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Dear Jason

## **Phase 2 Planning and Design Code Submission on behalf of Mr Peter Cominos, Lot 273 Flinders Highway, Talia**

### **Introduction**

URPS acts on behalf of Ms Mary Cominos, the owner of the land at Lot 273 Flinders Highway, Talia.

We have been asked to review and provide a submission on the Draft Planning and Design Code (Phase 2) as it relates to our client's site. URPS previously provided a submission during the District Council of Elliston's General and Coastal DPA which was finalised 2 years ago. That DPA led to the introduction of A purpose designed Precinct on part of the subject land that envisaged campgrounds and short-term tourist accommodation.

### **Features of the Land and Locality**

The subject land is accessible via Talia Caves Road (from Flinders Highway) which runs along its western boundary (approx. 3km) and southern boundary. The land is elevated above the low cliffs defining the coastline to the south and there are various distant views from the land to the coast in the wider locality.

The allotment is approximately 360 hectares in area. Low lying vegetation and sandy soils / dunes are concentrated in the south-western part of the allotment over relatively flat-to-gently undulating land. There are pockets of typical coastal scrubland and more apparent cleared areas in the north and north-west sections of the allotment, as well as more cleared areas in the central section. The allotment boundaries are fenced with post and wire fencing.

Apart from the broad scenic amenity of the coastline, natural features are part of the attraction of the area for tourism and recreation and include the Talia Caves and the feature known as The Tub (a coastal blowhole).

There is also a Council managed carpark off the Talia Caves Road which we are instructed is on the subject land. There is a designated camping site associated with the Woolshed Cave opposite the car park. The

campsite is located on my client's land and was in place prior to the land being transferred from a Crown Lease to a freehold site.

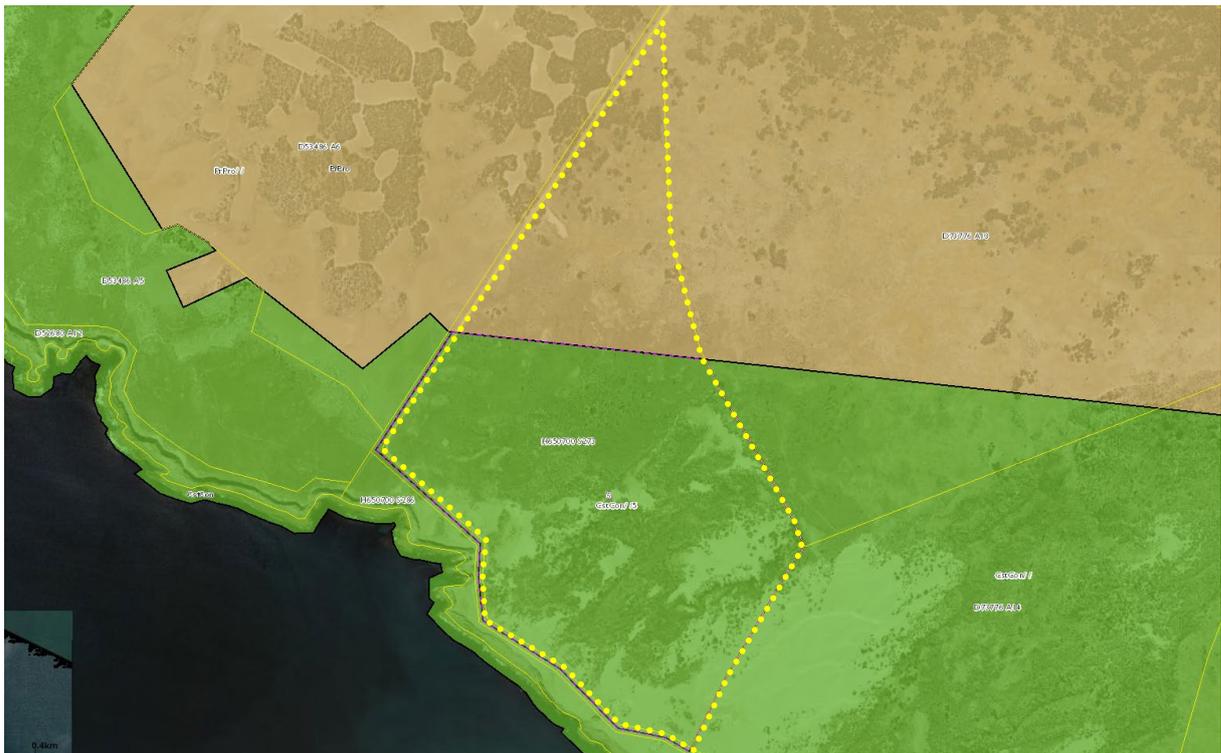
A management plan was prepared for the Talia Caves area in 2002 by Phillip Gray & Associates on behalf of the Office for Recreation & Sport, Planning SA and the Eyre Peninsula Councils. The Talia Caves Management Plan (the Management Plan) identified increasing visitation and a need for ongoing management to reduce damage to coastal resources. The Management Plan identified the site for a new campsite at Woolshed Cave (the camp site on my client's land), as well as including a site plan for the camp site. This site plan reflects the on-ground layout of the camp site. The Management Plan states that the camping area complies with the Elliston Development Plan. It appears that the camp site was designated for further development with an interpretive centre and barbecue area.

