone/s, appropriate assessment criteria is needed to ensure that this burgeoning industry is not inadvertently discouraged and that appropriate siting and design occurs.

We urge the Commission to consider the *Victorian Solar Energy Facilities Design and Development Guidelines 2019*, and the discussion paper titled *Solar Farm Land Use Planning Policy and Approvals Processes in South Australia* (Somers, 2018). As part of the consideration of these excellent papers, thought needs to be given to the physical size of facilities (on the ground) rather than the actual energy outputs as a measurement of scale – especially in light of rapidly advancing technology.

The DTS/DPF 9.2 provision in the Rural Zone refers to a “panel” size of 80 square metres per structure. Given the community’s understanding of what a panel is (i.e. each individual panel), we suggest that this term be revisited to avoid confusion.

**Wind farms**

In the Rural Zone, Renewable Energy Facilities are to be Performance Assessed as the Significant Landscape Protection Overlay does not apply in the Riverland – we support this approach.

Within the Rural Horticulture Zone all forms of Renewable Energy Facilities are Performance Assessed – we also support this approach.

**Suburban Employment Zone**

The Suburban Employment Zone does not provide a DTS pathway for shops, but does for office and consulting rooms. Given the nature and intent of the Zone, consideration should be given to a Deemed to Satisfy pathway for a shop.

**Tourist Development Zone**

As expected, we note that within the Tourist Development Zone many tourism development activities are envisaged, however there are no guiding policies for such development – the only guiding policies relate to offices, shops, signs, dwelling and land division. This imbalance of guiding policy needs to be addressed.

**Township Main Street and Township Activity Zones**

We express concerns about subsequent fragmentation of Township Main Street and Activity Zones, as a result of the loosening of land use policy in residential type zones. We request consistent, stronger policy to encourage non-residential type developments in Centre Zones, as opposed to Residential Zones.

We note an inconsistency in drafting approach, where some land uses in these zones are Deemed to Satisfy, such as Consulting Room, but other similar uses are not such as Shops and Offices.

In these zones, a change of use from any of an office / shop / consulting rooms to an office / shop / consulting rooms should be accepted development. Given these land uses are so similar in nature and intensity, it will make it much easier for new small businesses to open in regional towns/main streets. The *Planning, Development and Infrastructure Act 2016* (the “Act”) gives the clear ability for a change of use specified in the Code to be treated as a minor change of use that will not be regarded as a change in the use of land under the Act.

We also ask that the prescriptive policy in these zones be removed as it relates to car parking, so as to allow for greater flexibility in assessment in rural areas.
General matters

We raise concern that members of the public and/or builders will form their own opinion on carports/sheds/garages and the like as Accepted Development without thoroughly checking through all relevant applicable policy and overlays, which could lead to unauthorised development occurring with subsequent enforcement issues for Councils and property owners.

There is need for car parking for small scale shops in residential areas to be of a lesser number, in the context of people walking to such – a high generation rate also often renders a small scale shop project to be untenable by virtue of too much land being taken up for parking versus the development itself. There is also need for the Code to identify that in rural/agricultural communities that car parking spaces should be larger in dimension to accommodate larger rural vehicles.

A Store in the General Neighbourhood, Suburban Neighbourhood, Housing Diversity Neighbourhood, Residential Neighbourhood, Deferred Urban and Rural Living Zones is not Restricted whilst in the current Development Plan it is non-complying in equivalent zones. Under the Code, a Store will be Performance Assessed, but there is inadequate policy to limit and/or guide key built form aspects such as size and height of Stores and to guide the circumstances where they might be supported or opposed, and to avert a potential high probability of appeals where such are refused. As you would respect, Stores on vacant land are not an orderly development outcome, and poses a serious issue in regional SA with the proliferation of people living in sheds and leading to visual, amenity, public health (wastewater issues) and illegal changes in land use.

There is a drafting error in the Notification Table of the Suburban Employment Zone, with no exceptions listed as prompted by the drop down points.

We ask that there be a more practical approach to notification requirements in rural and regional areas. Firstly, we note that in the notification tables for zones, Performance Assessed development where “the site of the development is adjacent to land in a different Zone” must be notified. This appears to be an overly onerous requirement where the proposed development adjoins a similar use or is of a lesser intensity than a development it abuts - we ask that appropriate exclusions to the notification “trigger” should be considered to avoid needless notification. Secondly, the need or placement of notification signs on land in rural areas is not practical or sensible and that requirement needs to be altered/refined.

The balance between what is Restricted Development and Performance Assessed in zones is out of kilter – there is often little policy guidance (or a complete silence) to assess what may be a poor project in a particular zone, where the refusal of such is likely to lead to a higher number of appeals, and confusion and indecision with the Courts and authorities on interpretation.

As it relates to the Act, there is much confusion as to the term ‘element’ in relation to assessing various components of a development prior to the granting the final development approval after all elements of the development have been approved by 1 or more relevant authorities – we understand this is also causing confusion to the officers of the State Commission Assessment Panel with the implementation of the Phase 1 Code in Outback SA.
Specific local Council issues/opportunities (not already identified above)

Berri Barmera Council
The Township Zone in the Code refers to ‘Design in Urban Areas’. We consider there should be a minor change to the terminology for smaller settlements, as referring to Cobdogla / Loveday as an urban area is not really appropriate.

Concerns are raised about the Rural Landscape Protection Zone being merged into a Rural Zone or Rural Living Zone with a Native Vegetation Overlay. We require that these unique areas be better recognised via a Sub-Zone and that key provisions be retained as to no removal of native vegetation for dwelling sites, driveway and associated development. For areas such as these the protection of intact stratum and the impact of cumulative vegetation clearance needs to be better recognised.

