29 March 2019

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Planning & Land Use Services
DPTI
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Adelaide SA 5000

Dear Jason,

The following constitutes Mount Barker Council’s submission to Phase One of the Planning and Design Code on consultation.

Administrative and Procedural Comments:

- It is not clear how ‘undefined’ development will be assessed. Will there be a clause, such as ‘other development determined to be minor’ to be performance assessed by Council rather than this being assessed by SCAP?
- It is good that the pathways, public notification, referrals and definitions are all in one spot – the Planning and Design Code.
- It is unfortunate that the definitions of development have not been revised, particularly in relation to how much case law there has been over the years. In particular, this would have been a good opportunity to simplify the definitions or provide more clarity. Dwelling definitions were one of the major items discussed in the previous definitions review.
- Habitable Room does not exclude a bedroom – this is a concern given the Courts have consistently looked at bedrooms differently (in relation to overlooking) to say a living room; particularly given they are occupied at different times and persons using a bedroom are seeking a level of privacy themselves. This could have implications for assessments against overlooking matters.
- Notification of Performance Assessed Development (d) Township Zone – having a 100sqm trigger for public notification for the listed uses in zones such as the Township Zone is trivial in my view. In almost all instances these types of uses will be in excess of 100sqm. This size requirement should be increased to 150sqm or 200sqm

Township Zone:

- P0 1.5 –This provision needs to be seriously revisited. There appears to be a lack of understanding of the morphology and historical development of rural townships. In a significant number of cases the distribution of commercial residential and industrial land uses has been lineal along the “main street”. This is an issue that Mount Barker dealt with in Nairne and Environ DPA as the grouping or concentration of modern forms of commercial (including shopping) development can have a negative effect on the commercial viability of existing traditional main streets.
**Significant Landscape Protection Overlay**

- It is assumed that this Overlay is to replace the Landscape Protection Policy Area currently with the auspices of the Primary Production Zone, given the policy similarity/replication. The current policy suite within the Overlay (Desired Outcomes and Performance outcomes) are currently insufficient to adequately assess development in the Primary Production Zone where located within the Mount Lofty Ranges. Mount Barker Council in undertaking the Rural Primary Production Protection DPA, introduced the Rural Landscape Protection Policy Area 26, considered a number of often competing issues and local considerations when adding local additions to the base SAPPL module. It has been included as *Attachment 1* in this response.

**Sloping Land Overlay**

- Contradiction between Sloping Land Overlay and Siting General Section.
  - Siting General Section deemed to satisfy 12.1 where excavation a maximum height of 1 metre and combined height for retaining walls whereas Sloping Land Overlay deemed to satisfy 3.1 limits maximum height or depth to 1.5 metres.

**State Heritage Area and State Heritage Place Overlay**

- A State Heritage Area Overlay has been introduced. This is welcomed as there has been significant confusion when assessing a building or structure within a State Heritage Area that is not a State Heritage Place. There needs to be more emphasis on the impact of development on the impact of proposed development in the streetscape in the State Heritage Area. Additionally the type of materials is just as important and the colour and texture – this is missing from PO 1.1 in both overlays
- Conservation assessment criteria has been added to the State Heritage Area Overlay and the State Heritage Place Overlay. This is a welcomed introduction.
- State Heritage Area Overlay PO 6.1 -The location or siting of ancillary structure such as carports of garages should not always occur as described in this provision. The predominate State Heritage Area in this state is from the 19th century and, unlike Colonel Light Gardens, were prior to the advent of the motor vehicle. In its current form this Performance Outcome gives the wrong direction to the planner. This issue also applies to PO 6.1 in the State Heritage Place Overlay.
- While this is the first Phase of the code and the is more to come, it the number of Performance Outcomes for Compatible Development for the two overlays is considered inadequate especially when considered against the Objectives and PDCs in the current SAPPL General Section Heritage.

**Water Resources Overlay**

- A Water Resources Overlay is welcome. Additionally the use of the top of existing banks to delineate a watercourse is a seen as a benefit and mirrors current Mount Barker Development Plan provisions.
- Mount Barker Council in the BDP DPA considered the protection of water resources very seriously as the majority of the district is a watercatchment, either for the Murray Darling Basin (Lake Alexandrina) or for Adelaide water supply (the Onkaparinga). In considering the provisions relevant to catchment, they are not considered as exhaustive as in our
current Development Plan. The local additions have been attached for your consideration in any amendment (attachment 2).

