COMMENTS ON THE DRAFT PLANNING CODE – DEFERRED URBAN ZONE

as it affects

NEWENHAM RESIDENTIAL GROWTH AREA
MASTER PLANNED DEVELOPMENT

Located within the Residential Neighbourhood Zone of the Mount Barker Development Plan
at
Flaxley Road, Mount Barker
by proprietor
Burke Urban SA Venture Groups

SUMMARY

The draft Planning Code (Code) replaces approximately 46.25 hectares of the Residential Neighbourhood Zone with a Deferred Urban Zone.

Such a substitution destroys the residential economic use of the rezoned land, placing in jeopardy project economics, the timeliness of flexibility of future residential use and eroding the community benefits of significant investment in urban infrastructure by Newenham and the District Council of Mount Barker.

To redress this “down zoning” will require a future rezoning amendment which will be costly and time dependant.

Other key points include;

- Present restrictions on urban use are not absolute and are complementary, protecting existing farming and importantly urban use from encroachment by new agricultural uses.
- The proposed rezoning to a Deferred Urban Zone prevents rational and measured assessment of poultry farm operational circumstances with the alignments of residential use at any time. Land use flexibility is crucial to the economic development of the land within the residential growth area.
- 36 residential allotments have been approved pursuant to the existing Residential Neighbourhood Zone in conflict with draft Code Table 4, in which land division is to be restricted in the Deferred Urban Zone.
- It is evident that the standardised provisions of the new planning code have made insufficient reference to the Mount Barker City local variations which take precedence, eventually permitting residential development.
The reform goal of consolidating of South Australia’s 72 complex development plans into one set of easy-to-understand planning rules has significant merit but has not been achieved by standardisation in this case. A State Government introductory reform paper entitled “Blueprint for South Australia’s Planning & Design Code - Working Together to Develop the Code” stated;

> We recognise that many councils and communities have a strong sense of ownership over policies that apply to their area. The State Planning Commission does not want to see positive policy discarded when drafting the Code and acknowledges the importance of policies that help implement the vision for local areas. However, we are also aware that we can streamline areas of policy conflict or constricting and duplicated policy.

It is evident that important local policies have been lost in the streamlining process.

For further information please refer to the attached submission paper detailing these concerns.

We request that the Deferred Urban Zone be removed from the draft Code as it applies to Newenham.

K A Burke
Director

26 February 2020
SUBMISSION TO THE DRAFT PLANNING CODE – DEFERRED URBAN ZONE

as it affects

NEWENHAM RESIDENTIAL GROWTH AREA MASTER PLANNED DEVELOPMENT

Located within the Residential Neighbourhood Zone of the Mount Barker Development Plan at
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Newenham

Newenham is a green fields land development at Mount Barker comprising;

1. 100 developed low density residential allotments.
2. Approximately 107.5 hectares of broad hectare land within the Residential Neighbourhood Zone.
3. A School site of 5 hectares.
4. Recreational active reserve of 9 hectares.
5. A community farm.
6. A watercourse Linear Park.
7. A Neighbourhood Activity Centre.

The project has delivered major financial contributions to Transport and Community infrastructure.

Code Issue

The draft Planning Code (Code) replaces approximately 46.25 of the Residential Neighbourhood Zone with a Deferred Urban Zone. It does so by replacing the flexible Restricted Urban Policy Area (14) within which residential development may occur subject to buffer performance standards with a Deferred Urban Zone.

Such a substitution destroys the residential economic use of the land, placing in jeopardy project economics, the timeliness of future residential use and the community benefits of significant investment in urban infrastructure by Newenham and the District Council of Mount Barker.

The Residential Neighbourhood Zone

The existing Mount Barker component of its Development Plan includes the subject property within a Residential Neighbourhood Zone. The Objectives for the existing Zone are as follows;

Objective 4. The orderly expansion of the urban area, which allows the economic and effective provision of public infrastructure and services and that is consistent
with the development outcomes contained in Concept Plan Map MtB/16 – Mount Barker and Littlehampton

Of relevance to the proposed Codes Deferred Urban Zone are the following existing provisions.

*Desired Character:* The operations of surrounding agricultural uses are to be appropriately accommodated and appropriate buffers are to be provided to adjoining agricultural uses.

Appropriate buffers are to be determined by value assessments and innovative practices, not by constrictive practices.

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**Restricted Urban Policy Area**

The objectives of the existing Restricted Urban Policy Area 14 (map extracted below) provide for;

1. The continuation of existing uses until the potential for impacts from nearby poultry broiler activities is removed.
2. Development not to compromise the future use of land for intensive urban activities.
The restrictions on urban use are not absolute and are complementary, protecting existing farming and importantly urban use from encroachment by new agricultural uses.

2. Development for intensive urban activities should only occur:
(a) when it can be demonstrated that the potential impacts from poultry broiler shed operations identified as 'Intensive Animal Keeping (Poultry)' as shown on Overlay Map(s) MtB/1, MtB/13, MtB/22 - Development Constraints, no longer exist
(b) in a manner that does not interfere with existing agricultural uses.

