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Sally Smith  
Department of Planning  
and Land Use Services  
77 Grenfell Street  
Adelaide SA 5000

Friday, 29 November 2019

Dear Sally,

**RE: Planning and Design Code – Phase 2, Rural**

Please find attached the UDIA submission in relation to the Planning and Design Code – Phase 2, Rural areas. This line by line table is in addition to the previous comments provided to the Planning Minister.

We look forward to your response on our submission.

Regards

**Pat Gerace**

Chief Executive



## **PHASE 2 PLANNING AND DESIGN CODE SUBMISSION**

**PREPARED ON BEHALF OF UDIA (SA)  
NOVEMBER 2019**

## Draft Phase 2 Planning and Design Code Submission

Prepared on behalf of UDIA (SA)

November 2019

Issue	Commentary	Solutions/Suggestions/Alternatives
<b>PART 1 – RULES OF INTERPRETATION</b>		
Application of Policies to Classes of Development	It would appear that a proposed development that has a series of elements is to be placed on public notification the vast majority of times, even if the element of non-conformance is minor in nature.	There needs to be an ability for the planning authority to be able to consider whether a development, or an element of the proposal, is of a minor nature and public notification is not required.
Policies – Desired Outcomes and Performance Outcomes	If a proposal meets a DPF then the proposal should be considered to meet the relevant PO. The wording in this section does not provide certainty.	Reword.
		<p>Include the following amendments to the relevant “Rules for Development”</p> <p>Where a component(s) of a deemed-to-satisfy development type does not meet a deemed-to-satisfy requirement, then the development shifts to ‘Performance Assessed development’. Where this occurs, the relevant provisions for assessment are <i>only</i> the Performance Outcomes that correspond with the provisions that have been specified as relevant deemed-to-satisfy requirements, plus any relevant Desired Outcomes.</p> <p>For a performance assessed development, regard should be given by the relevant authority to any deemed-to-satisfy requirement that corresponds with any Performance Outcome provision that is relevant to the assessment of the developments, <i>while recognising that Deemed to Satisfy requirements are only one way of addressing a Performance Outcome.</i></p>
<b>PART 2 – ZONES AND SUBZONES</b>		
<b>Multiple Zone Comments</b>		
Structure Plans / Concept Plans	Too many existing Structure Plans and Concept Plans in the Development Plans have been removed. These plans provide spatial guidance for development of land that policy text either can’t provide or due to the slimming down of policy content in general is unable	Insert the various Structure Plans and Concept Plans from the Development Plans.

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	<p>to provide. Often the spatial elements in such plans have been the outcome of negotiations between developers/landowners and local/State government. It is acknowledged some such plans are out of date – they should be revisited.</p> <p>In the Residential Neighbourhood Zone the following policy exists. This should be in all Zones “PO 11.1 Development is compatible with the outcomes sought by any relevant Concept Plan contained within the Concept Plans Technical and Numeric Variation Overlay. DTS/DPF 11.1 None are applicable.”</p>	<p>Insert PO 11.1 and DTS/DPF 11.1 from Residential Neighbourhood Zone to all Zones.</p>
Demolition	<p>Demolition should be Accepted in all Zones with the exception of a local or State heritage item or area or in the Historic Area Overlay. It is Accepted in the Urban Renewal Zone.</p>	<p>Insert demolition in Accepted in all Zones as per comment.</p>
Procedural Matters	<p>In most Zones development will need to go on public notification where the site of the development is adjacent land to land in a different zone. It is considered this should only apply when the adjoining zone is of a different type eg: industry next to residential, or residential next to coastal.</p>	<p>Amend Procedural Matters tables in all Zones.</p>
Adjacency	<p>Our preliminary review of various case studies has identified that a very high proportion of ‘performance assessed’ developments will require public notification.</p>	<p>For the purposes of public notification adjacency should only apply to sites in a different Zone type, not just a different Zone.</p>

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	<p>For example, under the new PDI Act, 'Adjacent Land' is defined as follows:</p> <p style="padding-left: 40px;"><i>adjacent land in relation to other land, means land that is no more than 60 metres from the other land;</i></p> <p>Accordingly, where the PD Code identifies that public notification is required where <i>'the site of the development is adjacent land to land in a different zone'</i>, the application will require public notification. This occurs in 44 of the 55 new Zones introduced by the PD Code ( 80%).</p> <p>The spatial configuration of many zones (particularly in narrow Zones) will result in a significant increase in the number of development applications that will require public notification. Further, any person can lodge a representation against a development that is subject to public notification, irrespective of whether the representor is an owner or occupier of 'adjacent land'. We are therefore are very concerned that the new Code will significantly increase both the number of development applications that will require public notification and the number of representations that are likely to be received in response to the public notification of development applications (noting that representations can be provided by any person and not just adjacent land owners / occupiers).</p>	

