

29 November 2019

Department of Planning, Transport and Infrastructure
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Dear Sir/Madam

Re: Planning and Design Code – Phase 2 – Renewable Energy Policy

MasterPlan SA Pty Ltd has prepared this submission on the renewable energy policy of the Planning and Design Code (PD Code) – Phase 2 (consultation version October 2019).

This submission is prepared by MasterPlan as professional town planning consultants with extensive experience in renewable energy developments in South Australia. MasterPlan welcomes the opportunity to update and improve policies relating to renewable energy within the PD Code. However, as detailed in this submission we have a number of concerns relating to the detail of the policy as currently on consultation for implementation as part of Phase 2.

In preparing this submission, we have reviewed the Phase 2 PD Code policies, compared policies to the Phase 1 Code Policies, reviewed and compared renewable energy policies to current Development Plan policies, and reviewed the "Discussion Paper on Proposed Changes to Renewable Energy Policy in the Planning and Design Code - July 2019 (the Discussion Paper)".

We note that the SA Planning Portal indicates that "*formal public consultation on the draft Code, including the Commission's proposed renewable energy policies, is now open until 28 February 2020*". In our respectful opinion the consultation and subsequent review of the renewable energy policies should align with the consultation on Phase 2 of the PD Code as the majority of large scale renewable energy developments occur within regional areas, many of which are included in the Phase 2 implementation of the Code.



General Observations and Concerns:

In our view the Phase 2 PD Code policies:

- do not adequately support the State Planning Policy 12 – Energy;

State Planning Policy 12 – Energy

The provision of sustainable, reliable and affordable energy is essential in meeting the basic needs of communities and ensuring the long-term supply of key services across South Australia. Industries and business rely on energy for their viability while households rely on it daily to support their lives, health and comfort. The production of energy and associated infrastructure also contributes significantly to the state's economy.

- adversely alters the intent of the Ministerial policy currently within the Development Plans relating to wind farm development, particularly in relation to visibility of wind turbine generators;
- do not appropriately or adequately support renewable energy facilities with the Rural Zone;
- does not provide suitable policy to protect renewable energy facility development, particularly wind farms from development of dwellings or tourist accommodation within designated separation distances. On the contrary the policies of the Rural Zone support dwellings and tourist accommodation forms of development;
- clarification is required in relation to “battery storage facilities” and whether they fit within the definition of “renewable energy”;
- there is a need for consistent terminology across PO's, DTS/DPF's, particularly in relation to minimise, manage and avoid when addressing perceived or potential impacts of renewable energy facilities; and
- many of the policies included in the Infrastructure and Renewable Energy Facilities General Development Policies in relation to renewable energy facilities are written with a negative tone and imply these forms of development have impacts which are not proven and/or significant, e.g. blade throw and fire hazard; or should simply be dealt with by other general policies such as hazard policies.

A number of these concerns are discussed in more detail below, with specific reference to the PD Code policies.



Rural Zone

The Discussion Paper clearly indicates that “zones need to identify whether renewable energy facilities are encouraged or not; in particular the Rural Zone and Remote Areas Zone should explicitly anticipate the development of renewable energy facilities to enable South Australia to continue to accommodate these facilities” (underlining added).

It is acknowledged that DO1 of the Rural Zone includes reference to renewable energy as being appropriate for economic prosperity of South Australia. However, this reference in the DO is not then supported by a suitable PO and/or DPF in relation to the appropriateness of renewable energy land uses.

Rather than being supportive of renewable energy development, PO 9.1 of the Rural Zone is written in a negative tone seeking to “*minimise significant fragmentation or displacement of existing primary production*”.

PO 1.1 in the Rural Zone under the heading of Land Use and Intensity is supported by a DTS/DPF that lists appropriate land uses. Given PO 1.1 does not mention renewable energy facilities the supporting DTS/DPF is also silent on renewable energy facilities.

The approach to identification of renewable energy facilities as an envisaged land use is not consistent between the Rural Zone and the Remote Area Zone of Phase 2 of the PD Code.