Loxton Waikerie Council
The sporting precincts in the townships of Waikerie (CR 6164/809, CR 5755/582), Moorook (CR 5755/571), Loxton North (CR 5755/635), Wunkar (CR 5755/567), Ramco (CR 5737/435) and Browns Well, Paruna (CR 5096/644, CR 6096/665, CR 5755/643, CT 5714/611) should all be rezoned as Recreation Zone.

The Employment Zone at Waikerie (Sturt Highway, Waikerie east) needs realignment to accommodate all existing commercial businesses in that location, as illustrated in red on the following graphic.

The Rural Living Zone (Loxton South Country Living Precinct) is not provided with a Minimum Allotment Size Technical and Numeric Variation Overlay. The existing structure plan allows land division to allotments less than 2000 square metres in size when the precinct is developed in accordance with the staging plan. We accept the removal of the structure plan in this instance, but request that the Precinct is converted to a Residential Neighbourhood Zone with a Minimum Allotment Size Technical and Numeric Variation Overlay of 2000 square metres. This is also consistent with the conversion of the Waikerie Country Living Precinct.
Renmark Paringa Council

Community Facilities Zone

The area highlighted in yellow in the graphic below, identifies the Community Facilities Zone in the Code – Council has no objection to this Zone as it relates to the Council Civic Centre, but considers the land adjoining to the north and south should be placed into a more appropriate zone, as illustrated in the graphic and as explained in more detail below.

More specifically, Council seeks that the areas highlighted in the graphic be zoned Suburban Neighbourhood Zone (with a Minimum Allotment Size Technical and Numeric Variation Overlay) and Suburban Activity Centre Zone. In support of such a request, the area to the south of the Civic Centre is already the subject of a housing development proposal that Council supports/facilitates – the area to the north of the Civic Centre has been identified by Council for future investment and economic development abutting the existing Suburban Activity Centre Zone, arterial road and community facilities.

District Centre Zone

The District Centre Zone (in the Development Plan) at Renmark currently contains eight precincts and policy areas. It is apparent that Council has spent a lot of time previously creating the precincts and policy areas and associated concept plans and may wish for this area to continue to reflect this. However, it is also considered that the various precincts and policy areas are too prescriptive and the new regime proposed under the Code is an improvement as it reduces a number of different precincts and also adds more robust and appropriate development policy.

Notwithstanding the above, we submit that Precinct 4 Banking and Community (located between Ral Ral Avenue and the river) be altered in the Code from a proposed Community Facilities Zone to the Suburban Activity Zone so as to better reflect the current land uses. As outlined in more detail earlier, under the heading of Community Zone, Precinct 6 Civic and Retail (in the Development Plan), being the land along Eighteenth Street containing the Civic Centre, should be placed into a more appropriate Zone in the Code.

Local Centre Zone

This Zone will be replaced with the new Township Activity Zone in the Code. This Zone covers five properties located behind the Civic Centre. The current land use for these properties appears to be residential and as such this area may be better to be included in the surrounding Suburban Neighbourhood Zone.
Marina Zone

It was identified that the Residential Waterfront Policy Area of the Marina Zone of the Development Plan should be better recognised within the new Suburban Neighbourhood Zone in terms of a Sub-Zone, related policy, AHD level criteria and the reinstatement of Concept Plan Map Re/Pa 6. This is especially important given the unique nature of the current Zone.

Concept Plan Map Re/Pa 6 should also be reinstated into the Code as it relates to the Infrastructure (Ferry & Marina) Zone, along with policy regarding AHD levels for development.

Rural Living Zone, Renmark West Precinct 11

As it relates to the Renmark West Precinct 11 of the Rural Living Zone in the current Development Plan, Council supports the Code that Zones this area as Residential Neighbourhood Zone with a 2000 square metre land division area.

However, the rural living area to the south of Cucumunga Street should retain the 2000 square metre area under the current Development Plan and be placed in the Residential Neighbourhood Zone in the Code with its 2000 square metre land division policy.

Tourism Accommodation Zone

The Tourism Accommodation Zone in the Development Plan, New Landing Drive, Renmark, has been placed into an Infrastructure (Ferry & Marina) Zone. Whilst this Code Zone contemplates tourist accommodation, it would be more appropriate for this Zone to be replaced with the new Tourism Development Zone in the Code.

Code mapping, overlays and concept plans

We are concerned that important Development Plan Concept Plans have not been transferred into the Code – it is incorrect of the Commission to assume that such Plans are primarily suitable in metropolitan and outer metropolitan growth areas. Many of the Concept Plans, as identified further below, are required to support infrastructure provisions and orderly development in the region.

Similar to the issue raised earlier in our submission regarding the use of the River Murray Flood Plain Overlay and its impact on unnecessary referrals in townships and settlements, we raise the same issue as it relates to the broad application of the Native Vegetation Overlay which covers various township and settlement areas – this needs attention as it will be a layer of red tape that the Code did not envisage.

We would like to see Aboriginal Heritage Areas mapping layers developed to help identify areas of the State that are subject to conservation, protection or cultural heritage significance – we note that this has occurred in Western Australia and assists/alerts developers/assessment officers to potential interface with an area of aboriginal heritage significance.

We urge the Commission to retain high voltage powerline mapping in the Code.

Berri Barmera Council

a) Need to include the Berri West Infrastructure and Staging Concept Plan Be/Ba/1 and Berri East Infrastructure and Staging Concept Plan Be/Ba/3 – both of these areas are growth areas and the concept plans provide important infrastructure planning and staging guidance.