Principle of development control 2 is crucial in understanding that the Development Plans current flexible policy area approach, in contrast to the proposed Codes strict Deferred Urban Zone limitations, allows for rational and measured assessment of poultry farm operational circumstances to be aligned and even co-exist with residential use at any time. This flexibility is crucial to the economic development of the land within the residential growth area.
Planning Code (Code) – Deferred Urban Zone

The Code proposes to include the subject property in a Deferred Urban Zone.

Table 1 – Accepted Development Classification

The following Classes of Development are classified as Accepted Development subject to meeting the ‘Accepted Development Classification Criteria’.

- Building work on railway land
- Car Park
- Internal Building Work
- Outbuilding (in the form of a garage)
- Outbuilding (not being a garage)
- Private bushfire shelters
- Solar photovoltaic panels (roof mounted)
- Spa pool
- Swimming pool
- Verandah
- Water tank (above ground)
- Water tank (underground)
- Protective tree netting structure

There are no residential compliant developments in the draft Code.

Table 2 – Deemed-to-Satisfy Development Classification

The following Classes of Development are classified as Deemed-to-Satisfy Development subject to meeting the ‘Deemed-to Satisfy Development Classification Criteria’.

- Agricultural building
- Land Division, subject to the following overlays and [Land Division]: DTS 3.1;
  - Character Preservation District Overlay
  - Coastal Areas Overlay
  - Environment and Food Production Area Overlay
  - Local Heritage Place Overlay
  - Ramsar Wetlands Overlay
  - River Murray Flood Plain Overlay
  - State Heritage Place Overlay
  - State Significant Native Vegetation Overlay, Native Vegetation: DTS 2.1

There are presently no accepted or conditionally complying developments.
You will note in the plan below that 36 residential allotments have been approved pursuant to the existing Residential Neighbourhood Zone. In Table 4, land division is to be restricted in the Deferred Urban Zone.

Table 3 – Applicable Policies for Performance Assessed Development

The following policies are applicable to the assessment of the identified Class of Development. Policies referred to are Performance Outcome policies, and any associated Designated Performance Features. Relevant Desired Outcomes are not listed, but automatically apply in relation to a Performance Assessed Development.

Where a development comprises more than one Class of Development the relevant policies will be taken to be the sum of the applicable policies for each Class of Development. This is consistent with the approach of the existing development plan where general Objectives and principles of development control also apply.

- Demolition of a State or Local Heritage Place
- Demolition within an Historic Area: All or State Heritage Area: All
- Tree damaging activity
- All other Code Assessed Development
Table 4 –Restricted Development Classification

Class of Development: The following Classes of Development are classified as Restricted.

- Dwelling that results in more than one dwelling on an allotment
- Land division
  - Land division that does not create additional allotments other than for the purpose of providing public infrastructure

Land division is restricted in the draft Deferred Urban Zone preventing master Plan growth.

Assessment Provisions

Desired Outcomes (DO)

DO 1
To safeguard land for future urban growth.

The draft code does more than safeguard future urban growth land, it prevents future development by omitting merit assessment and co-existence.

Performance Outcomes and Deemed to Satisfy / Designated Performance Outcome Criteria

Land Use and Intensity

PO 1.1
Development that is incompatible, prejudicial or detrimental to the orderly and efficient servicing and conversion of the land for future urban growth does not occur.

The performance outcome has no place to play in a green field growth area development.

DTS/DPF 1.1
None are applicable.

Built Form and Character

PO 2.1
Development maintains an open character.

The performance outcome has no place to play in a green field growth area development.

DTS/DPF 2.1
None are applicable

PO 2.2
Buildings limited to those that:
(a) are ancillary to and necessary to support existing land use activities on the same allotment;
(b) are for the purposes of public infrastructure.
None are applicable

The performance outcome has no place to play in a green field growth area development.

**Land Division PO 3.1**

*Land division limited to that which:*

(a) corrects anomalies in the placement of allotment boundaries with respect to the location of existing buildings or structures; or

(b) enables the provision of public infrastructure.

**DTS/DPF 3.1**

*Land division is for:*

(a) the alteration of allotment boundaries, where no additional allotments are created; or

(b) the purpose of providing public infrastructure.

The draft code land division restrictions prevent future urban growth on presently suburban master planned Residential Neighbourhood Zone land where it is currently for assessment on merit.

**Concept Plans**

**PO 4.1**

*Development is compatible with the outcomes sought by any relevant Concept Plan contained within the Concept Plans Technical and Numeric Variation Overlay.*
The proposed Deferred Urban Zone does not implement the above concept plan which clearly provides that the land is intended to accommodate the **Orderly Expansion of the Urban Area**, for residential purposes and ensure that development does **not compromise the future use of land for intensive urban activities**.

The proposed Deferred Urban Zone switches policy from an urban primary purpose to an open character restricted future urban purpose.