Rural Zone

Desired Outcomes (DO)

DO 1 A zone supporting the economic prosperity of South Australia primarily through the production, processing, storage and distribution of primary produce, forestry and the generation of energy from renewable sources.

PO 1.1 The productive value of rural land for a range of primary production activities and associated value adding, processing, warehousing and distribution is supported, protected and maintained.

Renewable Energy Facilities

PO 9.1 Renewable energy facilities and ancillary development minimises significant fragmentation or displacement of existing primary production.

PO 9.2 Small-scale ground mounted solar power facilities support rural production or value adding industries.

The manner in which the only two Performance Outcomes (PO 9.1 and 9.2) relating to renewable energy are written in the Rural Zone, would indicate that only small-scale ground mounted solar power facilities ancillary to rural production or value adding industries are appropriate. There is no support in these policies for wind farms, large scale solar or other forms of renewable energy.



The support for “small-scale ground mounted solar power facility” requires further definition or clarification. It is noted that “solar photovoltaic panels (ground mounted)” are accepted development in accordance with Table 1 of the Rural Zone, subject to certain criteria. Some of the criteria relates to maximum height of 4 metres and a maximum generating capacity of 30kW. There is however no cross reference to a performance outcome or designated performance outcome criteria in the Infrastructure and Renewable Energy Facilities policy which clarifies “small-scale”.

Whilst it is acknowledged that the PD Code contains general policy relating to development of renewable energy facilities (in the Infrastructure and Renewable Energy Facilities policy), the Zone policy prevails over a General Development Policy and therefore it is extremely important that the policies of the Rural Zone are rewritten. The current Rural Zone policy has insufficient policy to recognise and support renewable energy facilities as envisaged land uses, as is clearly the intent stated in the Discussion Paper.

It is noted that renewable energy facilities within either the Significant Landscape Protection Overlay or the Character Preservation Area Overlay are restricted development in the Rural Zone. There are no exclusions to this classification. Given infrastructure such as electricity transmission lines would currently exist within the area of these overlays, an exclusion for the transmission of electricity from renewable energy facilities should be considered as an appropriate exclusion. This exclusion would be appropriate given the capacity of these transmission lines to occur via other legislation/licencing and exemptions under the planning legislation and/or may involve compulsory acquisition of easements.

Submission – Rural Zone:

It is our respectful submission that the Rural Zone in Phase 2 of the PD Code should be amended to:

- Include specific Performance Outcomes for renewable energy facilities. An example of these PO’s may be:
 - PO: Renewable energy facilities located in areas that maximise efficient generation, storage and supply of electricity.*
 - PO: Development of wind farms, solar farms and other forms of renewable energy facilities and ancillary development that minimises impact on productive rural land.*
 - PO: Wind farm development sited to maximise harvesting of wind and efficient generation of electricity and therefore wind turbine generators and wind monitoring masts can be:
 - (a) in visually prominent locations; and*
 - (b) closer to roads that setbacks established for other structures.**
- Ensure consistency of policy in the Rural Zone and Remote Area Zone in relation to renewable energy facilities;
- Identify electricity transmission lines as an exclusion to restricted development in Significant Landscape Protection Overlay or the Character Preservation Area Overlay;
- Define and/or clarify “small-scale ground mounted solar power facility”.



Wind Farms

The renewable energy policy in the PD Code does not provide the same level of recognition of the visual impact of wind turbine generators as is currently contained in the Development Plan policy. The loss of the Desired Character Statements from the Primary Production and Rural Zones in current Development Plans significantly diminishes certainty for wind farm developers that the visual impact of these developments will be acknowledged in planning policy. Currently the Desired Character statement for the Primary Production Zone states:

"Wind farms and ancillary development....are envisaged within the zone and constitute a component of the zone's desired character. These facilities will need to be located where they can take advantage of the natural resource upon which they rely and, as a consequence, components (particularly turbines) may need to be:

- *Located in visually prominent locations such as ridgelines;*
- *Visible from scenic routes and valuable scenic and environmental areas; and*
- *Located closer to roads than envisaged by generic setback policy.*

This, coupled with the large scale of these facilities (in terms of both height and spread of components), renders it difficult to mitigate the visual impacts of wind farms..."