Loxton Waikerie Council

a) The former caravan park at Lot 500 Peake Terrace, Waikerie, should be zoned Suburban Neighbourhood Zone, rather than Caravan and Tourist Park Zone in order to recognise the current use of the land - it has not been a caravan park for many years.

b) The residential area to the south of the caravan park at Paisley (Blanchetown east) should be allocated a more suitable transition zone to that of a Conservation Zone, so as to recognise the existing residential development.
Renmark Paringa Council

1. Renmark Marina - need to reinstate the Marina Estate Concept Plan Map Re/Pa 6 into the Code as the concept plan provides key vision and infrastructure/layout information that must not be lost.

2. Development Plan Concept Plan RePa/7 for the Renmark Golf Club must be reinstated in the Code – the concept plan provides key spatial information to guide development in and around the golf course.

3. Development Plan Concept Plan Map RePa/8 for the Paringa North Rural Living area must be reinstated in the Code - the concept plan provides key spatial, geographic, cliff face and infrastructure planning to guide development.

Deemed to Satisfy versus Designated Performance Function criteria

We question the use of Deemed to Satisfy criteria for Performance Assessment developments, via use of the same Designated Performance Feature.

The manner in which Deemed to Satisfy criteria is expressed could lead to Performance Assessed development applications being refused due to a lack of guidance as to what variations from Deemed to Satisfy criteria are and are not appropriate in a Performance Assessment.

Definitions

Ancillary accommodation

We support the inclusion of the new definition for Ancillary Accommodation in the Code, so as to provide greater clarity on defining housing options for granny flats and dependant accommodation.

However, we do not support the definition restricting ancillary accommodation not having more than 1 bedroom or room or area capable of being used as a bedroom – this is simply not a practical or reasonable proposition, say for a family member (aging in place) wishing to have an ancillary study/ sewing room and/or guest room for grandchildren or visitors.

The definition should be amended to say not more than 2 bedrooms.

Horse keeping

There is need for a more practical and realistic definition for horse keeping, perhaps at 1 horse per hectare rather than 1 horse per 3 hectares

Tourist accommodation

We support the new definition of Tourist Accommodation in the Code – however, there is opportunity for the Code to provide clearer land use definition and policy guidance where boutique style tourist accommodation is envisaged, so as to avoid confusion where such development often has a similar form to a dwelling in riverine, rural and landscape/scenic settings.

Workers accommodation

The definition of Workers Accommodation needs minor redrafting to clarify applicability of each level of definition.

Non-defined activities

Land uses that are stated in the explanatory columns of the Code definition table need definition – such as for example Private Bushfire Shelter.

Need for audit

As outlined earlier, we urge the Commission to undertake a thorough audit of the Code before it goes live – this is considered critical to resolving errors, anomalies, inconsistencies, incorrect formatting and policy labelling, chinks and running-in issues before the new Planning System goes live. It is far too important and poses serious risks if the Commission allows the system to go live in the absence of thorough road testing.
As we understand it, the State Planning Assessment Commission has only tested 30 or so applications to date in remote areas, and such testing has shown considerable issues with the new system.

To allow the whole of regional SA and the whole balance of SA to go live on 1 April and 1 July 2020 would be far too risky and irresponsible – the Commission needs to allocate more time to testing, verification and running in of the new system in a safe non-live or testing environment. Likewise the Commission is strongly urged to allocate more time towards the equally critical task of road-testing a draft Portal, and to allow more lead time to the training and education of users of the Portal being the community, businesses, councils and agencies.

If this means the Commission needs to urgently brief the Minister on the need for more time, that would be a far more sensible and responsible outcome than the serious risks in allowing the system to go live prematurely.

We look forward to your response and to obtain a clearer understanding of how and when amendments to the consultation draft of the Code will be made by the Commission.

Yours sincerely,

Mayor Peter Hunt
Berri Barmera Council

Mayor Leon Stasinowsky
District Council Loxton Waikerie

Mayor Neil Martinson
Renmark Paringa Council

Copy to:
- Hon Stephan Knoll MP, Minister for Local Government, Minister for Planning
- Hon Tim Whetstone MP, Minister for Primary Industries and Regional Development, Member for Chaffey
- Stephen Smith, Local Government Association of SA
Murray River Corridor Policies: Transitioning to the Code:


18 November 2019

Lead consultant
URPS

Prepared for
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URPS
Murray River Corridor Policies:

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1.0 Introduction

1.1 Background

In 2018, URPS was engaged by Regional Development Australia Murraylands and Riverland (RDAMR) and Murray River Alliance SA (MRA) to undertake a review and provide strategic advice on how current Development Plan policy for the Murray River “corridor” should be transitioned into the initial version of the Planning and Design Code (Code). In addition, this advice considered what broader amendments might be considered in any future review of the Code.

This culminated in the preparation of the *Murray River Corridor Policies: Transitioning to the Code* report dated 20 December 2018 (previous report).

1.2 Code Engagement and Implementation

The Planning and Design Code is being consulted and implemented in two phases depending on the location and characteristics of the Council in question. Since the release of the initial report the timing for community engagement and Code implementation has become clear.

The following summarises the implementation of the Code across the original study area Councils:

**Phase 2 Councils (Rural Areas) – Implementation April 2020:**
- Berri Barmera Council
- Coorong District Council
- District Council of Karoonda East Murray
- District Council of Loxton Waikerie
- Renmark Paringa Council

**Phase 3 Councils (Urban Areas) – Implementation July 2020:**
- Alexandrina Council
- Mid Murray Council
- Rural City of Murray Bridge

Councils located within Phase 2 implementation have until late November 2019 to make submission, whilst Phase 3 Councils will have until late February 2020 to make submission. These periods align with the implementation schedule noted above.