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	<p>By way of example we have reviewed the situation in the town of Mt Gambier (see attached map). Of the 3179ha of the town are 2104ha of land is within 60m of another affected Zone – this is 66.2% of the town. Measured by number of allotments 3457 lots out of 12459 (27.7%) are affected. If development is proposed on two thirds of the town area the application will need to go on public notification. This is considered to be unacceptable from the development industry’s perspective and will create a substantial increase in the number of applications going on public notification.</p>	
Retaining Wall	<p>A retaining wall &lt;=1m in height should be Accepted in all Zones. A retaining wall &lt;=1.5m in height where not visible from public space should be DTS.</p>	Insert comment in all Zones.
Home Industry	As per the Development Regulations this land use should be Accepted in all residential type zones	Insert comment in all residential type Zones
Boundary Walls	<p>In most residential type zones there is an ability to have a maximum of 10m of wall on a boundary. The Design in Urban Areas General Development Provision DTS 23.1 policy will mean more garages will need to be stacked with a minimum length of 11m. If this is the garaging / wall on boundary outcome that is sought then there is inconsistency between the two.</p>	In residential type zones that allow boundary walls to be built on the side boundary the max length should be 11m.
Group Dwellings	As a common form of residential development, particularly in infill locations, group dwellings should be able to be DTS. In most residential type Zones such development will be performance assessed.	UDIA is willing to assist in preparing policy to enable group dwellings to be DTS.
Centres	There is lack of Centre policy in the General Development Provisions.	Prepare a Centres policy.

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	There is an abandonment of the Centres hierarchy that is fundamental to the spatial arrangement of urban form in towns and cities. Given the size of towns in the Phase 2 area this is more of an issue for the Phase 3 PD Code.	
Shop(s)	In many Zones there is a gap in policy with a DTS max size for a shop being 200sqm, or thereabouts, (eg: General Neighbourhood Zone) and the Restricted trigger being 1000sqm. Due to there being no General Development Policy related to Centres there is no policy guidance if a shop is between 201 – 999sqm in size.	Prepare and insert a Centres policy for inclusion in the General Development policies.
Retirement Facilities	Retirement villages are not considered in all residential type zones.	Retirement facilities to be DTS in all residential type Zones.
Fencing	In many Zones fencing is not listed as Accepted or even DTS.	Fences that are 2.1m in height alongside (behind the dwelling façade) and rear boundaries should be Accepted in all residential type Zones.
Industry	Industry, particularly General Industry and Special Industry, should be Restricted in all residential type Zones.	Insert comment in all residential type Zones.
Site Coverage	Site Coverage is a metric that is not required when you have site area, setbacks, and private open space metrics. In recent years there have been a few zones created that have deliberately removed site coverage as a policy element as it is superfluous.	Remove PO and DTS 3.1.
Advertising	Advertising signs for land divisions, particularly larger estates (50+ lots), have the need for signs that are typically 6 x 3m in size and are elevated around 2.5m off the ground to minimise graffiti. Such signs often have to go through a public notification process, but rarely get refused. They are often a temporary use (<5years).	Insert policy into residential type zones that enables one sign (as per comment) for every 500m of road frontage.

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Setbacks	In major greenfield and infill locations there should be the ability to determine dwelling setbacks that are different from the Zone provisions.	Enable Building Envelope Plans to be approved as part of land divisions for major greenfield and infill projects that are different from the Zone provisions.
Temporary Use	In the DTS table in the Township Mainstreet Zone there is the following policy: “Temporary change of use to a sales office within an existing building for no more than 2 years.” This policy should be other centre and commercial type Zones.	Add the policy to other centre and commercial type Zones.
Numeric Variations	Whilst there is a reduction in the number of Zones giving the appearance that there is more consistency in policy across the State, the numeric variations means there is still a very substantial differences in what can occur within various residential type Zones.	Minimum lot sizes should apply at the Zone level.
<b>Deferred Urban Zone</b>		
Land Division	Land Division that creates an additional allotment should not be Restricted. There has been a policy in place for many years that enables allotments of a minimum of 4ha in to be created.	Change wording to “Land division that does not create additional allotments less than 4hectares in size, other than for the purpose of providing public infrastructure.”
<b>General Neighbourhood Zone</b>		
DTS 1.2	There are some forms of dwellings (eg: Fonzie flats) that don’t meet the criteria of those listed as being acceptable.	Add “dwelling(s)” to the list in DTS 1.2
DTS 2.1	If a row dwelling is acceptable on a 200sqm allotment then a group dwelling or a dwelling within a residential flat building can also be acceptable on a similar sized allotment.	Change DTS 2.1 (v) to “200sqm”