In lieu of a Desired Character Statement, the policy of the Rural Zone should include a Performance Outcome that recognises and acknowledges the visual impacts of wind turbine generators.

Performance Outcome 2.1 in the Infrastructure and Renewal Energy Facilities specifically excludes wind farms from techniques of minimisation and management of visual amenity. Subsequently the visual impact is sought to be "reduced" through "appropriate separation" in PO 8.1 and "managed" in PO 8.2. These PO's in no way recognise the potential visual impact in a comparative manner to the current Desired Character Statement and policies of the Development Plan.

PO 8.1 and its associated DTS/DFP 8.1 states:

PO 8.1 Visual impact of wind turbine generators on the amenity of residential and tourist development reduced through appropriate separation.

DTS/DPF 8.1 Wind turbine generators are:

- (a) *setback at least 1,200m from the base of the turbine to non-associated (non-stakeholder) dwellings and tourist accommodation;*
- (b) *setback at least 2,000m from the base of a turbine to any of the following zones:*
 - i. *Settlement Zone;*
 - ii. *Township Zone;*
 - iii. *Rural Living Zone; or*
 - iv. *Rural Neighbourhood Zone*

with an additional 10m setback per additional metre over 150m overall turbine height (measured from the base of the turbine).



The DTS/DPF 8.1 requires clarification and redrafting, as it could readily be interpreted that the additional 10m setback only applies to setback from the designated zones and not from non-stakeholder dwelling. We understand from the Discussion Paper that the additional setbacks are proposed to apply to setbacks from the zones and non-stakeholder dwellings.

PO 8.2 seeks to manage the visual impact on “natural landscapes”. This PO does not recognise that the majority of the locations where wind turbine generators are proposed to be located are in highly modified rural landscapes. Furthermore, the prominent natural feature of the landscape is likely to include the ridgeline on which the wind turbine generators are likely to be located and this is not acknowledged or recognised in this policy.

PO 8.2 The visual impact of wind turbine generators on natural landscapes managed by:

- (a) designing wind turbine generators to be uniform in colour, size and shape;*
- (b) coordinating blade rotation and direction; and*
- (c) mounting wind turbine generators on tubular towers as opposed to lattice towers.*

Drafting of this policy should also be amended to include (a), (b) and (c) as a DTS/DPF.

PO 8.4 relates to markers or similar required for wind turbine generators. The DTS/DPF is written in a negative manner and should be clarified. It is interpreted that the DTS/DPF is applicable if there is no applicable CASA/ASA requirement, however confirmation of this interpretation is requested.

PO 8.4 Wind turbine generators incorporate recognition systems or physical markers to minimise the risk to aircraft operations.

DTS/DPF 8.4 No Commonwealth air safety (CASA / ASA) or Defence requirement is applicable.

Submission –Wind Farms:

It is our respectful submission that the policies in the Rural Zone and the General Development Policies – Infrastructure and Renewable Energy be amended to recognise the potential visual intrusion of wind turbine generators.

Definitions

Phase 2 of the PD Code varies the definition of “renewable energy facilities” from that included in Phase 1. This amendment is supported as it clarifies application of the definition to generating facilities over 5MW that are not associated with the use of the land.

It is noted that the renewable energy definition as listed in Part 7 - Land Use Definitions includes “battery storage facility” within the definition. Whilst not listed in Part 7, there is a separate “definition” of “battery storage facility” in Part 9 – Referrals. It may be appropriate to include the wording/definition of “battery storage facility” within the definition of “renewable energy facility” for clarity.



Infrastructure and Renewable Energy Facilities General Development Policies

The following comments are made on specific policies in the Infrastructure and Renewable Energy Facilities General Development Policies.

