28 November 2019

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

Dear Mr Lennon

Consultation Submission – SA Planning and Design Code

Thankyou for providing Council the opportunity to provide our feedback regarding the draft Planning and Design Code that has been released for public consultation.

General Comment
It's virtually impossible to properly and thoroughly identify the impact on Council's Development Plan of the new Code provisions in the limited time provided in the consultation period. The Code being some 3000 pages and without the benefit of the new ePlanning system by which to interrogate how the provisions fit and integrate with each other, the task of providing meaningful and detailed comment on the draft Code within the consultation timeframe is not achievable.

It was initially touted that the first iteration of the Planning and Design Code would be a "like for like" transition of existing Development Plans, with existing policy re-presented in the format of the new Code. It was then subsequently stated that the only material variation from current policy would be limited to issue canvassed in the Discussion Papers released by the Department of Planning, Transport and Infrastructure (DPTI).

This has not occurred.

Consultation period
The Planning, Development and Infrastructure Act 2016 has introduced a level of change to the planning system that has not been seen for over 20 years by replacing current development plans with the Planning and Design Code. Despite the extent of this, Phase Two councils have been offered a limited timeframe to respond to the Code. This does not provide a reasonable opportunity for these councils to respond due to:

1. Limited Staff- most, if not all Phase Two councils have limited planning staff to undertake the analysis required of the extensive document and compare that to their existing development plan. The Regional Council of Goyder has one sole planner.
2. A lack of effective consultation and engagement should not be seen to equal broad acceptance of the Code.

Council is disappointed in the limited timeframes and the seeming lack of understanding or consideration for those Council's like Goyder that have the most limited staff resources. The Code is a substantial and complex document and it has been very difficult and challenging to prepare a
comprehensive, robust and professional response by the extremely short period of time allocated to a Phase 2 Council.

Whilst we appreciate that the code is written to be utilised as an online tool within the Planning Portal, the layout of the document presented to Councils, and the community at large, during the consultation phase is difficult to navigate and understand.

Council’s sole planner has found the process of analysing and understanding the document to be difficult and this task has had to been undertaken in addition to usual duties with much of the analysis done in excess of usual work hours.

As pointed out this Council has very limited planning resources and one sole staff member cannot undertake the exhaustive review of such a large and unwieldy document within the time made available.

As the Code has not been presented in its intended electronic format, the search through the multiples of pages to try and locate the ‘connections’ between the existing Development Plan policy and how the Code will accommodate this is impractical.

We have concerns that the public engagement process undertaken to date with the general community has been tokenistic and at odds with the Community Engagement Charter within the Act. The community consultation for the Regional Council of Goyder area was advertised once in a paper that was not the local paper, and only one week prior to the scheduled meeting. Council contacted DPTI and was verbally told that they don’t need to advertise and that it would only be placed in the one paper as DPTI had no money.

Council further contacted DPTI to advise Eudunda residents would have no knowledge of the consultation available and Council was advised that they would be able to attend the Kapunda Consultation meeting that would be scheduled sometime prior to Christmas. However Kapunda is in Phase 3 as it is within the Light Regional Council. Considering the significant changes proposed under the new Code this is far from acceptable and overall means the Regional Council of Goyder community remains unaware and ill-informed about the proposed changes.

Councils were originally told by DPTI the idea was to involve community in policy.

The consultation process needs to be extended and take place concurrent with the availability of a thorough road-testing of the Draft Code in collaboration with Councils to address practical implications of the policies within the ePlanning system.

**Terminology**

The new Code introduces zone names that are, in a rural/regional context not familiar in the planning world. It is certainly, bewildering and out of place with established standards of zoning commonly found elsewhere and these terms will complicate matters when dealing with both local and interstate developers.

For example;

Suburban Neighbourhood Zone is to replace Residential Zone
Resource Extraction Zone is to replace Historic Mining Zone
Employment Zone is to replace Industry Zone

This introduction of unfamiliar terms is confusing and will further complicate matters when dealing with the public and applicants. It is very apparent that the names have been generated with a metro-centric mindset and do not respect regional areas.

Everyone can relate to the purpose of a Residential Zone.

Revert back to familiar terminology currently used in the SA Planning Library.

Residential Zone to Suburban Neighbourhood Zone
The Draft Code naming of zones and spatial allocation (which councils were not consulted) has drastically changed the planning controls and if implemented, has the potential to drastically change the landscape of those areas. This zone name is ludicrous for a rural/regional setting and needs to revert back to Residential Zone.

Historic Mining Zone to Mineral Extraction Zone
A completely inappropriate Zone. Currently all development within the zone is non-complying except basically for the conservation of historic buildings, structures, sites or features, as the objectives of the Zone is for the conservation of the historic and open character of the area and protection of reserves of mineral deposits against intrusion and sterilization from other forms of development.