1.3 Purpose of this Paper

This paper represents the “Murray River Alliance SA (MRA)” submission to the draft Planning and Design Code for Phases 2 and 3. Noting that the MRA may provide an updated submission associated with Phase 3 only. This submission should be considered by the Department of Planning, Transport and Infrastructure (DPTI) in addition to other submissions being prepared by local governments and allied associations.
1.4 Scope of Work – Stage 2

Stage 2 of the River Murray Corridor Policies Project builds upon the original report and provides a comparison between current Development Plan policy, draft Planning and Design Code policy, and highlights areas of difference between those policy amendments highlighted initially and the policy as released by DPTI. This information provides an opportunity for the provision of both collective and individual submissions to the DPTI and State Planning Commission (SPC).

1.5 The Study Area

The study area associated with Stage 2 encompasses policies for the following zones that abut the Murray River:

- River Murray Flood Zone (within Berri-Barmera, Coorong District, Karoonda East Murray, Land not within a Council area (Riverland), Loxton, Waikerie, Murray Bridge and Renmark Paringa Council Development Plans).
- River Murray Fringe Zone (within Berri-Barmera, Coorong District, Karoonda East Murray, Land not within a Council area (Riverland), Loxton Waikerie, Murray Bridge and Renmark Paringa Council Development Plans).
- River Murray Zone (within the Mid Murray Council Development Plan).
- Conservation Zone (within the Alexandrina Council, Development Plan).
2.0 Policy Comparison

2.1 Identified Issues

In preparing the initial report, a collection of current River Murray policy issues were identified. This arose from a range of sources and previous work and provided a snapshot of the consistent issues/areas of contention which have resulted from various policy amendments along the River over time.

In addition to the identification of issues, a series of possible solutions were made for consideration of the DPTI in preparing the draft and final Code which would assist in achieving consistency and addressing policy conflict.

2.2 Proposed Policy – Planning and Design Code

The following tables include a comparison between the issues raised in the initial report and the resulting policy approach implemented via the release of the Draft Code (Table 1) and additional matters raised throughout the process and the Codes proposed response (Table 2).
## Table 1: Issues Comparison