- This section contains varying terminology in relation to impacts, including the use of the terms “minimise”, “manage”, “reduce”, “not adversely impact”, some of which appear to be used interchangeably.
- This section contains varying terminology in relation to ‘non-associated’ or ‘non-stakeholder’ dwellings.
- PO 2.1 seeks to “minimise and manage” visual impact of renewable energy facilities (excluding wind turbine generators) by “avoiding visually sensitive and significant landscapes” (part c). The exclusion from the defined sensitive and/or significant landscapes is achieved by Table 4 – Restricted Development and the use of the Significant Landscape Protection Overlay or the Character Preservation Area Overlay.
- PO 2.1 Part (f) seeks to minimise renewable energy infrastructure by the incorporation of landscaping. Whilst this approach in itself is sound, the wording which suggests around the perimeter of a site is inappropriate given the size of many commercial scale renewable projects. Whilst landscaping is a technique that could be utilised, it is considered that there are other suitable general policies that could be applied to renewable energy facilities.
- PO 2.3 relating to “reduce visual impact” of exposed surfaces appears to be based on an assumption that these will be visible. If the development incorporates exposed surfaces there are other general policies which could address this concern and it appears the policy is unnecessary and repetitive.
- PO 3.1 relates to rehabilitation ahead of or upon decommissioning of areas used for renewable energy facilities and transmission corridors. The intent and applicability of this provision is unclear and should be the subject of further revision. The need for rehabilitation and how this is achieved for renewable energy projects may be more appropriately addressed by a practice direction or similar guideline.
- PO 4.2 in relation to fire risk is adequately and appropriately dealt with by “hazard” policy. Furthermore, this policy is written in a manner which infers that the land uses have a heightened risk from fire and equipment malfunction. This policy is misleading and inappropriate.
- PO 5.1 is under the heading of “electricity infrastructure and battery storage facilities” and seeks to “minimise” visual impact. Without further clarification this provision could be read to apply to wind turbine generators.



Submission:

It is our respectful submission that:

- terminology be consistent across policy and use of terms minimise, manage and reduce be carefully considered;
- policy that is covered by other general policy such as landscaping, and bushfire be deleted; and
- specific polices referenced above be clarified if not deleted.

Dwellings and Tourist Accommodation

It is noted that within the Rural Zone, tourist accommodation may be developed as deemed to satisfy development. There is no reference to Interface Between Land Use policy (or other relevant policy or overlays) that would then prevent tourist accommodation being developed with the established setbacks for renewable energy developments. In the case of a wind farm, development of a tourist accommodation development within the setback from a wind turbine generator would have a potentially significant impact on the operation of a wind farm.

Performance assessed dwellings, tourist accommodation and workers accommodation within a Rural Zone or Remote Area Zone, or adjacent these zones, that may accommodate renewable energy projects, should be excluded from setbacks of proposed, approved and operating renewable energy facilities, particularly wind farms. Should a specific policy not be included in the PD Code restricting sensitive land uses being developed within the setbacks of renewable energy facilities, there is a substantial and real risk that projects will be placed at risk by aggrieved adjoining land owners that submit development applications for a dwelling, tourist accommodation or workers accommodation within the setbacks to deliberately impact on a renewable energy project.

Submission

A policy be included in the Rural Zone and also within the Interface between Land Uses policy that seeks to protect the setback distance of renewable energy projects from inappropriate development. Such a provision should be written in a manner that protects the renewable energy development following submission of a development application and not only once approved.

Commercial Scale Solar Farm

As stated in the introduction to this submission, the intent of the PD Code policy was to ensure all forms of renewable energy have an appropriate policy framework. South Australia has been operating in a policy vacuum in relation to solar farms for several years and it is heartening to see some policy included. However, the detail of the policy requires refinement for the following reasons:

- The Rural Zone does not appropriately envisage commercial scale solar farms, for the same reasons as stated in the discussion about wind farm developments. That is, there are no land use Performance Outcomes that specifically envisage renewable energy.