- There need to be a reference to the 1-100 year average return interval for all development as the flood plain is not always clearly defined.

- The provision for a 20 metre wide buffer for native vegetation along watercourses is welcome. However if the relevant Deemed-to-Satisfy requirements for development do not have sufficient setbacks there is the potential for conflict. Such as a dwelling where the conflict may arise for vegetation clearance where bushfire provisions apply. In the recently approved Mount Barker Rural (PPP) DPA the issues of water contamination and riparian health and biodiversity were a major factor in the local addition requiring horse keeping, horticulture and water treatment facility (septic tank etc) to be located at a minimum of 50 metres from a watercourse dam etc. etc.

**Animal Keeping and Horse Keeping**

- Some additional Performance Outcomes with regard to potential environment impact are required.

- A Deemed-to-Satisfy addition would be in relation the maximum rainfall of 1000mm for horse keeping. Mount Barker Council is in a high rainfall location.

- It is noted that one horse keeping provision is located within the Slope Overlay. While the relevant table direction the assessor to the location of the relevant provisions, this appears to counter intuitive. During Mount Barker Council’s BDP DPA, all horse keeping provisions which were located in the General Section, Rural and Rural Living were combined into the SAPPL Animal Keeping Module.

If you have any questions regarding our submission please contact Simon Coote, Policy Planner on or .

Your Sincerely

Luke Gray
Manager Planning Policy and Strategy
Rural Landscape Protection Policy Area 26

Refer to the Map Reference Tables for a list of the maps that relate to this policy area.

OBJECTIVES

1. Preservation of the natural and rural character and scenic features of the policy area.
2. Low intensity rural activities on large land holdings.
3. Tourist facilities, attractions, and accommodation that are secondary to farming and blend with the natural environment.
4. Development that contributes to the desired character of the policy area.

DESIRED CHARACTER

This policy area comprises the steepest land in the district, much of which is wooded, and forms a contrasting backdrop to undulating pasture and cropping lands. Because of its steeper slopes, shallower soils, high rainfall and significant quantities of remnant native vegetation, it is dominated by low intensity grazing.

The area is also characterised by a greater level of significant environmental, biodiversity and scenic value as a result of the patchwork of steep pastures, remnant vegetation and tree-lined ridge-top roads.

Function

Existing broad-acre grazing and farming practices will be retained, with more intensive horticultural activity in topographically and environmentally suitable areas, in conjunction with the stands and areas of remnant native vegetation. It is envisaged that activities which will enhance and protect the biodiversity and landscape qualities of the policy area will be undertaken. To achieve this development will be undertaken outside of those areas designated as Areas of High Environmental Significance and Perched Swamps in Overlay Maps - Development Constraints MtB/1 – MtB/36.

In certain critical locations such as the Mount Barker Summit, the policy area will act as a buffer to areas of significant conservation value. It is envisaged that small-scale tourism and associated passive nature-based activities will take advantage of the high scenic and environmental quality.

Pattern of Development

Dwellings are generally sited dependent on the prevailing topography and vegetation cover. Where roads follow watercourses and ridge-tops, dwellings and associated outbuildings are clustered close to the road. Where dwellings are located on blocks containing abundant native vegetation, they are set well back from the road and abut the edge of the forest or scrub. Older dwellings and outbuildings are more likely to be located close to the road, whereas newer dwellings located in undulating country are set well back from the road.

Allotments tend to be large, and where they contain significant native vegetation and biodiversity corridors, boundary realignments will ensure that remnant vegetation is not adversely affected. Where possible the configuration of boundary realignments will ensure that large areas of native vegetation or remnant stands of the original tree cover are retained on a single allotment.
Public Realm
Views from the major arterial roads are largely from the valley floors following a watercourse, and present views upwards to the surrounding hills and ridge tops. In some instances dwellings and structures have been constructed on hills and ridge tops with little consideration of the impact on the skyline. The location of all buildings and structures will be determined in consideration of their impact on the surrounding landscape and visibility from vantage points and the existing road network.

The secondary and tertiary road network includes numerous narrow, tree-lined roads framed by a canopy of native vegetation, and following ridges, which results in many vantage points affording extensive panoramic views across a large portion of the district. Important vantage points will be identified and interpretative signage designed and installed in sympathy with the wooded landscape. Roadside vegetation will be retained and replaced when necessary.