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|       | Identification of Areas Prone to Flooding                                                 | Many types of development are restricted from developing/expanding into the area identified as subject to flooding. While there is a need to promote appropriate economic activity, policymakers must also be cognizant of the need to manage environmental and heritage (both First Peoples and European) impacts.                                                                 | The Code proposes a new zone structure which is to be affected by the River Murray Flood Plain Overlay discussed below. The primary zone affecting the river channel and backwaters is the Conservation Zone which is a consolidation of those areas currently zoned River Murray Flood Zone, parts of the River Murray Zone or Conservation Zone under current Development Plans. | • Seek the reinstated of policy which permits the replacement of existing detached dwellings in-line with current policy controls. This could be via a modified Dwelling Subzone.  
• There is a “Rural Shack Settlement Zone”. This Zone should be considered for application over shack areas.  
• Dwellings in Rural Shack Settlement Zone / shack areas should be performance assessed.                                                                                                                                 |
|       |                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Proposed Conservation Zone                                                                                                                                                                                                                                                                                                                                 |
|       |                                                                                           | Potential exceptions to non-complying land uses identified in the 2013 Land Use Study and Development Plan Review for the Lower Murray Flood Plain included (subject to conditions):  
• Horticulture;  
• Caravan park, motel and tourist accommodation;  
• Some forms of shops;  
• Some forms of industries;  
• Land based aquaculture;  
• Commercial forestry.  
With or without conditions, consider processes that minimise referrals and/or permit appropriately designed buildings in these areas.  
Changes to assessment approaches should be based on appropriate investigations to ensure unintended environmental consequences are minimised. | Proposed Conservation Zone  
The Conservation Zone is intended to conserve and enhance the natural environment and limit development. In many cases, the current policy allows for the replacement of a detached dwelling in the River Murray Flood Zone and certain Policy Areas within the River Murray Zone. The proposed Conservation Zone removes this exception and represents a significant shift in the policy approach applied in these specific circumstances. |                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|       |                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Proposed Rural Zone                                                                                                                                                                                                                                                                                                                                 |
|       |                                                                                           | Areas currently zoned River Murray Fringe Zone have been absorbed into a range of other zones, primarily the Rural Zone. These areas will be subject to the River Murray Flood Plain Overlay. A review of the Rural Zone confirms that a range of additional land uses are identified as Deemed-to-Satisfy, irrespective of the Overlay, subject to compliance with the Code. These include, but are not limited to:  
• Horticulture  
• Tourist Accommodation  
• Shop | Areas currently zoned River Murray Fringe Zone have been absorbed into a range of other zones, primarily the Rural Zone. These areas will be subject to the River Murray Flood Plain Overlay. A review of the Rural Zone confirms that a range of additional land uses are identified as Deemed-to-Satisfy, irrespective of the Overlay, subject to compliance with the Code. These include, but are not limited to:  
• Horticulture  
• Tourist Accommodation  
• Shop |                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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<td>Many Development Plans use the 1956 Flood Level/line as the extent of flooding. It is understood that some Development Plans do not accurately reflect the actual 1956 flood level event.</td>
<td>In collaboration with the Department for Environment and Water and DPTI update Development Plan / Code maps to reflect the accurate boundary of the 1956 Flood Level. Where practical, consider the pros and cons of: • Creating greater consistency with the 1956 Flood Level with the River Murray Protection Area; • Minimise referrals of certain development on sites located outside of the 1956 Flood Level but within the River Murray Flood Plain Area.</td>
<td>In addition, the majority, if not all, of the previous the River Murray Fringe Zone is subject to the provisions of the Limited Land Division Overlay. This Overlay restricts the creation of new allotments and is largely consistent with the current policy approach. <strong>Flood Mapping</strong> The draft Code has sought to standardise the application of planning policies across the State. In doing so, a single River Murray Flood Plain Overlay has been applied for the length of the Murray River which identifies areas subject to flooding and the application of the Overlay. It is noted that the extent shown as being subject to the provisions of the Overlay matches that of the ‘River Murray Protection Area’ as delineated in the River Murray Act 2003 and associated River Murray Regulations, 2017. This boundary differs from the identified 1956 Flood Plain Boundary which is either shown as in existing Development Constraint Maps or identified via zoning and policy area controls. It is highlighted that the 1956 Flood Level is not delineated in the new Code, however plays a crucial role in properly assessing site constraints and to avoid inappropriate developments occurring in potentially hazardous areas. It is noted however that Overlay content specifically references the flood level when providing guidance on DTS provisions. The result of this broader Overlay application is a ‘trigger’ of the policies contained in the Overlay for a greater number of zones and proposed land uses. This is particularly evident in the Riverland Councils. <strong>Hazard Exposure</strong> As noted, the Code does not attempt to identify the actual 1956 Flood Plain Area, rather opting to utilise the River Murray Protection Area. It is understood that current mapping may not accurately identify the extent of a 100-year ARI event and is a somewhat</td>
<td>Seek clarity from DPTI on the rationale for the use of the River Murray Protection Area as opposed to current 1956 flood mapping contained in Development Plans. Seek reinstatement of the 1956 flood level (e.g. demarcation of the extent) within the overlay as an additional element. This will provide clarity and remove reliance on mapping held by individual Council’s. The areas of Renmark and other townships, urban areas and caravan parks within the flood levee protection area should be excluded from the flood mapping. Work with DPTI and DEW to determine both the accuracy and currency of 1956 flood plain mapping and to introduce elements of exposure and vulnerability. In doing so, consider the inclusion of new mapping to address identified flood risk arising from the 1974 flood. This will provide greater understanding of flood characteristics and potentially</td>
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<td>The “River Murray Flood Plain Area” of the “River Murray Protection Area” established under the River Murray Act 2003 is wider in extent than the 1956 flood plain of the Murray River. This means that referrals pursuant to Schedule 8 of the Development Regulations mean that some development applications on land located outside of the 1956 flood level are still referred to the Minister for the River Murray. While the referral may be justified, it adds a level of complexity to interpreting “the flood plain” for applicants and planning authorities.</td>
<td>The SPC “Natural Resources and Environment: Policy Discussion Paper” (Aug 2018) identifies the following questions: a) Should we instead use the 1956 flood data as an indicator of risk in the future? b) Should sheds be made an exemption from the requirement to refer notice under the River Murray Act 2003.</td>
<td>Where the 1956 Flood Level is not delineated, this approach is largely consistent with the current policy and mapping approach. It is noted however that Overlay content specifically references the flood level when providing guidance on DTS provisions.</td>
<td>Work with DPTI and DEW to determine both the accuracy and currency of 1956 flood plain mapping and to introduce elements of exposure and vulnerability. In doing so, consider the inclusion of new mapping to address identified flood risk arising from the 1974 flood. This will provide greater understanding of flood characteristics and potentially</td>
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**Options for Possible Solutions**
- Above 1956 Flood Level – green light
- Between 1956 and 1974 Flood Levels – amber light
- Below 1974 Flood Level – red light.

