29 November 2019

Mr Michael Lennon
Chairperson
State Planning Commission

By email: DPTI.planningreforms submissions@sa.gov.au

Dear Mr Lennon

Re: Submission on Draft Planning and Design Code

T-Ports Lucky Bay Site

On behalf of T-Ports Pty Ltd (‘T-Ports’) we refer to the draft Planning and Design Code – Phase 2 (‘the Code’) which is currently on public consultation.

T-Ports is the operator of the harbour, grain storage, handling and export facilities at Lucky Bay on the Eyre Peninsula. A plan showing the extent of the land is enclosed.

T-Ports, and the previous owner of the export facility land at Lucky Bay, Sea Transport Corporation, have worked in conjunction with the District Council of Franklin Harbour to establish the appropriate zoning and planning policies for the harbour facilities and associated services.

The Lucky Bay Development Plan Amendment (DPA) which came into force on 11 February 2016 rezoned the subject land to an Industry Zone with Infrastructure Policy Area 4 over the whole site. It also established a Precinct over the harbour including the harbour loading, ferry terminal, staging area and an area set aside for future tourist/workers accommodation and tourism/commercial facilities. This area is known as Precinct 2 Lucky Bay Coastal.

A Concept Plan, Concept Plan Map FrH/2 Lucky Bay was also established which has been removed in the Code.

The Planning and Design Code transitions the existing Precinct Area around the harbour to an Infrastructure (Ferry and Marina Facilities) Zone with a Coastal, Hazards (Bushfire – Regional) and Native Vegetation Overlays.
The rest of the area that is in the Industry Zone and Infrastructure Policy Area has been placed in the Employment Zone with a Hazards (Bushfire – Regional) and Native Vegetation Overlay.

**Infrastructure (Ferry and Marina Facilities) Zone**

The Infrastructure (Ferry and Marina Facilities) Zone has a desired outcome of on-water development associated with the function of marinas and passenger ferry services together with a range of complementary waterfront-orientated recreation and tourist development activities.

On face value and given that there are no Policy Areas or Precincts, the proposed conversion of the Lucky Bay Precinct to this zone appears reasonable. However, when compared to existing policy, there are a number of significant deficiencies and discrepancies. The existing policy that was introduced into the Development Plan on 11 February 2016 was written specifically for Lucky Bay and was designed to accommodate that in addition to ferry operations, the Lucky Bay facility will operate as a port supporting the export and import of mineral commodities.

The Objective of the Infrastructure Policy Area is specifically for the provision of port infrastructure at the Lucky Bay site and the corresponding policy is a reflection of the various uses envisaged in the area.

The Desired Outcome (DO 1) of the new zone only refers to on-water development associated with the function of marinas and passenger ferry services together with a range of waterfront-orientated recreation and tourist development activities. The Desired Outcome does not refer to the development of land with a direct water frontage, nor does it refer to the range of other uses associated with the harbour activities.

The Performance Outcome and Deemed to Satisfy criteria only refer to on-water development and does not include existing envisaged uses in the Precinct, including:

- cargo handling facility;
- fuel storage;
- harbour loading facility;
- port activities;
- shipping channel;
- ship repair facility;
- store;
- short term workers accommodation;
- tourism facilities; and
- tourist accommodation.
The existing Desired Character is not reflected in any of the proposed new policy, and currently states:

“The precinct will be developed for accommodation and associated tourist facilities linked to the Wallaroo to Lucky Bay ferry service. Commercial activities within the precinct will be limited to small scale shops and services that are associated with the tourism development and support the operation of the ferry”.

The existing Form and Character Principles 5 and 6 relating to landscaping and noise are not transferred in the new Code and should be retained in some form, most likely in the Overlays.

In regard to the existing Precinct Specific Provisions, existing Principle 7 is no longer applicable because the Concept Plan has been deleted. However, Principles 8 to 20 were specifically drafted for Lucky Bay and need to be included in the new Code to ensure that development which is envisaged in the locality are adequately supported by ongoing policy. While some of the Principles are covered, all or in part, by the General Development Policies, there are a range of Principles that are not including PDC 8 relating to Maximum Building Heights, PDC 10 relating to Scale of Tourism Developments and PDC 20 relating to minimum site and building floor levels.