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<b>Greenfield Suburban Neighbourhood Zone</b>		
PO 1.5	Development that is of a higher density should be allowed. There have been award winning projects in estates such as Blakes Crossing and Playford Alive where the density is above 100dw/ha.	Amend PO 1.5 so that limited amounts of 2 / 3 storey high density residential development can occur.
PO 2.1 / 2.2	For these policies to work there must be an obligation on the infrastructure authorities and Councils to plan for urban development in conjunction with the development industry at a more detailed spatial level than occurs at present.	UDIA is willing to assist in developing mechanisms to achieve this.
DTS 4.1	The provision of a 1.5ha open space requires all of the open space provision of a 12ha parcel of land. This policy should not apply to land division applications where the subject land is less than 15ha in size.	Amend DTS 4.1 as per comment.
DTS 7.1	There is some consistency across Councils (one of the aims of the planning reforms) one tree per allotment should be the minimum that is required. If a developer wants to provide more then that should be their prerogative.	Amend DTS 7.1 to read “One street tree per allotment.”
PO 8.1	This Zone is for areas that are being created. There is no need for buildings to complement nearby buildings.	Amend PO 8.1 by deleting the following words “... and complement the height of nearby buildings.”
DTS 13.1	If the rear boundary is abutting a laneway then the rear setback should be able to be 0m for 2 levels.	Amend DTS 31.1 as per comment.
<b>Housing Diversity Zone</b>		
DTS 1.2	All forms of dwellings should be occurring in this Zone.	Add “dwelling(s) to list in DTS 1.2
DTS 2.1	Development that is of a higher density should be allowed. There have been award winning projects in estates such as Blakes Crossing and Playford Alive where the density is above 100dw/ha.	Amend DTS 2.1 to enable high density development that is 2 / 3 storeys high.

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DTS 8.1	If the rear boundary is abutting a laneway then the rear setback should be able to be 0m for 2 levels.	Amend DTS 8.1 as per comment
<b>Residential Neighbourhood Zone</b>		
Overall	The policies in this Zone will mean there is very little additional development occurring.	The allocation of this Zone should be severely limited in a spatial sense.
DTS 1.2	50sqm for a shop or consulting room or office is only just more than the home industry trigger of 30sqm in the Development Regulations. A trigger of 100sqm is considered suitable.	Amend DTS 1.2 as per comment
DTS 3.1	Part (c) with the 10m requirement is far more than is necessary. 8m was a standard front setback for many years.	Amend DTS 3.1 (c) to 8m rather than 10m.
DTS 4.1	Many dwellings on corner allotments in this Zone are around 2m setback not 4m.	Amend DTS 4.1 to 2m not 4m.
DTS 7.1	In (e) there should be a provision to deal with gable end walls as occurs in many other Zones.	Amend DTS 7.1 by adding in "...except gable end wall."
DTS 8.1	There should be an ability to have lots that need on site waste water systems to be less than 1200sqm as there are now solutions that enable lots to be around 900sqm (subject to percolation testing).	Amend DTS 8.1 (b)
DTS 10.1	This DTS is seemingly incorrectly labelled DTS 24.1. Under what circumstances can a residential flat building be more than 2 storeys high? PO 2.1 DTS 2.1 say no more than 2 storeys.	Amend label to 10.1
Procedural Matters	There seems to be inconsistency with (c) and (e). If you are proposing say three group dwellings then (c) seems to require notification yet (e) only requires notification for four + dwellings.	Remove (c)

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<b>Rural Living Zone</b>		
DTS 3.1	There are many rural living allotments that are less than 50m wide. A more nuanced approach would be to have the frontage of a new allotment to be no smaller than 10% less than the average frontage of the nearest 10 allotments in the Zone.	Amend DTS 3.1 as per comment.
<b>Suburban Business and Innovation Zone</b>		
DTS 1.1	The list of anticipated uses should include residential flat building	Add residential flat building to DTS 1.1 list.
PO 3.2, 3.3 and DTS 3.2	It would appear that residential has a higher priority than non-residential in this commercial type Zone. This is at odds with DO 1.	Amend DTS 3.2 to the following:  “Buildings constructed within a building envelope provided by a 45 degree plane measured from a height of 3 metres above natural ground level at the allotment boundary of a residential allotment within a residential zone as shown in the following diagram (except where this boundary is a southern boundary in which case DTS/DPF 3.3 will apply, or where this boundary is the primary street boundary):
PO 3.4	The needs to be clear guidance in the policy when there is no consistent streetscape. Presumably DTS 3.4 (b) will be adequate.	
<b>Suburban Main Street Zone</b>		
DTS 1.1	Given PO 2.4 envisages residential then surely DTS 1.1 should have dwellings listed	Add “dwelling(s)” to the list in DTS 1.1
PO 2.1	A main street should have height and mass as it is a more urban environment.	Reword PO 2.1 to the following:  “Buildings that sensitively frame the main street and public spaces.”
PO and DTS 3.2	It would appear that residential has a higher priority than non-residential in this centre type Zone.	Amend DTS 3.2 to the following:

