



**Natural Resources Centre  
South Australian Murray-Darling Basin**

PO Box 2343  
110A Mannum Road  
MURRAY BRIDGE SA 5253

Tel 08 8532 9100  
Fax 08 8531 1843

ABN 14 305 414 800  
Email: [samdbenquiries@sa.gov.au](mailto:samdbenquiries@sa.gov.au)  
Website: [www.naturalresources/samurraydarlingbasin](http://www.naturalresources/samurraydarlingbasin)

Reference: 19\_043 F0002580603

Date: 25 November 2019

Chair  
State Planning Commission  
Mr Michael Lennon  
Level 5, 50 Flinders St, Adelaide  
**By Email**

Dear Mr Lennon

**Re: Draft Planning and Design Code Phase Two (Rural Areas) – November 2019**

Thank you for the opportunity for the South Australia Murray-Darling Basin (SAMDB) Natural Resource Management Board (the Board) to comment on the draft Planning and Design Code Phase 2 (the code).

Natural Resource Management (NRM) Boards play an important role in the planning system, through regional plans to guide investment in projects and communities. Boards have a requirement to review and have input to development plans in their regions, and ensuring that they promote the objects of the *Natural Resource Management 2004*.

In general, the Board is supportive of the improvement to the planning system and the extensive cross-agency collaboration. Regional staff support the aims of simplifying some of the planning processes which currently cause delays or confusion for applicants. The online mapping tool, although still in development, will be a useful mechanism in development planning, to clearly articulate environmental constraints or requirements to applicants and councils. Regional SAMDB staff work together with councils to support the best outcome for the environment, and in this respect we cannot hope to address all of the potential changes which the new system has introduced, by virtue of the amalgamation of zones and policies. The region therefore will be looking to relevant councils to identify much of the detail and inconsistency, whereas regional staff have a focus on themes and legislative requirements relevant to NRM Boards.

**General comments**

Linking the State Planning Policies to the Code

Although it is recognised that many of the State Planning Policies (SPPs) and their objectives are integrated into Phase 2 of the Planning and Design Code in some form, there is no link between the code and the SPPs. For some areas the connection to SPPs is not clear, and therefore it is not obvious how the code policies contribute to supporting the SPPs. It is recommended that the code should include references to the relevant SPP, to improve the connection between the two planning tools and reinforce the requirements of the code.

In this regard, there should be a general requirement for any development to avoid or minimise impacts on biodiversity. SPP for Climate Change has policy 5.7 which states that policy should “*protect and enhance areas that provide biodiversity and ecological services...*”. If every development was required to have a neutral or beneficial effect on biodiversity, the outcomes could be significant. Although the introduction of the two native vegetation overlays will give some benefit to reducing development impacts on biodiversity, it is noted that the code is generally light on mentions of species or habitat outside of native vegetation, conservation or coastal overlays or zones. It is important that biodiversity is recognised as being of value in almost every location, and therefore it is recommended that more code policies consider how to protect and *enhance* biodiversity. A threatened species overlay would be a useful addition for developers to appreciate where impacts on key habitats or species could be avoided.

Similarly, although the introduction of minimum landscape areas on new developments, and provision of deep soil areas for tree root zones are a welcome step, it is questionable as to what long term benefit they might provide. If there is no requirement to retain them post development approval, how will the code improve the current rate of canopy decline? Incentives may be an option to encourage landholders to invest in long term biodiversity gains.

The Board welcomes the introduction of the water overlays which give proponents a spatial reference to the referral triggers for water affecting activities, water allocations and dams. The addition of the Ramsar wetland overlay is also a good addition, although the policy transition appears to have unnecessarily strengthened existing and adequate provisions from development policy.

#### Ensuring that relevant policy is not lost in transition

The State Planning Portal mentions that the design standards are still to be developed. There are some good examples of recommended design techniques (e.g. Mid Murray Council Development Plan 2018 Rural zone) which could apply to all developments, which have been lost in transposing from existing zones to similar or new zones. Some examples include design techniques for swales, erosion and sediment control measures, 300m separation distance between a detached dwelling and the Primary Production zone, dam design techniques etc. For the review of the Phase 2 code document, a site near Mannum was selected which was previously in the Rural Zone, Murray Plains subzone. The existing Rural Zone policies focused on:

- the particular character of this area,
- the land use activities envisaged there and the proximity to the River Murray and its tributaries and;
- the need to protect these assets through good design and construction management.

In transitioning this area to the code overlays and zoning hierarchy the land falls within the rural zone, which does not *clearly connect the land use to its surrounding environment*, and has many variations across the state. This is just one example of where generic zoning has resulted in some relevant policies from existing development plans not being transitioned.

#### Addressing potential cumulative impacts of development

Although it is recognised that the Code may not be the appropriate tool for consideration of cumulative impacts, there are areas of the code where cumulative impacts could be mentioned. By not including this in the code, it relies on regional plans to address the SPP principle that *“Policy framework should be able to respond to emerging challenges and cumulative impacts identified by monitoring, benchmarking and evaluation.”* Specifically SPP4 Biodiversity lists one of its purposes as *“assessing the cumulative impacts of development on biodiversity, including spatial, temporal and incremental impact.”*

Further specific comments are provided in a table as Attachment 1.

Should you require further information on any aspects of the submission please contact Eilidh Wilson, Senior NRM Policy Officer on [REDACTED].