The land is ideally suited to value adding tourism and tourist accommodation development, including the expansion/improved management of the campsite.

### Current Development Plan

The subject land is located in both the Primary Production Zone and the Coastal Conservation Zone of the Elliston Council Development Plan (consolidated 12 December 2017), as illustrated below:

**Figure 1 The subject land (outlined in bold yellow) and its location in the Primary Production Zone and the Coastal Conservation of the Elliston Development Plan**



The portion of the site that is located in the Coastal Conservation Zone is also located in Precinct 5 Talia Caves Camping Area. This is a Precinct put specifically in place for the subject land in 2017 through the Coastal and General DPA.

Nature based/eco-tourism accommodation is an envisaged kind of development in the Zone. No other kinds of built form are envisaged in the Zone.

Notwithstanding that tourist accommodation is an envisaged kind of development, it is non-complying in the Zone unless it meets one of two exceptions as outlined below:

Form of Development	Exceptions
<b><u>Tourist accommodation</u></b>	<p><b><u>Except where the development achieves either (a) or (b):</u></b></p> <p>(a) all of the following apply:</p> <ul style="list-style-type: none"> <li>(i) it is located on one allotment that is greater than 5 hectares in area</li> <li>(ii) it comprises a minimum of 11 and a maximum of 50 tourist accommodation units</li> <li>(iii) it is setback a minimum of 100 metres from the Mean High Water Mark</li> <li>(iv) it is not located on a coastal wetland, beach or dune</li> </ul> <p>(b) <u>it is located within Precinct 5 Talia Caves Camping Area.</u> (underlining added)</p>

Procedurally, any tourist accommodation development on my client's land is assessed as *merit* development.

There are two Principles of Development Control within Precinct 5 Talia Caves Camping Area that state:

**Principle 27 Redevelopment of the Talia Caves Camping Area should:**

- (a) be undertaken within the precinct boundaries and be small in scale
- (b) result in minimal modification to the land form and native vegetation
- (c) include toilet, barbeque and interpretive facilities that are of a design, scale, materials and colour that complement the natural features of the locality.

**Principle 28 Short term tourist accomodation (sic) within the precinct may comprise of camping sites and non-permanent demountable structures.**

These provisions generally support tourism accommodation that is of a small scale with some built form.