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		"Buildings constructed within a building envelope provided by a 45 degree plane measured from a height of 3 metres above natural ground level at the allotment boundary of a residential allotment within a residential zone as shown in the following diagram (except where this boundary is a southern boundary in which case DTS/DPF 3.3 will apply, or where this boundary is the primary street boundary):"
<b>Suburban Neighbourhood Zone</b>		
<b>Township Zone</b>		
PO 2.2	The policy should be more positive about two storey development being acceptable.	Amend wording to the following:  " Buildings contribute to a low rise (one and two storey) character."
DTS 3.1	There should be an ability to have lots that need on site waste water systems to be less than 1200sqm as there are now solutions that enable lots to be around 900sqm (subject to percolation testing).	Amend DTS 3.1 as per comment.
<b>Township Mainstreet Zone</b>		
DO 1	With a larger town the word local might be less than the entire town. Development should be serving the entire town.	Replace the word "local" with "township"
<b>Township Activity Centre Zone</b>		
PO 1.1 and DTS 1.1	Dwellings and residential flat buildings should be able to be developed in the Zone.	Add dwelling and residential flat building to the list in DTS 1.1
<b>Urban Activity Centre Zone</b>		
DTS 1.4	Dwellings should be able to be located behind non-residential on the ground floor as well as being above.	Amend DTS 1.4 as per comment.

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PO 2.4	Parking should generally be located behind buildings in order to assist with meeting PO 2.6	Amend PO 2.4 to encourage parking to be located behind buildings in the Zone.
Port Adelaide Centre Sub Zone	Should not be within Phase 2 Code	
<b>PART 3 - OVERLAYS</b>		
<b>Affordable Housing Overlay</b>		
	The policy should be able to be utilised by applicants in areas outside the Overlay if they choose.	Amend as per comment.
DTS 3.1	The 20 % decrease in site area should be 40%. The metrics being provided will not create a situation where the increase in development yield offsets the cost of delivering affordable housing. This means you will have a situation where the development is providing the subsidy for affordable housing whereas this is a society wide issue and as such must be paid for by society.	Amend wording in DTS 3.1 to 40%.
<b>Building Near Airfields Overlay</b>		
DTS 1.2	DTS 1.2 effectively creates a very large area of sterilization around airports. A 3km buffer around an airport measuring 2km x 1km amounts to approximately 46km <sup>2</sup> . The State cannot afford such wastage.	Delete agriculture and conservation area from the list of restricted land uses in DTS 1.2.
<b>Character Area Overlay</b>		
General	Many Development Plans had Design Guides for historic areas (eg: Table Ga/3 Infill Development Guidelines) which provide a graphical approach to	Introduce the design guidelines for various areas that existed in the current Development Plans.

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	<p>guiding proposed development. This is considered to be a far superior method than text policy which provides too much flexibility.</p> <p>Post WWII areas have not been considered to have character or heritage protection requirements, other than specific buildings. To introduce policy such as 1950/60s Housing Trust without there being a thorough debate about the benefits and costs is considered to be unacceptable.</p>	<p>Remove post WWII character preservation policy.</p>
<b>Coastal Areas Overlay</b>		
PO 3.1	<p>PO 3.1 anticipates that no development will necessitate the implementation of protection measures. Surely, there will be instances where protection measures are warranted in order to deliver a much needed piece of infrastructure, for example, a boat ramp or a marina.</p>	<p>Amend PO 3.1 as follows: Development will not necessitate <i>unreasonable</i> protection measures against coastal erosion, sea or stormwater flooding, sand drift or the management of other coastal processes.</p>
PO 3.3	<p>PO 3.3 implies that the developer of a facility that requires coastal protection will fund all ongoing management and maintenance. Many facilities will generate community benefits that warrant a broader management/ maintenance cost base.</p>	<p>Amend PO 3.3 as follows: Necessary coastal protection measures <i>may be</i> the subject of binding agreements to cover the cost of future construction, operation, maintenance and management measures and will not:</p> <ul style="list-style-type: none"> <li>(a) have an adverse effect on coastal ecology, processes, conservation, public access and amenity;</li> <li>(b) require commitment of public resources including land; and</li> <li>(c) present acceptable risk of failure relative to potential hazard resulting from failure.</li> </ul>
<b>Hazards Overlays</b>		
	<p>There are too many (8) hazard overlays. Simplification is required particularly with regard to bushfire.</p>	<p>Reduce number of hazard overlays.</p>

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<b>Historic Area Overlay</b>		
Historic Area Statements	The Statements have not been provided as part of the consultation version of Phase 2 PD Code. Without them it is impossible to provide comments on the suitability or otherwise of the Overlay policies.	This part of the PD Code must be provided for consultation purposes immediately.
<b>Major Urban Transport Routes Overlay</b>		
General / various	<p>Many of the deemed-to-comply requirements regarding access in the Major Urban Transport overlay are overly onerous and would rarely be met by developments (if at all in some cases). Whilst it is understood that there is then a process for Performance Assessment (when deemed to comply requirements are not met), there it is considered likely that referral agencies will simply view the DTS requirements as still being the target outcomes to meet the POs for each element and resist deviation from them (applicants and their advisors struggle with referral staff often being too focussed on ticking a box rather than 'engineering' a practical yet safe solution). This has the potential to set the 'goal posts' for access arrangements very high (particularly given most of the DTS requirements are in excess of the requirements of the relevant Australian Standards or Austroads' guidelines – which would generally be a more appropriate benchmark for DTS requirements). The access spacing, sight distance and queuing provisions are all conservatively high and should be amended.</p> <p>The sight distance requirements need further detail on how they are measured. There are numerous different</p>	Amend policies as per comments.