Yours sincerely



Dianne Davidson  
**Presiding Member**  
**South Australian Murray-Darling Basin Natural Resources Management Board**

**Enc: Attachment 1**

**Attachment 1 – specific comments on Phase 2 of the Planning and Design Code**

State Planning Policy reference	Code reference	Comments	Response
	<b>Overlays</b>		
17	Mapping -Flood overlay	The 'Planning and Design Code Consultation online Map Viewer' does not include a reference layer to clearly show the boundaries of the 1956 River Murray floodplain. At present, the 'River Murray Floodplain Overlay' includes the 1956 floodplain plus the buffer.	Recommend adding the 1956 floodplain boundary into the mapping system – either connected to Flooding overlay or River Murray overlay.
14, 17.1	Prescribed Surface Water, Water Resources and Watercourses overlays	<p>Desired outcome statements related to the take or use of water do not align with the purpose of the referral. There is also a need to include the natural flow paths of watercourses, in moving water across landscapes and meeting ecological needs.</p> <p>The retention of the requirement for all dams to be assessed under the NRM Act, through a mandatory referral is important and supported. It is not known why the referral is now directed to the Minister instead of the NRM Boards, however it is acknowledged that at least the referral is still in place.</p> <p>The Prescribed Water Resources Overlay appears to be missing a referral for dams.</p> <p>Existing SAPPL policy protecting watercourses has not transitioned to the relevant overlay – Water Resources Overlay. The guidance requires a minimum 20m strip of land from the top of existing</p>	<p>Suggest amending the desired outcome to broaden the context and include the context of the watercourses and their function.</p> <p>AMEND Referral table to include dams.</p> <p>AMEND to include the SAPPL policies.</p>

State Planning Policy reference	Code reference	Comments	Response
		banks on either side of a watercourse as a buffer, to exclude livestock, development or modification and to allow room for revegetation to reduce runoff and improve the aquatic environment. This can help protect watercourses from impacts of many land uses on surface water runoff.	
	Part 9 Referrals	Reference to River Murray Protection Area Overlay is confusing as it is not an overlay in the code.	Suggest removing this reference from Part 9.
	Part 9.2 Referrals	Commercial forestry – incorrect reference to the NRM Act – should be <b>127(5)(ja)</b> not 127(3)	AMEND reference to NRM Act.
4	The Native Vegetation and State Significant Native Vegetation Overlays	<p>The Native Vegetation and State Significant Native Vegetation Overlays are a welcome addition to the planning tools. However it is noted that the code continues to reference species, habitats and fauna in traditionally expected areas such as under these overlays, in the conservation zone and coastal overlays. Species, habitats and fauna are considered in all aspects of development and the use of just the term ‘native vegetation’ in the native vegetation overlay could limit the understanding of the desired outcome.</p> <p>The Native Vegetation Overlay Desired Outcome mentions revegetation but the POs do not.</p>	<p>AMEND Desired outcome to broaden the scope and include items not always considered as NV – grassland, samphire etc.</p> <p>Suggest amending Performance outcomes so that revegetation or enhancement is included.</p>
	River Murray Flood Plain overlay DTS/DPF 5.6	There is a requirement that facilities for the collection of effluent from moored vessels are not located within the 1956 Murray River Flood Plain – how is that possible?	

State Planning Policy reference	Code reference	Comments	Response
	Animal Keeping and Horse Keeping Overlay	<p>Currently farmers establish confinement Feeding areas (CFAs) as a dry times drought measure for feeding livestock. This is particularly important to preserve vegetative cover in paddocks and in doing so, minimise wind erosion risk. As NRM Boards we support this practice as it assists to prevent large scale land degradation from overgrazing. Confinement Feeding Areas require specific animal husbandry management due to the animal being housed in close proximity. Previously some local government areas required farmers to obtain a permit to establish a confinement feeding are and some did not. A good reference for best practice establishment can be found at:</p> <p><a href="#">Managing Sheep in dry times</a></p> <p><a href="#">Stock Confinement areas</a></p>	<p>Confinement feeding areas should be permitted under the Animal Keeping Overlay so long as these are not established and maintained as permanent feedlots and are used as a measure for management of livestock when there is not likely to be sufficient vegetative cover in paddocks. This may be most summers in some parts of the state.</p>

	Zones		
SPP 8.1, 17.1, 17.4	Rural zone	<p>How will intensification in land use in this zone be measured and controlled? Will regional plans define acceptable levels of landscape change?</p> <p>The rural zone could be supplemented with a primary production overlay to provide the protection allowed in the present primary production zone. At present all primary production</p>	<p>Regional plan or improved code policy to consider landscape changes?</p> <p>Consider amending how primary production land is valued – perhaps this is best left for regional codes to consider?</p>

		land is presented as equal, whereas this sector does not characterise its land in this way.	
	Suburban Neighbourhood Zone	It is noted that this zone has been applied across the state to many small regional towns which are not well developed or well matched to the nature of this urban zone.	Suggest reconsidering the urban centric nature of some zoning applications.
4	Conservation Zone	<p>The use of the word 'contemplate' in the following section is unclear.</p> <p>The small number of restricted developments appears to allow a variety of developments which would not be appropriate in this zone e.g. industry, renewable energy facilities etc.</p> <p>It is noted that the application of this zone to protected areas is inconsistent in online mapping, it is hoped that this will be addressed prior to phase 2 going live in April 2020..</p>	<p>Suggest that a clearer definition is needed to consider what this will mean for parks considering tourism. Should a Park Management Plan also be clear about where tourism would <u>not</u> be a suitable development? The new style of MPs is more theme based and less prescriptive, when combined with a vague mention of tourism in a MP could this cause issues with unsolicited proposals for development? Are the considerations for interface issues equally addressed for stakeholders living or managing a business fringing a park? Even with a 50m buffer, could a tourism development on park, unintentionally restrict existing rural activities? Would the existing land user outside the park have sufficient consultation and/or recourse?</p> <p>Suggest reconsidering how the conservation zone is supposed to protect parks and what activities should be excluded or restricted.</p>