**Hazard Exposure**
As noted, the Code does not attempt to identify the actual 1956 Flood Plain Area, rather opting to utilise the River Murray Protection Area. It is understood that current mapping may not accurately identify the extent of a 100-year ARI event and is a somewhat
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<td>rudimentary test which does not seek to delineate exposure, which is recognised to vary significantly across the flood plain.</td>
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<td>delineate between areas of risk, in turn facilitating development across the flood plain.</td>
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<td><strong>Restricted Development</strong></td>
<td>The Conservation Zone includes a “Visitor Experience Subzone”. The Conservation Zone lists “Tourist Accommodation” as restricted development in the Subzone. Councils’ preference is that Tourist Accommodation should be listed as a performance assessed development.</td>
<td>Remove “Tourist Accommodation in the Visitor Experience Subzone” from the Conservation Zone’s restricted development classification.</td>
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<td><strong>Referrals</strong></td>
<td>There is little change to legislative requirement for referral to the Prescribed Body where an application is located within the River Murray Floodplain Area (as defined in the River Murray Act, 2003). It is noted that most exceptions to referral as currently prescribed in the Development Regulations, 2008 carry through to the Code; however there appears to be a softening of language to provide greater levels of discretion to the relevant authority to determine a development to be ‘minor in nature’. It is important to note that, given the wider application of the Overlay over areas which were previously not identified as being subject to referral, there is a risk that development within additional areas will prompt referral.</td>
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<td><strong>River Murray Fringe Zone</strong></td>
<td>The Fringe Zone is contained within the Berri Barmera, Coorong District, Karoonda East Murray, Land not within a Council area (Riverland), Loxton Waikerie, Murray Bridge and Renmark Paringa Councils Development Plans. At this stage, it appears that there are minimal differences between the policies contained in the Fringe Zone and the River Murray Flood Zone. The additional zone may not serve any practical</td>
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<td>Consider, incorporating the Fringe Zone into an updated River Murray Flood Zone, or where appropriate, into neighbouring Primary Production Zone. In addition to the consideration of a merged zone, it may be appropriate to prepare an “Overlay” in association with the new Code. At this preliminary stage, it is considered that both an overlay or merged zone can be effective.</td>
<td>As described above, those areas currently zoned River Murray Fringe have been rezoned Rural Zone. In addition, the provisions of the River Murray Flood Plain Overlay apply.</td>
<td>The draft Code has addressed a number of the initial issues identified.</td>
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<td>purposes.</td>
<td>Another option, identified in the 2013 Land Use Study and Development Plan Review for the Lower Murray Flood Plain, was to remove some forms of development from the non-complying list to allow on merit assessments, and to provide a consistent list of exceptions.</td>
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<td>Conservation Zone</td>
<td>The Conservation Zone is contained within the Alexandrina Council Development Plan. The zone provisions are based on those for the Conservation Zone in the SAPPL, with an extensive number of local additions. Objectives for the Zone include:</td>
<td>Options include consider reviewing boundary of the Conservation Zone with the objective to retain the Zone and/or incorporating the Conservation Zone into an updated River Murray Zone / Overlay, or where appropriate, into neighbouring Primary Production Zone with associated policy. For instance, appropriately designed and implemented primary production can be undertaken in the Conservation Zone.</td>
<td>Land currently zoned Conservation in the Coorong, Lower Lakes and Murray Mouth remains zoned as such under the proposed Code.</td>
<td>The draft Code has addressed a number of the initial issues identified.</td>
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<td>• The conservation and enhancement of the natural environment and natural ecological processes for their historic, scientific, landscape, faunal habitat biodiversity and cultural values.</td>
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<td>• Provision of opportunities for the public to experience and appreciate the significance of the native vegetation and original remnant natural habitat of the area through low impact recreational activities and interpretive facilities.</td>
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<td>• The maintenance of the water quality of Lake Alexandrina, the Murray River and associated waterways.</td>
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<td>This compares with Objectives for the River Murray Flood Zone which include:</td>
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<td>• Buildings and structures excluded from the zone where they are likely to impede or be damaged by floodwaters and/or fluctuating pool levels of the River Murray.</td>
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<td>• The conservation and improvement of water quality that sustains the</td>
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<td>River Murray Zone</td>
<td>The River Murray Zone is contained within the Mid Murray Council Development Plan and contains the following Policy Areas and Precincts:</td>
<td>• Conservation Policy Area&lt;br&gt;• Flood Plan Policy Area&lt;br&gt;• Primary Production Policy Area&lt;br&gt;• Recreation and Tourism Policy Area&lt;br&gt;• River Settlement Policy Area&lt;br&gt;• Shack Settlement Policy Area&lt;br&gt;• Cadell (Horticulture) Policy Area&lt;br&gt;➢ Cadell Basin Area (Horticulture) Precinct 1&lt;br&gt;➢ Rim Area (Rural Living) Precinct 2&lt;br&gt;➢ Settlement Precinct 3.</td>
<td>Policies within the River Murray Zone, relating to: • River structures (jetties/pontoons); • Moorings; • Retaining walls; • Dwelling/shack design; • Underfloor clearance heights; • Benchmark for acceptable practice for waste disposal in the floodplain should be considered for inclusion in the Code to apply generally for such development along the River.</td>
<td>The draft Code has addressed a number of the initial issues identified.</td>
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<td>A number of policies within the River Murray Zone, which are considered to provide better policy guidance and development outcomes, are not replicated in other Development Plans along the River.</td>
<td>There is potential to rationalise some of these policy areas by either: • Consolidating them into zone policies (e.g. combination of Flood Zone / Primary Production Zone)&lt;br&gt;• Creating a new Zone (e.g. Settlement Zone or similar)</td>
<td>The Code consolidates all existing River Murray zoning across Mid-Murray Council into one of the following: • Conservation Zone (River Murray Zone, Floodplain Policy Area &amp; Conservation Policy Area)&lt;br&gt;• Rural Zone (River Murray Zone - Primary Production Policy Area)&lt;br&gt;• Rural Shack Settlement Zone (River Murray Zone - Shack Settlement Policy Area)&lt;br&gt;• Rural Settlement Zone (River Murray Zone – River Settlement Policy Area)</td>
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<td>It is noted, Mid-Murray Council is keen to ensure the Shack Settlement Policy Area (or some similar zone/overlay) should be retained given the large number of sites (e.g. over 2000 shack sites) in the MMC area.</td>
<td></td>
<td>Current non-complying controls relating to dwellings contained in the River Murray Zone, Floodplain Policy Area (e.g. replacement dwelling only) carry through to the Conservation Zone via the Dwelling Subzone. This subzone allows for the consideration of a replacement dwelling.</td>
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<td>The introduction of the River Murray Flood Plain Overlay has included number of policies to guide the design and siting of retaining walls, floating pontoons and jetties. This is further emphasised via guiding figures and diagrams, similar to those contained in the Mid Murray Council Development Plan currently.</td>
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| Land Uses                  | It is understood that the release of the new Code will be accompanied with new land used definitions. However, in the meantime, the industry will continue to use land use definitions contained in the Development Regulations and commonly accepted dictionary definitions. | Within a risk managing context (that is, consider consequences and likelihood before necessary listing developments as non-complying (or Restricted in the new system), it is recommended to:  
- Reduce the number of non-complying development applications;  
- Potentially increase the quality of planning policies that can be used to assess on-merit application;  
- Increase the list of envisaged land uses in planning policy (this in itself does not mean that the land use must / will be approved – it still needs to comply with a range of policy).  
Local council and DPTI planners continue to collaboratively address these issues in the new Code and aim to minimise inconsistencies. | Part 7 of the Code is dedicated to ‘Land Use Definitions’ and replaces the current definitions list contained in Schedule 1 of the Development Regulations 2008. This list includes the land use term definition and those activities which are included or excluded from the respective definition.  
A review of the Code confirms that all land uses occurring within the Conservation Zone will be either Performance Assessed (roughly translating to Merit in the current system), except for very few land uses identified as Restricted. Where a land use is not specifically identified as belonging to a specific assessment pathway the ‘default’ will be Performance Assessed.  
The Performance Assessed pathway is supported by a substantial suite of general policies which will apply in addition to the Zone controls. | Given the shift of a number of developments from non-complying to performance assessed, it highlights the importance of having comprehensive policy guidance on what forms of development are appropriate and how they should be designed etc.  
Mid Murray in particular have comprehensive policy on retaining walls, jetties, mooring facilities etc. which should be replicated and complemented with other policies relating to tourism and farming / horticulture. |
| Emerging Land Uses         | There are a number of emerging land uses that are becoming more prominent within the region. One of these land uses appears to be solar renewable energy facilities. Although there are a number of State level renewable policies, they are generally (but not exclusively) focussed on guiding the development of wind turbines. Additional policy guidance is need to guide the development of solar facilities. | Increase policy guidance for a range of emerging land uses, in particular solar facilities. | In July 2019, the State Commission Assessment Panel (SCAP) released its discussion paper titled Discussion Paper on Proposed Changes to Renewable Energy Policy in the Planning and Design Code’. In this Paper the SCAP recognised the evolving nature of renewable energy facilities, the largely mixed technology approach and the lack of policy around facilities other than wind farms (e.g. solar and battery storage).  
Part 7 of the Code provides a new definition for ‘Renewable Energy Facility’ which broadens the current approach which is wind farm focussed to include development in the form of:  
- Battery storage facility | The draft Code has addressed a number of the initial issues identified.  
Seek greater clarity if renewable energy facilities, particularly solar facilities in a flood prone area are appropriate. |