Built Form/Character
Development will be designed taking cues from the shapes, colours and textures of the landscape so as to blend rather than contrast with the surrounding environment. All buildings and structures will be clustered, sited in valleys, below ridgelines, and contribute to the enhancement of landscape quality through the use of complementary and vernacular materials such as timber, stone and corrugated iron.

In visually prominent locations, buildings and structures will be sited adjacent to, or in front of existing stands of trees so as to minimise visual impact. Additional planting of local indigenous species may be required to further reduce the visibility of buildings, structures and associated earthworks.

Domestic and ancillary buildings, as well as tourist accommodation, will be clustered and the use of non-reflective materials which blend in with the surrounding environment will be encouraged. The use of reflective prefabricated steel cladding, such as Zinalume, will be discouraged. It is desirable that where dwellings are likely to be highly visible, that roof forms are flat, skillion or based on traditional vernacular styles. Roof colours are to be subdued so as to blend in with the surrounding landscape.

Effective vegetated buffers will be established between dwellings, tourist accommodation and surrounding land so as to minimise land use conflicts. Setbacks from adjoining boundaries must ensure that the continuation of existing, and development of future agricultural activities are not impeded and the biodiversity and conservation value of remnant native vegetation is not diminished.

PRINCIPLES OF DEVELOPMENT CONTROL

Land Use
1. The following forms of development are envisaged in the zone:
   - farming
   - horticulture
   - small scale tourist accommodation associated with farming, horticulture and local heritage places
   - small-scale recreation and tourist infrastructure.

2. Development which secures the ongoing conservation and regeneration of native vegetation is encouraged.

Form and Character
3. Development should not be undertaken unless it is consistent with the desired character for the policy area.

4. Development should not be undertaken unless:
   (a) it preserves and enhances the natural and rural character and amenity of the policy area, or
   (b) it assists in the re-establishment of natural and rural character and amenity of the policy area.
5 Dwellings and other buildings should be located:
   
   (a) in areas already cleared of native vegetation
   
   (b) below the skyline
   
   (c) within areas of degraded native vegetation where well preserved native vegetation occupies the balance of the land on which the buildings are to be located.

6 Buildings should only be erected within 20 metres of the nearest boundary of a road in circumstances where one of the following can be achieved:

   (a) additional remnant native vegetation exhibiting high amenity or conservation value can be retained
   
   (b) the building is effectively screened by existing buildings or roadside vegetation
   
   (c) the building setback is consistent with the pattern of existing nearby development and the visual amenity of the locality is preserved.

7 The external materials of buildings should be natural colours responding to the natural backdrop, and be non-reflective.

8 Intensive animal keeping should not be undertaken in the policy area.

**Land Division**

9 Land division should not be undertaken except where it will facilitate the retention of native vegetation on a single allotment and provided no additional allotments are created.
(d) cause a rise in groundwater level sufficient to detrimentally affect structures or ecosystems

(e) adversely affect one of the following:
   
   (i) the natural flow of water or the quality of surface or groundwater

   (ii) the productive capacity of the land by causing nutrient accumulation, heavy metal contamination or increasing salinity, water logging, perched water tables, unlocking toxic elements in the soil or other such impacts.

**Water Catchment Areas**

28 Development should ensure watercourses and their beds, banks, wetlands and floodplains are not damaged or modified and are retained in their natural state, except where modification is required for essential access or maintenance purposes.

29 The collection or diversion of water flowing in a watercourse or over land should not adversely affect downstream water dependent ecosystems by causing inappropriate levels of reduced stream flow duration, lengthened periods of no or low flow, or other such impacts.

30 No development should occur where its proximity to a swamp or wetland will damage or interfere with the hydrology or water regime of the swamp or wetland.

31 A wetland or low-lying area providing habitat for native flora and fauna should not be drained, except temporarily for essential management purposes to enhance environmental values.

32 Along watercourses, areas of remnant native vegetation, or areas prone to erosion, that are capable of natural regeneration should be fenced off to limit stock access.

33 Development, except where it is located within a 1-in-100 year average return interval flood area, should be located at least 20 metres from the top of existing banks on each side of any watercourse and should be:

   (a) fenced to exclude livestock

   (b) kept free of development, including structures, formal roadways or access ways for machinery or any other activity causing soil compaction or significant modification of the natural surface of the land

   (c) revegetated with locally indigenous vegetation comprising trees, shrubs and other groundcover plants to filter run-off so as to reduce the impacts on native aquatic ecosystems and to minimise soil loss eroding into the watercourse.