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	<p>ways of measuring sight distance (for instance, setback from the roadway adopted - 2.5 m, 3m or 5m; height that it is measured from - driver eye height, object height or level of road etc.). A whole additional sight distance requirement is not considered necessary when typically the Austroads' guides are considered to be the benchmark for assessing this element.</p> <p>Development accessed by heavy commercial vehicles will not meet the DTS requirements - so any medium to large industrial and retail uses will not be able to meet the DTS requirements.</p> <p>* There is reference to the creation of new public 'junctions' in some locations. Fairly minor comment but the term 'junction' is not referred to in the Australian Road Rules or Road Traffic Act... they should refer to 'intersection' instead.</p>	
<p><b>River Murray Flood Plain Overlay</b> DTS 7.4 and 7.6</p>	<p>To require water pumping infrastructure (DTS 7.4), jetties and pontoons (DTS 7.6) to be designed precisely as defined in the relevant Figures (Figures 1-4, not 2-6) presupposes identical conditions are experienced at every point along the River and that there will be no evolution in the quality of materials used on such structures in the future. This is unrealistic and needs to be tempered with some flexibility. In fact, the figures, if used at all, would be best represented as one way of addressing the design</p>	<p>Amend DTS 7.4 as follows: Water pumping infrastructure is designed and constructed <i>generally</i> in accordance with Figure 1.</p> <p>Amend DTS 7.6 as follows: Jetties and floating pontoons are designed and constructed in <i>general</i> accordance with Figure 2 to 4 and:</p> <ul style="list-style-type: none"> <li>(a) have length of <i>around</i> 8m measured from the riverbank at normal pool level;</li> <li>(b) have a width of <i>approximately</i> 1.4m in the case of a jetty (or gangway width in the case of a floating pontoon); and</li> </ul>

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	requirements of jetties and pontoons and water pumping infrastructure.	(c) the dimensions <i>approximately</i> 3m by 6m, in the case of a floating pontoon depending on the proximity of other river structures.
<b>Sloping Land Overlay</b>		
PO 4.1	Retaining walls of more than 1.5m in height occurs on plenty of estates that are not on sloping land. To minimise retaining walls to a total of 1.5m is ridiculous. Where retaining walls are visible to public spaces they should be kept to maximum of 1m height (if more height needs to be dealt with then additional separate retaining walls should be provided).	Reword PO 4.1 as per comment.
<b>State Heritage Area Overlay</b>		
PO 2.1	PO 2.1 should only relate to buildings of heritage value. There are likely to be buildings in a State Heritage Area that are not required to be retained (ie: they have no identified heritage value), however this provision appears to catch all buildings.	Amend PO 2.1 as follows: <i>For buildings or structures of identified heritage value, those buildings, structures and any other elements are not demolished, destroyed or removed in total or in part unless either of the following apply:</i> (a) a portion of any building and/or structure has been determined to not contribute to the heritage value; or (b) the structural condition of any building and/or structure, represents an unacceptable risk to public or private safety and results from actions and unforeseen events beyond of the control of the owner and is irredeemably beyond repair.
PO 2.1	The alteration or addition to a building of identified heritage value should address the design having regard to whatever is an appropriate response to the context of that building.	Amend PO 2.1 as follows: Additions and alterations to buildings, structures and any other elements, contribute to the heritage values by: (a) extending into the existing roof space or to the rear of the building; <i>and/or</i> (b) distinguishing between the existing and new portion of the building using compatible design elements including (but not limited to) recessed facades, use of negative joints, separate roof forms and linking structures; <i>and/or</i> (c) providing sufficient setback of built additions and alterations where taller than the existing heritage structure.

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<b>River Murray Tributaries Overlay</b>		
Procedural Matters	Land division creating more than 4 allotments in a residential /township type Zone is an expected land use and should not require referral to the Minister responsible for the River Murray Act.	Delete (d) from the PM list.
<b>Water Resources Overlay</b>		
All Provisions	While we make no comment in respect of the POs and DTSs within the Overlay, the question of definition of what constitutes a watercourse (and to a lesser extent, a flood plan or wetland) is significant to the impact of this overlay.	
<b>PART 4 – GENERAL DEVELOPMENT PROVISIONS</b>		
<b>Advertisements</b>		
PO 1.2	Advertisements in the public realm cannot always be attached to existing infrastructure. A locality may not have any suitable structures.	Amend PO 1.2 as follows: <i>Where possible</i> , advertisements in the public realm integrated with existing structures and infrastructure.
PO 3.1	This PO appears to prevent third party advertising. If the advertisement relates to a lawful use on the subject site then it is not third party advertising.	Review intent of PO 3.1.
<b>Design in Urban Areas</b>		
DTS 7.1	A retaining wall less than 1m in height as not been defined as development in the Development Act. This DTS should be in the Accepted list. Retaining walls where visible from public space should generally be 1m in height. Where not visible from public space	Shift DTS 7.1 text to the Accepted list.  Amend DTS wording as per comment.