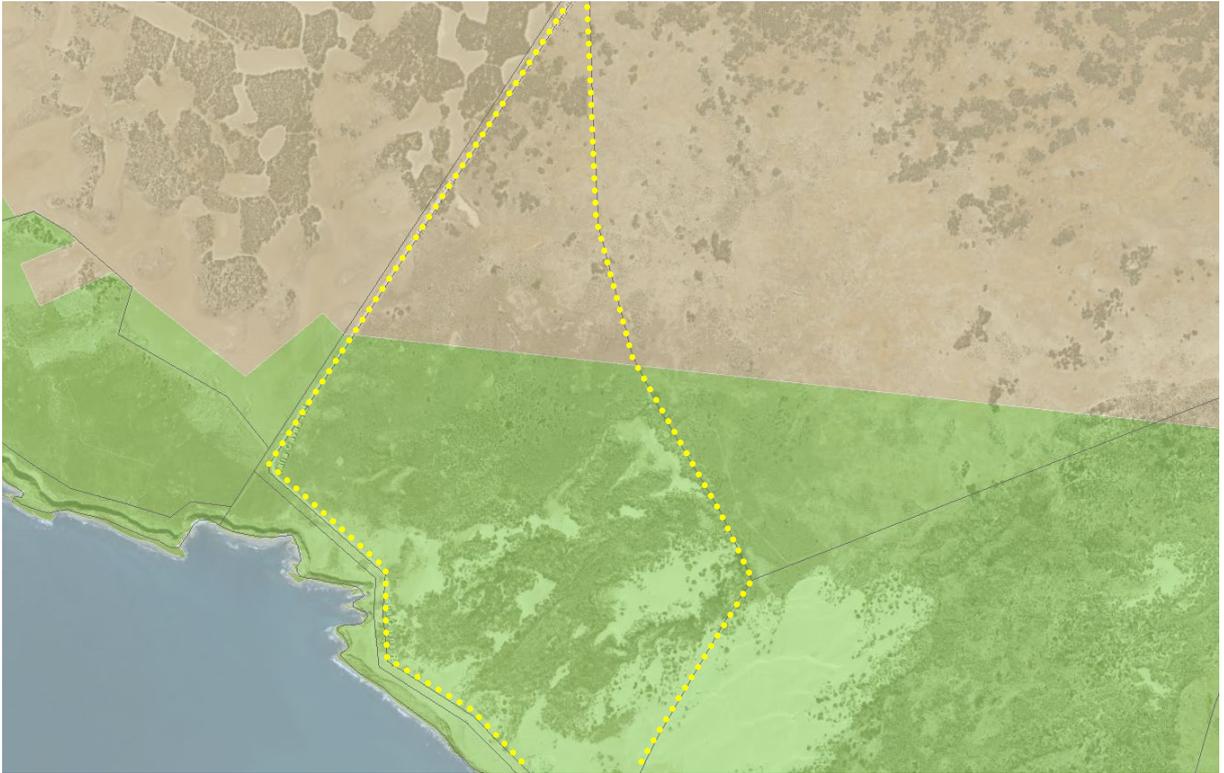
My client is currently in the process of preparing a development application for a tourist accommodation development that is consistent with these provisions. It will include more traditional campground sites (i.e. for tents, caravans, and the like), and will also comprise non-permanent demountable structures commonly referred to as 'glamping tents'. These kind of structures typically have steel frames, canvas cladding and decking.

My client is currently investigating the potential for wastewater systems to be installed on site that would support an amenities building and possibly en-suites for the glamping tents.

### The Planning and Design Code

Under the draft Planning and Design Code, I understand that the land will be located in both the Rural Zone and the Conservation Zone as illustrated below (Figure 2). The area of land within the Conservation Zone is not located within the Visitor Experience Subzone which surrounds the site (Figure 3).

**Figure 1** The subject land (in yellow) and its location in the Rural Zone (light brown) and the Conservation (green) of the Elliston Development Plan



**Figure 3** The subject land (in yellow) and the Visitor Experience Subzone which does not apply to the subject land



Tourist accommodation is assessed as *restricted* development where land is located within the Visitor Experience Subzone (or in an area proclaimed under the *National Parks and Wildlife Act 1972/Wilderness Protection Act 1992*), and as *performance assessed* development where it is outside of the Visitor Experience Subzone.

Tourist accommodation is subject to public notification if it is assessed as *performance assessed* development as it is a kind of development that is “all other code assessed development”. There is one other notification trigger listed and that is where the site of the development is adjacent to land in a different zone.

The following Zone provisions are relevant in respect of tourist accommodation:

Performance Outcome	Deemed to Satisfy/Designated Performance Outcome
<p><b>PO 1.1</b></p> <p><b>Small-scale, low-impact land uses that provide for the conservation and protection of the area, while allowing the public to experience these important environmental assets.</b></p>	<p><b>DTS/DPF 1.1</b></p> <p><b>Development comprises one or more of the following land uses:</b></p> <ul style="list-style-type: none"> <li><b>Advertisement</b></li> <li><b>Camp ground</b></li> <li><b>Farming</b></li> <li><b>Public amenity</b></li> <li><b>Renewable energy facility</b></li> </ul>
<p><b>PO 1.2</b></p> <p><b>Development primarily in the form of:</b></p> <ul style="list-style-type: none"> <li><b>(a) directional, identification and/or interpretative advertisements and/or advertising hoardings for conservation management and tourist information purposes;</b></li> <li><b>(b) scientific monitoring structures or facilities;</b></li> <li><b>(c) small-scale facility associated with the interpretation and appreciation of natural and cultural heritage such as public amenities, camping grounds, remote shelters or huts; or</b></li> <li><b>(d) structures for conservation management purposes.</b></li> </ul>	<p><b>DTS 1.2</b></p> <p><b>None are applicable.</b></p>