This Zone has changed to be called a Mineral Extraction Zone and can now host a multitude of land uses including store, office, agricultural building and the only type of restricted development being a dwelling (excluding a replacement dwelling) and land division (excluding boundary realignments). Currently we have shops empty in the town centre.

This historic area is inappropriate for any envisaged resource extraction and associated development.

It is somewhat bewildering as to why the Code created this new zone name and expanded land uses without any underlying justification or explanation as to the rationale. This is not what the community support and the character and amenity will be lost and this is a step backwards in orderly development.

Consideration needs to be reviewed to revert back to Historic Mining Zone.

Primary Production Zone to Rural Zone
The inclusion of detached dwelling within the notification table will have significant resource implications for Council and will have little to no community interest. Currently this is not a notifiable form of development as such Council is unsure of the benefit or the need for undertaking this notification.

Consider the removal of detached dwelling from the notification table.

Township Fringe Policy Area has now been absorbed into the Rural Zone. This is an important subzone for the Regional Council of Goyder as it provides a buffer from within and on the approaches to the towns. Additional protection measures are required to ensure the current provisions are retained.
**District Town Centre Zone to Township Main Street**

A Dwelling is now performance assessed, where previously were non-complying in the District Town Centre Zone unless in conjunction with a non-residential development. Development of this nature would have significant negative impacts on our retail precincts of Eudunda and Burra. Development of this nature should only be in conjunction with non-residential uses only.

A lot of the forms of development that will now be performance assessed development are not suitable for this zone and should be restricted rather than being considered as to not have a significant impact on the retail precinct.

The only restricted development for the zone is Industry.

**Industry Zone to Employment Zone**

There appears to be a wider variety of envisaged uses and many of the non-complying uses are now envisaged and/or performance based. Of concern is the shop floor area now permitted. Large shops outside of town centres are a major impact for regional centres.

Review Restricted Development table to amend shop floor area back to current 80 square metres.

**Rural Living Zone to Rural Living Zone**

Within the Rural Living Zone the ‘accepted development’ and ‘deemed-to-satisfy’ criteria do not apply to many forms of residential development within the Character Area Overlay. This will result in many instances, numbers of residential developments requiring performance assessment which will increase considerably from our current Development Plan.

Of confusion is that height limits used to ‘trigger’ public notification in some Zones (for instance the Rural Shack Settlement Zone) are expressed as being “2 building levels (over 9m) in height”. To add to the confusion, the Rural Living Zone expresses the following as requiring public notification: “building exceeding 2 building levels (over 9m) in height”. Ideally, height limits and/or "triggers" for public notification should be expressed in consistent terms within the Code to avoid legal argument as to their interpretation.

**Recreation Zone to Recreation Zone**

Under the Code there is no restricted development in the Recreation Zone. This is totally inconsistent with the current policy for the zone. Currently with the majority of this zone being under Council control the public realm can be maintained. However under the Code there will be no development controls and this will be detrimental to the current character and intention of the zone.

**Historic Character Statements**

It is disappointing to be given insufficient timeframes (by the end of consultation for Phase 2) to write, seek expert opinion and seek Council consent and supply Historic Character statements to DPTI. Furthermore the writing of these statements, what they are to include and what areas they are to cover has never been communicated to Council prior to or at the start of the consultation period.

Council requests that the timeframe to supply this information be extended.
State Heritage Register
The State Heritage Register is not included within the Code. Council assume this is an oversight and the State Heritage Register will be included.

Concept Plans
Concept plans are important strategic tools. The current Concept Plans within the Development Plan has been removed. These Concept Plans are critical to ensuring that development is undertaken in an orderly and efficient manner without imposing risks of major infrastructure costs to Council.

Unauthorised Development
Council is concerned of the probability that people who wish to build something will do so illegally in the future because the new Code provisions of lodging an application, meeting the required standard of plans and information to be submitted, trying to 'manage' the computerised system and the like can lead to frustration and giving up, particularly country people. Therefore they are more than likely to just build the structure leaving Council's with the enforcement task. Again, this places a resource penalty on rural Councils especially who are already planning resource poor.

Wastewater Applications
Whilst metropolitan councils are largely sewered, Regional Councils primarily comprise of onsite disposal or a septic tank connected to a Community Wastewater Management Scheme. Code policy ‘Design in Rural Areas’ has a provision for Waste Control, however in ‘Design in Urban Areas’ has no such equivalent provision. Some residential areas in our community are directed to the ‘Design in Urban Areas’ rather than the design in ‘Rural Areas’ provisions within the code potentially resulting in allotments or even developments without the necessary provisions for waste control.