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	should be 1.5m in heights. Where a greater height needs to be dealt with a second separate retaining wall should be built.	
PO 9.1	Whilst not overly relevant to many areas in Phase 2, buildings greater than 4 storeys being proposed in an area which has typically been a single storey environment will always be creating a new character. The wording in PO 9.1 is unwarranted in this scenario.	Amend PO 9.1 so that development only needs to respond to the context when an existing character is being sought to be retained.
DTS 9.5	Limiting materiality to a – c will add costs that are unnecessary. More solid/long lasting materials should only be required at ground level where interaction with people and machine/vehicles is expected.	Limit requirements of a – c to ground floor only.
PO 10.1	A 4 x 4m space for a tree in front of buildings where the street setback is 3m will impact negatively in a number of ways. In more urban areas of towns trees have typically been provided in the road reserve. To bring this policy in place has the potential to fundamentally change the fabric of main streets which is unnecessary.	Delete as this policy should not be required in areas where 4 or more storeys are envisaged.
DTS 20.3	Clarification is needed on a – c. Are all aspects required or just one?	Add the word “or” at the end of a and b.
DTS 21.1	The soft landscaping requirement means that for a typical 450sqm lot the amount of soft landscaping required (90sqm) is greater than the area required for private open space (60sqm) and the front yard (approximately 24sqm - on the basis the front setback is complied with). Given some of the front and rear yards will have paving this will have the impact of reducing (by 20 +sqm) the amount floorspace that can be built. This will have a fundamental negative impact on the value of the allotment.	Delete DTA 21.1 (a) and keep (b).

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	It is understood the issue trying to be resolved with this policy is to avoid front yards that are totally paved.	
DTS 22.1	Why bring BCA issues into planning policy with rainwater tanks.	Keep requirements in the BCA.
DTS 22.3	The technical aspects of the proposed policy will result in engineering solutions that are more costly and inappropriate. UDIA member engineering firm has met with DPTI staff to discuss this issue and are in the process of providing a solution.	<b>DPTI staff to work with UDIA and their representative to determine an appropriate policy.</b>
PO 28.5	Universal design features have significant cost impacts and not all occupants need them. They should only be required for a limited number of dwellings where the residential flat building has more than 20 dwellings.	Amend PO 28.5 as per comment.
DTS 33.5	The 1.5m separation should only be required for dwelling walls with habitable room windows.	Amend DTS 33.5 as per comment.
Table 1 – Outdoor Open Space	The definition of private open space in Part 8 of the PD Code has a minimum dimension of 1.8m, yet Table 1 has various minimum dimensions. This inconsistency needs resolution.	Amend Table 1 so that minimum dimensions are as per the definition (1.8m).
<b>Infrastructure and Renewable Energy Facilities</b>		
PO 2.2	The need for buffers to surrounding land is unnecessary in a number of instances. Buffers may be appropriate adjacent to urban areas, existing residences, parks and conservation areas and possibly along major public roads but should not be necessary in most circumstances.	Amend PO 2.2 as follows: Substations, pumping stations, battery storage facilities, maintenance sheds and other ancillary structures incorporate vegetated buffers around the perimeter to reduce adverse visual impacts when viewed from adjacent land <i>containing sensitive land uses, such as a residence, in close proximity to the common boundary.</i>

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PO 4.3	This provision is inconsistent with 2.3 and 5.1 in that it seeks clear space around storage facilities and also seeks revegetation to reduce visual impact.	Reconcile the contradiction between provisions.
<b>Interface Between Land Uses</b>		
PO 3.1	PO 3.1 is particularly onerous in areas of higher densities and heights. Some tempering of the rigidity of the requirement to access winter sunlight should be made in anticipation of the transition of this provision into the Phase 3 PD Code.	Amend PO 3.1 as follows: Overshadowing of windows of habitable rooms of adjacent residential premises (including supported accommodation and residential care facility; student accommodation and retirement facility) <i>managed</i> to enable access to direct winter sunlight.
PO 3.2	As for PO 3.1, this provision needs tempering for use in Phase 3 PD Code.	Amend PO 3.2 as follows: Development enables <i>some</i> direct winter sunlight to access the primary open space of adjacent residential premises (including supported accommodation and residential care facility; student accommodation and; retirement facility) to achieve <i>an acceptable</i> level of amenity in the following: (a) ground level private open space; <i>and/or</i> (b) ground level communal open space; <i>and/or</i> (c) upper level private balconies.
PO 4.2-4.5	Noise nuisance should be suitably managed rather than minimized to provide greater flexibility in solutions to noise issues.	Amend PO 4.2-4.5 by removing the word 'minimized' and replacing with ' <i>suitably managed</i> '.
PO 6.1	Light spill should be managed rather than eliminated.	Amend PO 6.1 as follows: External lighting positioned and designed to <i>limit unreasonable</i> light spill so that it does not adversely affect the amenity of an adjacent sensitive land use or a zone primarily intended to accommodate sensitive land uses, excepting that required for safety.
<b>Land Division in Urban Areas</b>		