### Concerns with the Changes Introduced through the Planning and Design Code

My client is concerned with the following insofar as it affects the land use potential in comparison with the current Development Plan:

1. There is no definition of a “camp ground” and there is inconsistency in terminology used throughout the Code

2. There is little policy support for more general tourist accommodation activities outside of the Visitor Experience Subzone and this conflicts with current Development Plan provisions that affect my client's land, and
3. Where tourist accommodation activities are envisaged, they should be listed in Table 3 to define applicable policies; this would also have the ensuring that public notification is not required in some cases.

### *Definition of Camp Ground*

Camp ground is not defined in the Code's Land Use Definitions. It is also not explicitly excluded or included in any other higher order definitions in either Column C or D of the Land Use Definition Table (i.e. such as tourist accommodation or caravan and tourist park).

It is our view that camp grounds should be independently defined and/or listed in either Column C or D of the Land Use Definition Table. This will provide clarity and certainty both procedurally and in respect of the merits of a development application.

### *Support for Tourist Accommodation Outside of the Visitor Experience Subzone*

There is little policy guidance for tourist accommodation and/or camp ground type development where it is not within a subzone.

While camp grounds are envisaged, it is not clear if this extends to the provision of non-permanent/demountable type accommodation units that are permitted under the current Development Plan for the subject land. The current Draft Planning and Code provisions appear to be silent on this matter and I, therefore, interpret this as meaning that these kinds of structures are generally inappropriate in the Zone.

It is appreciated that the current Development Plan has site specific policies that enable that kind of development and that such specific policies are generally removed in the Planning and Design Code. This, however, has a significant detrimental impact to the development potential of my client's site. It also runs counter to recently amended/introduced Development Plan policy that has been supported by Council, DPTI staff and the then Minister for Planning.

There are options to retain the same development potential of the site as exists under the Development Plan (i.e. make the Code policy neutral as part of the transition), and these have been considered below:

- 1. Provide additional Performance Outcomes that enable/anticipate non-permanent/demountable type accommodation units across the Conservation Zone***

Additional or amended Performance Outcomes could be included within the Zone provisions that explicitly envisage and permit non-permanent/demountable type accommodation units. This would effectively enable the subject land to be developed in accordance with the current Precinct provisions. It would, however, have the effect of applying over the entire Conservation Zone. For this reason, it may potentially have is likely to have adverse effects over a wider area.

**2. Place the Conservation Zoned area of the subject land in the Visitor Experience Subzone where tourist accommodation is envisaged**

As the Conservation Zoned area of the subject land is not within a Subzone, it could be placed in the Visitor Experience Subzone. In this case, the development would be *Restricted* development. It would also generally need to comply with the following performance outcome:

**PO 2.4**

**Tourist accommodation designed to prevent conversion to dwellings through:**

- (a) comprising a minimum of 10 accommodation units;**
- (b) clustering of separated individual accommodation units;**
- (c) accommodation units being of a size unsuitable for a dwelling;**
- (d) communal facilities such as a kitchen and laundry physically separated from individual accommodation units; or**
- (e) functional areas that are generally associated with a dwelling such as kitchens and laundries excluded from accommodation units or of a size unsuitable for a dwelling.**

The type of tourist accommodation contemplated under the current Development Plan and by my client is not of this nature. The development envisaged by my client is more aligned with a low impact, small footprint facility that would enable camping, caravans and glamping as opposed to a more substantial tourist accommodation development contemplated in the above provision.

Placing the land within the Visitor Experience Zone is not supported as it will also mean that future development applications would be subject to the *Restricted Development* assessment pathway. This is inconsistent with the agreed and supported assessment procedures currently in place for tourist accommodation on the subject land.

**3. Place the Conservation Zoned portion of the subject land in a new subzone that permits camp grounds/tourist accommodation development**

There are four existing subzones within the Conservation Zone in the Draft Planning and Design Code, including the:

- Visitor Experience Subzone
- Dwelling Subzone
- Small-scale Settlement Subzone, and
- Aquaculture and Recreation Subzone.