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### Table 1: Issues Comparison

<table>
<thead>
<tr>
<th>Topic</th>
<th>Issue</th>
<th>Options for Possible Solutions</th>
<th>P&amp;D Code Policy Proposal</th>
<th>Required Action</th>
</tr>
</thead>
</table>
| Monitor and Evaluation                 | Greater focus needs to be placed with respect to understanding local implications of climate change. | • Pumped hydro  
• Solar power facility  
• Wave power generator  
• Wind farm  

This new approach is supported by the introduction of new General Code Content in the form of ‘Infrastructure and Renewable Energy Facility’. | There has been little information released about 1) the opportunity for Councils to seek amendment to the Code and 2) the process to amend the Code following its implementation.  

It would be advantageous for:  
• issues/areas of concern that are raised via the draft Code consultation process to be recorded  
• new issues which arise following implementation to be recorded and reported to DPTI  
• Actively pursue key amendments via the Regional Planning/Joint Planning Board process which align with the region’s future direction. | • Record Code issues/areas of concern and actively engage with DPTI to seek regular and timely updates. |
|                                         | Establish a framework within Council / DPTI to regularly monitor and evaluate the practical implications of policies contained within the New Code and incorporate updates in the second generation.  
There may be an opportunity to log issues in a common Council database/webpage that are discussed at regular regional planning meetings. | • Establish a framework within Council / DPTI to regularly monitor and evaluate the practical implications of policies contained within the New Code and incorporate updates in the second generation. | • Establish a framework within Council / DPTI to regularly monitor and evaluate the practical implications of policies contained within the New Code and incorporate updates in the second generation. | • Establish a framework within Council / DPTI to regularly monitor and evaluate the practical implications of policies contained within the New Code and incorporate updates in the second generation. |
|                                         | Having regard to the fact that there will be several generations of the Code, this framework provides an important opportunity for Council’s and DPTI to monitor the impacts of the Code and respond. | • Confirm with DPTI the basis of mapping and review frequency. | • Confirm with DPTI the basis of mapping and review frequency. | • Confirm with DPTI the basis of mapping and review frequency. |

In addition to the above, a number of additional matters were raised post the preparation of the Stage 1 report. These are addressed below in Table 2.

