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Submission on Draft Planning and Design Code Reform (urban areas) Adelaide Hills Council Extract

Joint submission by the Apple & Pear Growers Association of South Australia and Cherry Growers Association of SA

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General Comments

The new planning and design code is generally well received by industry, with a number of potential positives seen presented by the new approach. The code provides for simpler development pathways for a number of activities supporting primary production and value adding in the Adelaide Hills Council Region, supporting a major industry and key part of the landscape within the region.

However, are also a number of concerns within the detail of the code.

General Concerns

1. Most of the Peri-Urban zone has a number of overlays that bring in limitations and restrictions to development pathways, forcing developments into code assessed pathways requiring referrals or the investment in planning consultants to build a case for development. Therefore, in many instances within the region, the new planning and design code will not result in a simpler planning process for land holders.
2. The sloping lands overlay has been used as a blunt instrument for various developments related to horticulture, such as protective tree netting structures and horticulture. This automatically tips developments that are either accepted developments or within a straight forward deemed to satisfy pathway into a more complicated pathway, with no real gain. In these instances, the code is making planning more complicated instead of less complicated.
3. Horticulture is differentiated from farming throughout the planning and design code, but we question why this is the case. Farming and horticulture share most of the same land use practices, with the main difference being the type of crop grown. Some farming practices are just as intensive as horticulture and have very similar likely impacts on the landscape and environment, yet are afforded much simpler development pathways. Our view is that horticulture and farming should be treated equitably within the planning and design code.

4. There are concerns that the Designated Performance Features are linked to the Deemed to Satisfy Criteria, which are by nature very prescriptive. Many developments within the Peri-Urban region are likely to fall into the Performance Assessed pathway due to the various overlays within the region.

While the Designated Performance Features are meant to guide relevant authorities as to what is generally considered to satisfy the corresponding performance outcomes but does not derogate from their discretion to determine that the outcome is met in another way, we identify two risks to DPF being linked to the DTS:

- (a) The relevant authorities undertaking the performance assessment may tend to fall back onto the DPF as literal guidelines to whether a development is approved when they don't have full subject matter or localised expertise. This may exclude potential developments that could otherwise have been approved when taking into consideration the broader performance outcomes.

An example of this is when DTS/DPF criteria have been developed to address certain risks (such as water quality or erosion). The development may be very low risk in its nature, but a literal interpretation of the DPF by the authority who may not have subject matter expertise in that particular risk may rule out the development based on a DTS/DPF criteria.

- (b) To minimise the chances of the above occurring, applicants may need to make significant investments in planning consultants and other expert consultants to demonstrate that they are adequately meeting the Performance Outcomes to offset areas where the DTS/DPF criteria are not met.

Peri-Urban Zone

Protective tree netting structures

It is excellent to see protective tree netting structures included as an Accepted Development, carrying over the current exemptions that exist for horticulture netting into the new Code. However, there are significant issues with the Sloping Land, Water Protection Area and Water Resources overlays being listed as Exceptions. Given that a significant portion of the Adelaide Hills horticulture production area lies within the Sloping Land and Water Resources overlays, this would mean that in those areas, protective tree netting structures would need to go to an alternate assessment pathway, with no clear pathway provided in the provisions. **Under this draft, many horticultural producers will be worse off than they are under the current legislation.**

There is no obvious valid reason why netting should not be an Accepted Development within the Sloping Lands overlay. Installation of netting does not increase the risk of soil erosion, and if anything may potentially reduce the risk of erosion due to better ground cover under net. It also does not obstruct drainage lines or require excavation.

There is no obvious valid reason why netting should not be an Accepted Development within the Water Resources and Water Protection Area overlays. The Development Classification Criteria are designed to negate any potential impacts on water resources, including specifying that anchor points are not within waterways. Netting will have no impact on the quality of surface water.

We urge that the Sloping Land, Water Protection Area and Water Resources overlays are removed from being exceptions.

Solar photovoltaic panels (ground mounted)

We commend the inclusion of ground mounted solar panels in the Accepted Development pathway.

However, the Accepted Development Classification Criteria 2 (b) “*No part of the system is within 100 metres of a dwelling not associated with the system (whether the dwelling is on the same allotment as the system or another allotment)*” is an excessive distance from the installation to the nearest dwelling. A distance of 15 m in alignment with the accepted distance of a netting structure to the nearest dwelling would be more acceptable.

Under the deemed to satisfy pathway, the following general development policies do not provide sufficient flexibility to enable designs to fit in with the landscapes

DTS/DPF 10.2 (c) do not have a panel size exceeding 80m² or 4m in height per structure, and

DTS/DPF 10.2 (d) do not involve more than 2 panel structures per allotment

Due to the terrain and desire to not negatively impact on existing primary production, designs should be flexible enough to allow solar installations to fit into less productive land and be less visibly intrusive. Our preference would be for this to be simplified to “do not have a total panel size exceeding 160m² or 4m in height”, with allowance for multiple panel structures.

For DTS/DPF 10.2 (f) *are not located within 100 m of a dwelling in other ownership* – as per comments above, this distance should be 15 metres.

Water tank (above ground) and Water tank (below ground)

We question why water tanks are not accepted developments within Native Vegetation, Sloping Land and Water Resources Overlays. This would exclude a significant portion of the Adelaide Hills region and water tanks are an important component within primary production.

A suggested alternative is to not make exceptions of those overlays and include classification criteria to address the Performance Outcomes of those overlays that may be of concern relative to the installation of water tanks.

Horticulture

Given that farming is an accepted development, we question why horticulture is only allowed through the Deemed to Satisfy Pathway.