None of the above subzones are compatible or comparable with the current Development Plan policy position for tourist accommodation on the subject land.

A dedicated subzone could be created that enables camp grounds and non-permanent demountable tourist accommodation structures (together with necessary permanent common facilities).

This approach would ensure that policy supporting tourist accommodation and camp grounds would be limited to the areas where the subzone would apply. This is a preferable approach to Options 1 and 2 above as it would limit the potential for this type of development across the entire Conservation Zone.

**4. Place the Conservation Zoned portion of the subject land in the Caravan and Tourist Park Zone**

Given there are no suitable existing subzones that compatible or comparable with the current policy position, an alternative option would be to remove the land from the Conservation Zone. The draft Planning and Design Code’s Caravan and Tourist Park Zone would appear more generally consistent with the current Development Plan’s policy approach for the subject land.

The development of a campground with non-permanent/demountable type accommodation structures would be consistent with that Zone’s Desired Outcome and first Performance and DTS/DPF:

**Caravan and Tourist Park Zone**

Desired Outcome
<p><b>DO 1</b></p> <p><b>Tourist accommodation and associated services and facilities that enhance visitor experiences and enjoyment.</b></p>

Performance Outcome	Deemed to Satisfy/Designated Performance Outcome
<p><b>PO 1.1</b></p> <p><b>The provision of tourist accommodation in non-permanent structures largely in the form of caravan and camping sites, cabins and transportable dwellings, complemented by permanent buildings for tourist accommodation in appropriate locations and a range of associated facilities to enhance experiences for travellers.</b></p>	<p><b>DTS/DPF 1.1</b></p> <p><b>Development comprises one or more of the following land uses:</b></p> <ul style="list-style-type: none"> <li><b>(a) Advertisement</b></li> <li><b>(b) Amenity block, including shower, toilet and laundry facilities</b></li> <li><b>(c) Dwelling in the form of a manager’s residence ancillary to tourist accommodation</b></li> <li><b>(d) Office ancillary to tourist accommodation</b></li> <li><b>(e) Recreation area including tennis court, basketball court, playground</b></li> <li><b>(f) Shop ancillary to tourist accommodation</b></li> <li><b>(g) Swimming pool/spa pool</b></li> <li><b>(h) Tourist accommodation comprising cabins, caravans, camping ground.</b></li> </ul>

While the above provisions would facilitate camp ground and tourist accommodation facilities consistent with the intent of the current Development Plan provisions, any development would also need to comply with the provisions of the Coastal Areas Overlay which covers the subject land. This would ensure that the development is undertaken in a suitably environmentally sensitive manner.

Having regard to the available options, Options 1 and 2 are both considered inappropriate as they will have adverse effects either applying to the entire Conservation Zone or by treating envisaged and appropriate

development as *Restricted Development*. Options 3 and 4 would enable the envisaged development to be permitted in a manner that is consistent with the current and agreed to policy position in the Development Plan.

### **Listing of Tourist Accommodation in Table 3**

Having considered the above, I am of the view that where Tourist Accommodation is envisaged it should be listed in Table 3 of the respective Zone.

In the case of the current Conservation Zone, Tourist Accommodation only has applicable policies where the land is located the Visitor Experience Subzone. Where it is located outside of that Zone, all policies of the Code apply. It is unclear why this is the case as it means that less intense forms of tourist accommodation are subject to assessment against the entire Code.

In my view, any kind of envisaged development in a Zone should be listed in Table 3 with the applicable policies tailored to that kind of development. This also enables appropriate development in the zone to potentially avoid public notification (as all zones list “all other code assessed development” as requiring public notification).

### **Conclusion**

The draft Planning and Design Code makes a number of changes that affect my clients land. The changes proposed reduce the potential for the land to be developed in accordance with the current Development Plan policy intent for the land. The transition is not “policy neutral” and for the reasons outlined herein, it is considered that further changes are required. Options 3 or 4 as discussed above would be supported by my client while it is also suggested that further consideration be given to definitions for tourist accommodation land uses and the listing of envisaged kinds of development within Table 3.

Thank you for the opportunity to provide this submission on the Draft Planning and Design Code.

Please call me if you have any questions on [REDACTED].

Yours sincerely



Simon Channon RPIA  
**Senior Associate**

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