<table>
<thead>
<tr>
<th>Topic</th>
<th>Issue</th>
<th>P&amp;D Code Policy Proposal</th>
<th>Required Action</th>
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</thead>
<tbody>
<tr>
<td>Acknowledgement of existing Settlements</td>
<td>Current Development Plan policy does not acknowledge Blanchetown and Murbko as Settlements in their own right.</td>
<td>The Code replaces the existing Murray River Zone (Shack Settlement Policy Area) at Murbko and Blanchetown with the Rural Shack Settlement Zone.</td>
<td>Nil</td>
</tr>
<tr>
<td>Acid Sulphate Soils</td>
<td>Question basis for the inclusion of new mapping of Acid Sulphate Soils, noting that there is no information to explain this inclusion within the Code.</td>
<td>The Code proposes the inclusion of the ‘Hazards (Acid Sulfate Soils) Overlay. This overlay is intended to provide policy control to those activities.</td>
<td>• Confirm with DPTI the basis of mapping and review frequency.</td>
</tr>
<tr>
<td>Topic</td>
<td>Issue</td>
<td>P&amp;D Code Policy Proposal</td>
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<td>P&amp;D Code Policy Proposal</td>
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<td></td>
<td></td>
<td>It is assumed that the information used to inform the Overlay is based on previous work undertaken in approx. 2009 by Department of Environment and Water (DEW) in the form of “Acid Sulfate Soil Potential”. This study was based on an interpretation of soil landscape map units which were classified according to the proportion of area susceptible to the development of acid sulfate soils. It would appear from reviewing this initial map that the Code only identifies area with a susceptibility of 30% or greater.</td>
<td>• Seek clarity for a review of the currency and accuracy of this mapping.</td>
</tr>
<tr>
<td>Australian Height Datum (AHD) Policy</td>
<td>A number of Development Plans along the Murray River corridor reference Australian Height Datum (AHD) as a benchmark for minimum the siting of new development.</td>
<td>The use of AHD information is absent in the Code which may lead to unintended circumstances / consequences, particularly in the absence of other guiding policy such as the inclusion of the 1956 flood level.</td>
<td>• For those Council’s where a known minimum AHD has been determined, request DPTI to insert a ‘Technical and Numeric Variation’ Overlay to insert these levels.</td>
</tr>
<tr>
<td>Proliferation of pumps</td>
<td>How can planning authorities control the proliferation of pumps.</td>
<td>The Flood Resilience policy in the River Murray Flood Overlay is supported, however, there is concern how a planning authority can appropriately manage the proliferation of pumps under DTS 7.3.</td>
<td>• Seek clarification from DPTI.</td>
</tr>
<tr>
<td>Townships and urban areas within the River Murray Flood Overlay Area</td>
<td>Minor deemed to satisfy developments from being tripped in performance assessed</td>
<td>The Code includes townships and urban areas within the River Murray Flood Overlay Area. These townships and urban areas should be excluded to avoid minor deemed to satisfy developments from being tripped in performance assessed.</td>
<td>• Request DPTI to exclude the River Murray Flood Overlay Area from townships and urban areas.</td>
</tr>
<tr>
<td>Conservation Zone</td>
<td>Inconsistency of approach.</td>
<td>For instance, a petrol filling station is performance assessed and a dwelling is restricted? Why is a petrol; filling station performance based? Further, policy should be riverine reference based, not just coastal based.</td>
<td>• Request DPTI to address inconsistencies. • Request DPTI to update Conservation Zone policies to also have regard to riverine environments.</td>
</tr>
<tr>
<td>Climate Change</td>
<td>Insufficient policy direction.</td>
<td>There are many examples through Phase Two of improvements from Phase One and good approaches to mitigating climate impacts. However, there is still inadequate reference to the consideration of risks now and into the future, given the projected increasing frequency and intensity of extreme weather events. The Coastal Overlay refers to current and future hazards which is commended however this is not the case for all other hazards. The Draft Phase One PDC included Performance Outcomes relating to Environmental Protection or Hazard Risk Minimisation. It is understood the intent is that these issues be managed through the overlays including those relating to native vegetation and water (for environmental protection) and hazards including bushfire and flood</td>
<td>Reinstate the hazard risk minimisation Performance Outcome for all zones where personal or public safety may be an issue and add a reference to future hazards. E.g. “Habitable buildings designed and sited to manage the risks of natural hazards on personal and public safety and property.”</td>
</tr>
<tr>
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<td>Recommend a consistent approach to identifying the impact of climate change on future risks be applied to all bushfire and flood hazard overlays.”</td>
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</tbody>
</table>
3.0 Conclusions

This paper represents the “Murray River Alliance SA (MRA)” submission to the draft Planning and Design Code for Phases 2 and 3. Noting that the MRA may provide an updated submission associated with Phase 3 only. This submission should be considered by DPTI in addition to other submissions being prepared by local governments and allied associations.

The draft Code has adopted several of the policy recommendations associated with the Stage 1 report and has certainly reduced the number of non-complying (now referred to as “Restricted” developments). However, DPTI should be encouraged to address the following issues in the draft Code:

- In areas identified as being subject to flooding, seek the reinstatement of policy which permits the replacement of existing detached dwellings in line with current policy controls. This could be via a modified Dwelling Subzone (or via the Rural Shack Settlement Zone in shack areas which have not already been included in this zone).

- Seek clarity from DPTI on the rationale for the use of the River Murray Protection Area as opposed to current 1956 flood mapping contained in Development Plans.

- Seek the reinstatement of the 1956 flood level (e.g. demarcation of the extent) within the overlay as an additional element. This will provide clarity and remove reliance on mapping held by individual Council’s.

- Existing townships (including Renmark), urban areas and Caravan Parks (e.g. Paisley, Loxton, Waikerie, Renmark and Berri etc), within the flood levee protection area should be excluded from the flood mapping.

- Work with DPTI and DEW to determine both the accuracy and currency of 1956 flood plain mapping and to introduce elements of exposure and vulnerability. In doing so, consider the inclusion of new mapping to address identified flood risk arising from the 1974 flood. This will provide greater understanding of flood characteristics and potentially delineate between areas of risk, in turn facilitating appropriate development across the flood plain.

- With respect to the inclusion of the ‘Hazards (Acid Sulfate Soils) Overlay, seek clarity for a review of the currency and accuracy of this mapping.

- For those Council’s where a known minimum AHD has been determined, request DPTI to reinsert a ‘Technical and Numeric Variation’ Overlay to insert these levels.

- Request DPTI to address inconsistencies in policy. For instance, with the Conservation Zone a petrol filling station is performance assessed and a dwelling is restricted? Why is a petrol filling station performance based?

- Request DPTI to update Conservation Zone policies to also have regard to riverine environments.
Conclusions

• Continue to monitor and evaluate Code issues/areas of concern and actively engage DPTI to undertake regular and timely updates.

• Provide greater policy framework relating to adapting to climate change.