There are also a number of issues we would like to raise regarding Horticulture DTS/DFP 3.1

(b) are sited on land with a slope not great than 10% (1 in 10) – this would exclude further development adjacent to a significant area of existing horticulture within the Adelaide Hills. Modern horticultural practices preserve soil on sloping lands, avoiding erosion and impacts on water quality.

(c) are not conducted within 50m of a water course or native vegetation - this is excessive and would once again rule out a significant area of existing horticulture. 10 meters from a water course or native vegetation is more reasonable.

(e) about an existing horticulture activity – what does this sentence even mean??

Rural Industry

It is unclear whether a packing shed, where storage, grading and sorting of produce is included within Rural Industry. If it doesn't fit here, there is no other classification where it would fit.

DTS/DPF 4.2 Buildings and associated activities:

(c) have a total floor area not exceeding 250m² – This proposed floor area is much too small.

Apart from small micro-businesses, buildings and associated activities for rural industries generally occur in areas much larger than 250m². This size is essential in order to gain scale and efficiencies in production.

Shops, Tourism and Function Centres

We commend the inclusion of a development pathway for shops, tourism and function centres within the peri-urban zone, but raise the following issues.

DTS/DPF 6.1 Shop:

(c) Have a gross leasable floor area not exceeding 100m² – this is a small area for a shop space

(d) Have an area for display of produce or goods external to a building not exceeding 25m² – we don't understand the relevance for this in a peri-urban setting. It is as if this clause has been extracted from shop fronts on street sides and seems less relevant in peri-urban developments

(e) in the form of a restaurant, do not result in more than 75 seats for customer dining purposes – this is small for a restaurant and excludes the opportunities for hosting of weddings, parties etc

DTS/DPF 6.3 Tourist Accommodation:

(b) in relation to the area used for accommodation, does not exceed 100m² – this is a very small area for accommodation

(c) does not result in more than one facility being located on the same allotment – what does this mean? Does it mean more than one building, or more than one cluster of buildings? In some rural settings, it may be less intrusive to have small scattered buildings blended into the landscape across multiple locations, rather than all located together.

DTS/DPF 6.5 Function centres:

(b) do not result in more than 75 seats for customer dining purposes – as per restaurants, this is a small space, in particular for functions – too small for most weddings, parties etc

Workers Accommodation

We commend the inclusion of workers accommodation within the peri-urban zone, particularly for housing of seasonal workforce, such as on seasonal worker programs or back packers. We raise the following concerns:

DTS/DPF 9.1 Workers' accommodation

(a) Is developed on a site of at least 2 ha in area – sometimes smaller allotments adjoining primary production may be the most suitable location for workers' accommodation, particularly within the peri-urban zone.

(c) is in the form of a single building or part of a cluster of buildings that are physically connected – it is unclear what physically connected means. Does it mean physically connected as part of the building structures, or by means of footpath or other external connection?

(e) is set back at least 50 m from a road boundary – it is unclear why this restriction is in place

(h) does not result in more than one facility being located on the same allotment – as per DTS/DPF 6.3 for tourist accommodation, the definition of what one facility on an allotment means is unclear.

Agricultural Buildings

Agricultural buildings are an important function of primary industries. Modern agricultural equipment is often of much greater scale than has previously been the case to cater for efficiencies of production. The size limitation of 250m² within DTS/DPF 13.1 is too restrictive and not within what is commonly considered reasonable for agricultural practice.

Rural Zone

Dwellings

We commend the allowance of a secondary dwelling on an allotment, which caters for business succession and location of farm managers on site.

Concerning DTS/DPF 5.2 (c), requiring a secondary dwelling located on an area not less than 40 ha, we draw to your attention that 40ha is a large allotment and would exclude a significant number of opportunities for this type of development to occur. We would like to understand on what basis 40 ha has been used, with a preference for a smaller allotment size to be allowed. It would also be desirable for this type of development to be considered in the Peri-Urban zone, where primary producers are facing the same challenges with farming succession.

Mount Lofty Ranges Water Supply Catchment Areas 1 & 2 Overlays

We recognised the importance of protecting the water catchment area from contamination and pollution. However, it is felt that some of the assessment criteria within the catchment areas are overly restrictive and not necessarily based on recognition of modern horticultural practice.

In particular, we draw attention to DTS/DPF 3.8 Horticulture in both Water Catchment Area 1 and 2.

(a) is located 50m or more from watercourses, wetlands, land prone to waterlogging and bores

(b) is located on land with a slope not exceeding 10%

These 2 restrictions would exclude development in much of the existing horticulture production areas within the Adelaide Hills. We ask what is reasonable evidence that shows the risk of higher water contamination from horticultural production as opposed to other farming and agricultural production (which is an accepted development), stormwater runoff from roadways and other types of land uses. Further to this, on what basis is the restriction of 50 metres from a watercourse or on land slope exceeding 10% drawn?

This blanket approach to exclude horticultural development within 50 metres of a water course or on slope greater than 10% is not seen to be equitable, appropriate or manageable.

Beverage Production in Rural Areas

We commend the inclusion of a development pathway for Beverage Production including breweries, cideries, distilleries and wineries within the Peri-Urban and Rural Zones. This is a significant improvement on restrictions that apply to any type of beverage production that is not considered a winery.

However, we note that the headings for brewery, cidery, distillery and winery are also quite prescriptive, and do not allow for development pathways of other types of beverages associated with primary production, such as juices, cordials and other products that may be developed in the future. We would encourage the broadening or expansion of the wording to encompass all beverage production that is value adding to primary production.

With regards to *Odour and Noise DTS/DPF 1.5 Solid Waste is collected and stored in sealed containers and removed from the site within 48 hours* – this is a restrictive, impractical, inefficient and costly means of dealing with solid waste, such as grape mark or similar. A more practical provision would be to allow for solid waste to be covered and removed after a longer period of time.