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PO 1.1	The prevailing context should only apply as a factor for consideration when the Zone is seeking to maintain a character. It should not apply to Zones that are seeking change and / or to have a new character.	Amend PO 1.1 as per comment.
PO 3.5	Not all roads need cycle lanes.	Amend PO 3.5 so that cycle lanes are provided where necessary on collector and arterial roads.
<b>Mineral Extraction</b>		
PO 1.1	Very few mining operations do not materially impact the landscape. It is unreasonable to expect minimal damage. It is, however, entirely reasonable to require the reclamation of disturbed areas.	Amend PO 1.1 as follows: Mining operations that provide for the progressive reclamation of disturbed areas.
<b>Open Space and Recreation</b>		
DO 1	The DO should identify the range of functions to which open-space could be put and the range in size appropriate to the different open space functions.	Amend DO 1 as follows: Pleasant, functional and accessible open space and recreation facilities provided at State, regional, district, neighbourhood and local levels for active and passive recreation, <i>visual amenity gathering spaces, vegetation, wildlife and waterway corridors, and a range of other functions and at a range of sizes that reflect the purpose of that open space.</i>
PO 1.1, 2.1-2.3, 3.1, 7.3, 8.1, 8.2, 8.3	Each of these POs will only be relevant in particular circumstances. This should be addressed by acknowledging that limited relevance.	Amend PO 1.1, 2.1-2.3, 3.1, 7.3, 8.1, 8.2, 8.3 by providing the following prefix to each outcome: <i>“Where relevant, “</i>
PO 4.1	Stormwater can play a positive role in open space development, creating visual interest and informal recreational opportunities. The dual use of 1:100 flood zones for recreational purposes should be encouraged.	Amend PO 4.1 as follows: <i>Manage the impacts of stormwater management systems on the usability of public open space and recreation facilities and encourage dual use of such spaces.</i>

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<b>Residential Liveability</b>		
DTS 2.1 Residential Liveability Table 1	Many non-apartment dwellings are now provided with site areas of 55m <sup>2</sup> to 120m <sup>2</sup> . These are the equivalent of apartments on the ground and should therefore have open space standards similar to apartments.	Amend Table 1 as follows: <ul style="list-style-type: none"> <li>• Site area &lt;300m<sup>2</sup> to become 120m<sup>2</sup>-300m<sup>2</sup></li> <li>• Apartments to become <i>Apartments and Dwellings on sites &lt;120m<sup>2</sup></i></li> </ul>
<b>Site Contamination</b>		
DTS 1.1	This section appears to render any parcel that ends up in the overlay area undevelopable without a full SCAR report, unless it was previously residential. This then gives relevant authorities a large amount of power where it previously hasn't been afforded. In many instances, site history reports will suffice to demonstrate the risk is low. Going the next step to a full SCAR is a significant expense.	Remove requirement under DTS 1.1 to provide audit report in first instance.
<b>Transport, Access and Parking</b>		
PO 1.1	The existing transport system may be inadequate in its performance, it may require upgrading irrespective of a proposed development or may need to be extended to serve a recognised area of growth. These shortcomings are not the fault of an individual proposal and should not be a mechanism to deny approval.	Amend PO 1.1 as follows: Development integrated with the existing transport system and designed to <i>manage</i> its potential impact on the functional performance of the transport system, <i>while recognising that the existing performance of the transport system should not limit the ability to undertake development explicitly contemplated by the zone.</i>
PO 3.5	This provision is excessive and should be removed.	Delete PO 3.5
DTS 5.1: Transport, Access and Parking Table 1	This table promotes carparking standards that are well beyond widely accepted standards for particular land uses. Even though these are DTS criteria, some changes are appropriate.	Amend Table 1 as follows: <ul style="list-style-type: none"> <li>• 1.5 spaces per 2 bedroom dwelling</li> <li>• 2.0 spaces for 3+ bedroom dwellings</li> <li>• 5.0 spaces per 100m<sup>2</sup> for gross leasable shop floor area</li> </ul>

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<b>Part 7 – Land Use Definitions</b>		
	This submission has not considered the need for changes to definitions or adding more definitions.	
<b>Part 8 - Administrative Definitions</b>		
Density	Firstly, the definition of high density appears to be in error. Secondly, the numeric standards are too low and convey an inappropriate message about density to the community.	Amend definitions as follows: <ul style="list-style-type: none"> <li>• Low density: up to 40 dwellings per hectare</li> <li>• Medium density: 40-200 dwellings per hectare</li> <li>• High density: greater than 200 dwellings per hectare</li> </ul>
Tangent Point	Clarification required as to whether the kerb of the road pavement or the cadastral boundary is the line in the diagram.	
<b>Part 9 - Referrals</b>		
General	<p>Under the Development Regulations there are currently 36 referral triggers to State Agencies, where 25 of these referral triggers allow the Agency to have the power of 'Direction'. There are currently 11 referral triggers where the Agency can only provide advice to the Relevant Authority who must have 'Regard' to this advice. Under the current system there is a lack of guidance and direction on what Referral Agencies can comment on and the Relevant Authority (i.e. Council / SCAP) is accountable for defending an appeal against the decision.</p> <p>The recent presentation of the Department to the UDIA on 17 October 2019 noted that under the new PDI Act, there are a total of only 24 Referral Triggers and 22 of these allow Referral Agencies to have the</p>	A reconsideration of the extent of referrals is necessary.