**Procedural Matters (PM)**

*Notification of Performance assessed development*

All classes of development are excluded from notification except where it involves any of the following:

(a) the site of the development is adjacent land to land in a different zone

(b) development identified as “all other code assessed development” in Deferred Urban Zone Table 3

Public notification is not presently required for green fields land development.

**Overlays**

Within the library of policies the Code, pursuant to the Planning, Development and Infrastructure Act 2016, provides;

1. The provisions of an Overlay will prevail over all other policies applying in the particular case;
2. A Subzone policy will prevail over a Zone, policy or a General Development Policy;
3. A Zone policy will prevail over a General Development Policy.

An examination of the Planning and Design Code Map Viewer reveal many overlays, some of which are attached.

The overlays and applicable comments are provided below;

1. **Concept Plan**

The proposed Deferred Urban Zone does not implement the concept plan which clearly provides that the land is intended to accommodate the **orderly expansion of the urban area**, for residential purposes and ensure that development does **not to compromise the future use of land for intensive urban activities**.

It is stated that an “**overlay will prevail over a Zone, policy area...**” producing an inconsistency in the Draft Code.

The concept plan is identified on the preceding page.
2. **Heritage Places**
Heritage Places overlay identifies two broad hectare parcels, not the “places” themselves indicating an excessive land parcel identification coverage.

3. **Local Heritage Place**
Heritage Places overlay applies to only two land parcels, however the overlay is expressed and mapped as a broad sheet pale green area covering nearly all of broad hectare Newenham.

4. **Traffic Generating Development**
Traffic generating development follows the alignment of Flaxley Road in a band some 300 metres wide or so each side. The overlay is an imprecise “catch all” that will result in unnecessary property referrals to DPTI. This consultation area is excessive, particularly should DPTI Transport be granted a power of direction.

5. **Urban Transport Routes & State Maintained Roads**
The Urban Transport Routes overlay expands upon this corridor by identifying specific parcels adjacent Flaxley Road that are to be subject to its provisions. It is evident that this approach is also an imprecise “catch all” that will result in unnecessary property referrals to DPTI. This consultation area is also excessive, particularly should DPTI Transport be granted a power of direction.

6. **Other Overlays**
Other overlays include Native Vegetation, Prescribed Water Resources, River Murray Tributaries, Hazards (Bushfire - Medium Risk), and Sloping Land for which no comment is made other than noting the significant scope or potential over reach of the overlays and referrals in the new draft Code.

**Map Scale**
To be a very useful mapping tool in conjunction with the overlays it is requested that the A3 maps that are printable from the mapping tool be able to be easily set at a range of useful and meaningful scales such as 1: 2,500, 1: 5,000, 1:10,000, 1:20,000 being scales that are measurable by scale rule.

**Conclusions**
The draft Planning Code (Code) replaces approximately 46.25 hectares of the Residential Neighbourhood Zone with a Deferred Urban Zone. In accordance with the existing Residential Neighbourhood Zone the property is in transition to residential use.

Such a substitution destroys the residential economic use of the rezoned land, placing in jeopardy project economics, the timeliness and flexibility of future residential use, and eroding by underutilisation the community benefits of significant investment in urban infrastructure by Newenham and the District Council of Mount Barker. The rezoning reduces the scale of Newenham and its ability by critical mass to access resources, to innovate, test and deliver new housing products and infrastructure solutions, all of which are recognised in
green fields master planning, are often adopted more broadly. (Refer People & Neighbourhoods Paper)

To redress this “down zoning” will require a future rezoning amendment which will be costly and time dependent.

Other key points include;

- It is evident that the standardised provisions of the new planning code have made insufficient reference to the Mount Barker City local variations which take precedence eventually permitting residential development.
- The draft Traffic Generating Development Overlay extends 300 metres either side of Flaxley Road, and together with the Urban Transport Routes overlay expands upon broad hectare land parcels, that will eventually be served by an internal road system.
- This consultation area is excessive, particularly should DPTI Transport be granted a power of direction.
- The local heritage overlay identifies the majority of Newenham. This is in error and excessive. The majority of Newenham does not contain any heritage item, local or State.

The reform goal of consolidating South Australia’s 72 complex development plans into one set of easy-to-understand planning rules has significant merit but has not been achieved by standardisation in this case.

A State Government introductory reform paper entitled “Blueprint for South Australia’s Planning & Design Code - Working Together to Develop the Code” stated;

We recognise that many councils and communities have a strong sense of ownership over policies that apply to their area. The State Planning Commission does not want to see positive policy discarded when drafting the Code and acknowledges the importance of policies that help implement the vision for local areas. However, we are also aware that we can streamline areas of policy conflict or constricting and duplicated policy.

It is evident that important local policies have been lost in the streamlining process.

G L Bone
BA in Planning

Selection of Overlay Attachments:

Area Zone Map on Parcel Cadastre
Local Heritage Place
Sloping Land with Water Resources
Planning and Design Code Consultation Map

Consultation closes 29 November 2019 for Phase 2 and 28 February 2020 for Phase 3
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