It is recommended that all of the existing policy be retained in the Code in the appropriate location which we believe to be Part 6 – Index of Technical and Numeric Variations.

**Employment Zone**

The remainder of the existing Industry Zone and Infrastructure Policy Area 4 is proposed to be transitioned to an Employment Zone. The conversion generally provides appropriate support for the uses which are currently envisaged in the Development Plan policy for the Industry Zone and Infrastructure Policy Area 4.

The Desired Outcome 1 for the Employment Zone is for:

“A comprehensive range of industrial, logistical, warehousing, storage, research and training uses together with compatible business activities generating wealth and employment for the State”.

Part of Desired Outcome 2 is particularly relevant to the subject land:

“Employment generating uses are arranged to:

(b) maintain access to water front areas for uses that benefit from direct water access including harbour facilities, port related industry and warehousing, ship building and related support industries”.

The existing Form and Character Principles 5 and 6 relating to landscaping and noise are not transferred in the new Code and should be retained in some form, most likely in the Overlays.
**Employment (Bulk Handling) Zone**

T-Ports has also constructed a bunker storage facility for the handling of grain to the north west of the existing Industry Zone. This land is currently in the Primary Production Zone and is proposed to transition to the Rural Zone.

With the construction of the bulk handling facility, this land could be appropriately located in the Employment (Bulk Handling) Zone, or, alternatively in an extension of the Employment Zone.

**Summary**

It is considered that the proposed transition of the existing Industry Zone and Infrastructure Policy Area to an Employment Zone in the new Planning and Design Code is generally acceptable to ensure that the objective to provide development associated with the handling of export and import commodities and a range of associated activities can be achieved.

However, there are serious concerns about the transition of existing Precinct 2 Lucky Bay Coastal to an Infrastructure (Ferry and Marina Facilities) Zone. This zone only relates to on-water development associated with the passenger ferry services and neglects all the off-water development associated with the port and harbour facilities, in particular cargo handling facilities, harbour loading facilities, port activities, short term workers accommodation, tourism facilities and tourist accommodation.

If the Infrastructure (Ferry and Marina Facilities) Zone is to be maintained for this site, it is recommended that additional Desired and Performance Outcomes are required to cover all the uses intended for this area and that the precinct specific provisions be retained in the Code. We understand that this should occur in Part 6 – Technical and Numerical Variations.

**Closure**

On behalf of our clients, we state their strong objection to the loss of the local site-specific policy relating to the current Precinct 2 area.

While the proposed Employment Zone is considered to constitute an appropriate transition of the existing Industry Zone and Infrastructure Policy Area in the Planning and Design Code, the transition of the existing Precinct 2 to an Infrastructure (Ferry and Marinas) Zone is wholly inappropriate and strips recent and specific policy to support the future development of the area as a strategic commodities export facility with supporting workforce and tourist accommodation and allied commercial facilities.

It is our submission that the proposed transition of the Precinct 2 Policy into the Planning and Design Code is not reflective of the existing policy which has specifically been included in the Development Plan in recent years to guide and direct the type of development envisaged and approved in and around the existing harbour.
It is recommended that if the Infrastructure (Ferry and Marina Facilities) Zone is to be retained, that additional Desired and Performance Outcomes be added to cover all of the land uses intended for the area and that the Precinct specific policy provisions be retained appropriately in the Code.

Alternatively, we consider a more appropriate transition would be for the whole area to be an Employment Zone and that the existing Precinct Area become a Sub-zone retaining the existing policy recently established for the Precinct.

Should you require any further details on this submission, please do not hesitate to contact the undersigned.

Yours sincerely

Michael Richardson  
MasterPlan SA Pty Ltd

cc: District Council of Franklin Harbour.
This Plan has been compiled from various sources and is not a survey plan; boundaries, locations and areas are approximate.