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	<p>power of 'Direction' (i.e. the Agency can direct a decision). There are two (2) referral triggers under the new system where the Agency can only provide advice to the Relevant Authority who must have 'Regard' to this advice. Comments of Referral Agencies must be contained to <i>'matters for which a referral was made'</i> and the referral Agency will be accountable to defend an appeal against a decision directed by that Agency.</p> <p>Whilst we support the Referral Authority limiting their comments to matters for which the referral was made and we support referral authorities being accountable to defend determinations that have been directed by that authority, we are concerned with both the potential increase in the number of referrals that will be required under the new system and the 'veto' power of Referral Authorities that now have the power of 'Direction' for the expanded referral matters.</p> <p>Whilst the number of referral triggers in the new Regulations has been reduced, the PD Code also identifies the circumstances that a referral is required to an Agency. The PD Code incorporates a large number of 'Overlays' with a significant spatial extent requiring an expanded number of referral triggers. For example, the new 'Traffic Generating Overlay' has a significant spatial extent and includes a large number of triggers for referral to the Commissioner of Highways for a variety of different land uses of varying size and composition. This is expected to significantly increase the actual number of</p>	

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	<p>referrals required to Agencies, who now have the power to 'Direct' a Relevant Authority in relation to a determination on the application.</p> <p>Part Nine (9) of the PD Code also introduces required referrals to Agencies including the Environment Protection Authority (EPA). This part of the Code incorporates a referral to the EPA for a change in use of land to a sensitive use or more sensitive use as follows:</p> <p style="padding-left: 40px;"><i>“A change to a more sensitive use of land (including following its subdivision) at which site contamination exists or may exist as a result of a class 1 potentially contaminating activity listed in a Practice Direction (including site contamination caused by such an activity conducted on adjacent land, or on other land identified on the SA Planning Portal that is known to impact the subject site).”</i></p> <p>And</p> <p style="padding-left: 40px;"><i>“A change from:</i>  <i>(a) a non-sensitive use to a sensitive use; or</i>  <i>(b) from a sensitive use to a more sensitive use on land at which site contamination exists or may exist as a result of a class 2 potentially contaminating activity listed in a Practice Direction (including site contamination caused by such an activity conducted on adjacent land, or on other land identified on</i></p>	

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	<p><i>the SA Planning Portal that is known to impact the subject site)."</i></p> <p>A referral is not however required if a site contamination audit report under Part 10A of the <i>Environment Protection Act, 1993</i> has, within 5 years of the application, been prepared in relation to the land.</p> <p>Accordingly, unless a site contamination audit has been prepared, any application involving a change in use to a sensitive land use where Class 1 or 2 contamination may exist on or within 60 metres of the site (adjacent land) will require referral to the EPA. This has the potential to significantly increase the number of referrals to the EPA beyond prevailing arrangements. Further, given the EPA will have power of 'Direction' as a Referral Agency it is anticipated that the EPA may direct a relevant authority to refuse an application unless a site contamination audit is prepared demonstrating that the site is suitable for its intended purpose. This has the potential to add considerable time and cost to the development assessment process for applications for a more sensitive land use.</p> <p>Finally, we are concerned that the power of 'Direction' afforded to referral Agencies will effectively make an Agency a 'quasi' planning authority with the power to veto any determination of the Relevant Authority. Each Agency will therefore effectively act as a separate authority – effectively requiring multiple</p>	

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	<p>approvals from multiple authorities for the one development application. The power of 'Direction' also provides significant power to Agencies to 'leverage' their authority to achieve outcomes beyond the purview of the referral. To challenge a referral Agency would also involve considerable time (6-12 months) and money (\$50K- \$100K) for an applicant to initiate an appeal through the Courts. In most cases, this time and cost imposition would be beyond the threshold of feasibility of most development projects which would limit the real opportunity for an applicant to appeal and overturn a determination of a Referral Agency. Further, an applicant appealing to the Environment Resource and Development (ERD) Court would be challenging the weight of evidence and authority of a State Agency, which is likely to also limit an applicant's appetite to seek a successful resolution through the courts.</p>	

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## PLANNING DESIGN CODE TRANSITION POLICY IMPLICATIONS MOUNT GAMBIER

### LEGEND

- TOWNSHIP BOUNDARY
- AFFECTED ZONES
- 60m BOUNDARY TRANSITION AREA
- LOTS AFFECTED

	TOWNSHIP	AREA AFFECTED	PERCENTAGE
# OF LOTS	12,459	3,457	27.7%
TOTAL AREA	3,179.2ha	2,104ha	66.2%