This goes beyond planning and is a public health issue so therefore it is critical that the SA Portal that a wastewater application would need to be approved prior to issuing consent.

The Planning portal doesn't deal with wastewater applications, so will have to correlate council mapping in portal.

A reference needs to be included to the Wastewater Code to ensure allotments are developable with provision for appropriate wastewater treatment.

Land Division
It must be reiterated that the current Residential Policy assumes all areas have a council wastewater connection coming down the street which is not the case in regional areas. Applying Draft Code land division policy, applications would be approved for lots that could not physically accommodate the effective management of wastewater from the site.

Renewable Energy Facilities
It is disappointing that the Renewable Energy Discussion Paper consultation is occurring concurrently with the consultation of the Code. The Regional Council of Goyder can be currently seen as the gateway to renewable energy facilities in the State, and the implementation of the Code on April 1 without any due consideration of the feedback provided to the Discussion Paper (which closes at the end of February 2020) is a very poor and ill thought outcome for rural Councils.
Public Notification
We note that public notification is required in all Zones where "the site of the development is adjacent land to land in a different zone". This notification trigger warrants review, particularly where adjacent Zones are not sensitive to each other.

This notification will call up inappropriate instances and should be deleted or refined to development that will have an impact on an adjoining zone. Notification no longer provides for appeal rights and response or non-response to notification should not be the measure for appropriateness of the development.

Variations to the Development Plan
While the removal of non-complying makes for more flexibility to approve certain developments The non-complying developments currently listed within Council's current development Plan are now listed as deemed-to-satisfy or performance assessed with a very loose criteria and are not subject to notification.

This is of concern to Council, as Council had previously through the Development Plan Amendment process determined that certain forms of development are inappropriate within certain zones and have sought to restrict these developments to maintain the amenity of the locality. The Code has now created opportunity for these developments to be located where they haven't been previously which may cause distress to the community.

Much of this lost content has been developed and refined over many years and represents a significant investment of both public money and the time and expertise of Council and state government, as well as the goodwill of communities and stakeholders involved in the policy development process.

If Council refuses such development, there is then the prospect of defending the decision upon appeal to the Court. This can involve substantial time and money costs.

Restricted Development Tables be reviewed.

Code Amendments
Currently Council does not have a clear understanding of how future amendments will be prioritised or assessed and as such fear the loss 'overnight' of years of robust policy development, which may take more years to reintroduce if at all. History has shown that once a policy is removed it is a very real challenge to then re-introduce it back.

Specific Observations
As is the case with all Zones within the Code, DTS and DPF criteria are identical. This has the potential to cause legal disputes over the merits of a performance assessment where DTS/DPF criteria is not met, and has the potential to give rise to arguments as to whether exceedances render a development seriously at variance to the Code if they are significant.

It is also noted that within the Code there appears to be the lack of any accepted development, deemed-to-satisfy and performance assessed criteria for ancillary accommodation (i.e. granny flats). Given the often-common desire for rural farming families to accommodate aging relatives on the same allotment as an existing dwelling, I assume this omission to just be an oversight.
The abovementioned omission needs to be addressed so as to avoid unnecessary difficulty to applicants in achieving what is commonly accepted as entirely appropriate forms of development, subject to appropriate siting, bulk, height and scale limitations.

**Implementation**

Phase 2 Councils are scheduled to be transferred to the new Code on 1 April 2020. As the interactive ePlanning system is not likely to be available until February 2020, Council does not believe that there is enough time for staff to be trained and become familiar in the use of that system (especially as rural Councils are expected to act as an 'agent' for applicants in lodging their applications). With no training or education for users, there will be confusion, frustration and inefficiencies. Together with the resource impact on smaller rural Councils for staff to be properly trained, attend workshops and the like, will be immense and will need to be balanced with the other tasks and roles of those officers also perform.

Whilst Council is actively supportive of development in the region, we wish to ensure that all developments are appropriate and will not negatively impact on the locality.

In closing, the draft Code has adopted an oversimplified, one size fits all approach without local nuance nor policy detail to appropriately guide and support positive development outcomes. Oversimplified policy runs the risk of creating less certainty and less efficiency in the system, notwithstanding negative impacts on the ground. In contrast, the Draft Code has taken a one size fits all approach that loses the ability to respond to local context, and lacks the detail to facilitate positive development and achieve strategic planning aims around built form, streetscape, place making and land use.

Council is generally supportive of the proposed changes within the new Planning and Design Code seeing a clear benefit to the Regional Council of Goyder, however feel that there needs to be some further consideration of the information presented to ensure that it is appropriate for the needs of our rural communities.

I welcome your response to our concerns and ask that you contact myself should you have any queries or if we can be of any assistance to you.

Yours sincerely

Fiona Barr MPIA
Development Assessment Manager