- The procedural matters in the Rural Zone relating to a solar farm are written in a manner that comprise double negatives. This is confusing and a simpler approach should be included.
- PO 9.1 of the Rural Zone which states: “renewable energy facilities and ancillary development minimises significant fragmentation or displacement of existing primary production” could be viewed as actively discouraging commercial scale solar farms that displace existing primary production. This policy approach is contrary to the intent of the Discussion Paper and the State Planning Policy.
- PO 9.2 of the Rural Zone supports small scale solar power facilities with the DTS/DPF indicating that 30MW would be deemed to be small scale. This appears to be inconsistent with other policy relating to ground mounted solar development and indicates a need to define “small scale”.
- PO 9.1 of the General Development Policies – Infrastructure and Renewable Energy, states:
PO 9.1 Solar power facilities generating 5MW or more are not located on land of high environmental, scenic or cultural value.

The exclusion of solar power facilities in areas of high environmental and scenic value is covered by the exclusion of renewable energy facilities in the Significant Landscape Protection Overlay and the Character Preservation Area Overlay, that is, restricted development. The wording of this provision should be more specific, otherwise it will open a significant debate about how to define “land of high environment, scenic or cultural value”.

- PO 9.2 of the General Development Policies – Infrastructure and Renewable Energy, quoted below is impractical and not achievable for commercial scale solar facilities, particularly the requirement for “avoiding” extensive security and perimeter fencing to allow for movement of wildlife. Fencing will be incorporated in commercial scale solar facilities for security purposes. This PO should be rewritten, if considered to be of significant importance for retention, to simply seek to incorporate wildlife corridors and habitat refuges and delete points (e) and (f).
PO 9.2 Solar power facilities allow for movement of wildlife by:
 - (d) *incorporating wildlife corridors and habitat refuges; and*
 - (e) *avoiding the use of extensive security or perimeter fencing; or*
 - (f) *incorporating fencing that enables the passage of small animals without unreasonably compromising the security of the facility.*
- PO 9.3 of the General Development Policies – Infrastructure and Renewable Energy, seeks to minimise amenity impacts of solar power facilities through separation. The DTS/DPF then incorporates separation distances. These separation distances are outlined in the Discussion Paper but not explained or justified. It is therefore questioned what impacts are perceived that requires a commercial scale solar farm to meet these setbacks.
PO 9.3 Amenity impacts of solar power facilities minimised through separation from sensitive receivers.



DTS/DPF 9.3

Solar power facilities are setback at least:

- (a) *500 metres from conservation areas;*
 - (b) *100 metres from Township, Settlement, Rural Neighbourhood and Rural Living Zones; and*
 - (c) *30 metres from adjoining land.*
- PO 9.4 of the General Development Policies – Infrastructure and Renewable Energy seeks to incorporate landscaping within setbacks from adjacent road frontages and non-host dwellings. Incorporation of landscaping in these circumstances is a standard practice for commercial scale solar farm operators and the policy provides sufficient flexibility to determine the appropriate size and nature of landscaping. This PO is in direct contrast to PO 2.1(f), which is prescriptive and unreasonable in seeking landscaping around the perimeter of a site.

PO 9.4 Solar power facilities incorporate landscaping within setbacks from adjacent road frontages and boundaries of adjacent allotments accommodating non-host dwellings.

Submission:

It is our respectful submission that policies relating to large or commercial scale solar farms be written in a manner that supports and encourages this land use in the Rural Zone and design and siting criteria are suitable for the type and scale of the development for the reasons outlined above.

Summary

Updating of renewable energy policy as part of the Planning and Design Code is generally supported. However, as discussed in this submission the detail of the policy does not support and encourage renewable energy development in the manner in which it is intended by the State Planning Strategy, the Discussion Paper on Proposed Changes to Renewable Energy Policy and significantly diminishes the policy relating to wind farm developments that exist in Development Plans currently.

We would welcome the opportunity to discuss this submission with the Department of Planning, Transport and Infrastructure and/or the State Planning Commission.

Please do not hesitate to contact the undersigned by phone on [REDACTED] or [REDACTED] or email [REDACTED].

Yours sincerely

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