34 Watercourses, floodplains and wetlands should be protected and enhanced by:

   (a) stabilising watercourse banks and reducing sediments and nutrients entering the watercourse by providing:

       (i) a buffer comprised of local indigenous trees, shrubs and groundcovers of not less than 10 metres wide measured perpendicular from the top of the bank

       (ii) where the height of any part of the watercourse bank exceeds 0.5 metres from the floor of the channel, an additional vegetated buffer width of not less than the height of the watercourse bank (measured from the toe of the bank to the top of the bank)

   (b) retaining and protecting existing native vegetation within 20 metres of the watercourse or wetland or within the floodplain

   (c) enabling environmental flows required to meet the needs of the environment.
35 Development resulting in the depositing of an object or solid material in a watercourse or floodplain or the removal of bank and bed material should not:

(a) adversely affect the migration of aquatic biota

(b) adversely affect the natural flow regime

(c) cause or contribute to water pollution

(d) result in watercourse or bank erosion

(e) adversely affect native vegetation upstream or downstream that is growing in or adjacent to a watercourse

(f) increase the risk of flooding (upstream or downstream).

36 The design, construction and location of levees, weirs and retaining walls, bridges and culverts should:

(a) provide for the needs of ecosystems

(b) not cause or increase the risk of flooding

(c) not cause or increase watercourse erosion.

37 The location and construction of dams, water tanks and diversion drains should:

(a) occur off watercourse

(b) not take place in ecologically sensitive areas or on erosion-prone sites

(c) provide for low flow by-pass mechanisms to allow for migration of aquatic biota

(d) not negatively affect downstream users

(e) minimise in-stream or riparian vegetation loss

(f) incorporate features to improve water quality (eg wetlands and floodplain ecological communities, sediment basins and indigenous aquatic vegetation)

(g) protect ecosystems dependent on water resources

(h) ensure water capture is within sustainable limits.

38 The location and construction of dams that constitute development should:

(a) not result in the loss of soil from the land through soil erosion and silting

(b) not result in silts or sediments entering the watercourse

(c) not contribute to salinity

(d) not result in the removal or destruction of native riparian vegetation

(e) exclude stock and provide alternative watering points

(f) be set back a minimum of 50 metres from an effluent or waste disposal drainage field or disposal area

(g) provide spillways designed to allow passage of high flows without causing structural damage to the dam or soil erosion within the spillway or spillway discharge area
(h) be set back from allotment boundaries at a distance that has regard to:
   (i) minimising potential contamination by spray drift from other land
   (ii) minimising any potential for detrimental visual impact.

39 Dams should:
   (a) have an irregular edge to minimise soil erosion
   (b) have a variety of depths to increase habitat for a variety of plants and animals
   (c) where necessary include a silt trap (one tenth the capacity of the dam) upstream of the dam to trap
       incoming silt and nutrients.

40 Development resulting in the deposition or placing of an object or solid material in a watercourse,
   wetlands or floodplain should only occur where it involves:
   (a) the construction of an erosion control structure (such as, but not limited to, a rock chute or rip rap)
   (b) devices or structures used to extract or regulate water flowing in a watercourse (such as, but not
       limited to, diversion weirs)
   (c) devices used for scientific purposes (such as, but not limited to, flow measuring devices)
   (d) the rehabilitation of watercourses.

41 Watercourses, wetlands and floodplains should be retained in their natural state, including:
   (a) the control of development and activities within the area of the 1-in-100 year average return interval
       flood inundation area, including the placement of fill, excavation, building work, structures and
       fences, the storage of materials, the intensive keeping of animals, the piping of watercourses

   (b) the restoration of watercourses as illustrated in diagram below:

   ![Diagram of watercourse and wetlands]

42 Irrigated horticulture and pasture should not increase groundwater-induced salinity.

43 Development should comply with the current Environment Protection (Water Quality) Policy.

44 Development within the Water Management Areas designated on Concept Plan Map MiB/17(A) -
   Development Constraints - Water Management Areas and Concept Plan Map MiB/17(B) - Development
   Constraints - Water Management Areas should not adversely affect the quality or quantity of the water
   resource.