

Ref. No: L2018/
Cross Ref. No: L2018/
File No: 3.1.5

Sarah Elding
Project Lead State Planning Policies
Department of Planning, Transport and Infrastructure
GPO Box 1815
ADELAIDE SA 5001

RECEIVED
20 Sep 2018
DPTI

18 September 2018

Dear Sarah

State Planning Policies for South Australia

Thank you for the opportunity to make comment on the State Planning Policies for SA.

We note the State Planning Policies set out a framework for land use in South Australia – that aims to improve the liveability, sustainability and prosperity of the state.

We also note the State Planning Policies sit at a high/broad level and covers sixteen key headings with related objectives and policies.

Whilst we have no issue with the broad aim of the State Planning Policies we wish to make a series of comments affecting the interrelated Planning Reform Agenda in line with other recent submissions to the State Government affecting Kangaroo Island. These are outlined under the following headings.

Recognition of Kangaroo Island as a unique region

With reference to the KI Region Plan, Paradise Girt by Sea, the role of the Commissioner for Kangaroo Island, and a range of other recent strategic/policy documents, it is Council's strong desire that Kangaroo Island be retained with its own unique region.

Although collaboration can and will continue with other regions, Kangaroo Island has its own unique set of circumstances (social, economic, environmental, transport and infrastructure) that requires an Island wide focus on strategic and community planning for sustaining, managing and growing its future.

We see potential benefit in the possibility of a Planning Agreement and a Joint Planning Board under the new Planning Reform agenda, but as an Island as a whole of region.

Council Assessment Panels – accreditation scheme

Council is concerned that the accreditation scheme under the Planning Reform Agenda is too restrictive on rural/regional Councils.

Council considers that Assessment Panel membership should not be restricted to experts in planning alone, but should include other technical expertise such as architecture, heritage, environment, economics, agriculture, social science, natural resources etc.

Many potentially valuable members, including planners may have considerable experience in their fields but no formal professional accreditation. Those that do should not have to acquire accreditation under the new Act as well.

It is noted that the accreditation scheme seeks allow appropriate dispensation to regional and remote areas, particularly with regard to Assessment Managers and Assessment Panel Members. However, no details are given on what is meant by such or how it is to be implemented.

The Council wishes to highlight that its Assessment Panel composition, which has existed in various forms since the inception of Development Assessment Panels, has included independent members with various skills, knowledge and background to add to the knowledge base and richness in the panel's consideration of proposals – the Panel is held in high esteem for making well considered judgements in assessment of applications and we would wish to utilise that level of diversity in composing the Assessment Panel into the future.

Revegetation vs Commercial Forestry

Council is currently experiencing issue with land owners whom seek to re-vegetated farm land – this is in the case where re-vegetation is not inherently linked to farming land management, such as protecting or remedying such things as land stability, erosion or salinity issues, improving shelter belts or improving delicate environment or landscape features.

Inappropriate re-vegetation or forestation creating a wholesale change of the use of the land, whereby it compromises reasonable prospect of supporting primary production land uses, presents a serious risk across many planning zones of Kangaroo Island with risk of loss of agricultural productivity, displacement or erosion of social structure and impact to local rural economy.

Council has formed a preliminary position, that the re-vegetation to create a woodland forest is a change in land use, supported by legal interpretation via the Oxford Dictionary. Activity which actively and in a planned process converts agricultural/farming land to forest *by design*, is tantamount to forestation of the site, or *forestry*, as it pursues both of the definitions.

It is apparent that there is a weakness in the land use definition under the Development Act as it relates to a change in land use for re-vegetation forestry versus a defined Commercial Forestry (Commercial Forestry).

As a result, via the review of land use definitions and the definition of development under the Planning Reform Agenda, Council seeks that this matter be redressed.

Tourist Accommodation

In terms of the Planning Reform Agenda, we wish to reaffirm Council's desire to see a review of the land use definition of Motel, Dwelling and Tourist Accommodation as it relates to the intention of the Kangaroo Island Coastal Conservation Zone to promote tourist accommodation within that (and other) zones. Alternatively (or additionally), we ask for the Minister to amend the Development Plan/Planning and Design Code to provide greater policy clarity to promote Tourist Accommodation as originally intended by the Minister.

This issue has been highlighted from the State Planning Commission's assessment of Council's Development Application for Allotment 4 Baudin Beach. As part of that assessment, the Crown Solicitors' advice and the State Planning Commission's determination has reinforced that any element of a dwelling residence being considered in applications for tourist accommodation must be interpreted as a 'dwelling'. This determination raises serious issues for Kangaroo Island, where a dwelling within the Coastal Conservation Zone is defined as being a non-complying form of development whereas Tourist Accommodation is envisaged.

Adding to the complexity of the determination for the Lot 4 Baudin Beach project, the Crown Solicitor and the Commission considered that the development of a building which exhibited the characteristics of a dwelling, such as being 'sole occupancy' in nature (as distinct from multiple independent occupancy motel or dormitory type rooms) and features such as kitchen and laundry, firmly established the design by definition as a dwelling. This was notwithstanding compelling reasons for including such features as kitchen and laundry in Tourist Accommodation in a rural or remote location, for convenience of guests and for convenience of servicing laundry and linen for instance.

The non-complying classification resulting from recent Crown Solicitors advice is totally at odds with the intent of the KI Development Plan, citing the Sustainable Futures (Ministerial) Development Plan Amendment in 2014, which sought to both disambiguate the potential (and in fact define strongly favorable) opportunities for tourist accommodation and tourism development within the Coastal Conservation Zone, and removed thresholds which could become an impediment to high quality developments.

The determination presents a significant reversal in the contemporary assessment methods and advice being provided to potential developers within this zone, meaning Council advice must now be conservatively considered in light of the procedural issues and risks present for applications to be refused. With increasing interests in tourism development catalyzed by the operation of the upgraded Kangaroo Island Airport and its accessibility from east coast Australia and inbound visitors this recent determination is cause for considerable concern.

The extent of the determination includes the entire periphery of Kangaroo Island's coastline (in the order of 500 kilometers length and an area, easily in the range of 400km²), including areas within National Parks (notwithstanding subject to different development processes) and the margins of all coastal coves and bays including Pelican Lagoon. The effect of the determination has limited impact outside of the coastal zone, generally with dwellings being non-complying in a 'standalone' sense, but readily acceptable where they are demonstrated as ancillary and accessory to a commercial use appropriate for the zone.

Whilst Council has effectively withdrawn from appeal on the current matter in relation to Lot 4 Baudin Beach, it remains a necessary consideration for Kangaroo Island generally, being necessary to resolve to ensure that development of small scale, unique and iconic tourism development continues to occur on Kangaroo Island, with clear objectives and support.

With recent history of numerous developments in coastal areas of Kangaroo Island reaching multi-million dollar values, and operationally bringing substantial tourism income and extraordinary exposure for KI as a premier tourist destination, unintentional injunction of such developments presents incalculable economic forfeit.

There are many iconic examples of tourist accommodation, many featuring prominently in SA Tourism publications, exhibiting the promise of exceptional visitor experiences, coming into contact with and appreciating the finest wildlife and surrounding environment South Australia has to offer – these are the types of development which need to be supported by the Kangaroo

Island Development Plan and be explicitly contextualised to ensure good development outcomes are achieved without unreasonable impediment of the current determination.



Like many other iconic small scale tourist accommodation on Kangaroo Island, The Cliff House, Snelling Beach, accommodates a maximum of 6 persons, can be hosted or catered but is otherwise independent and self-contained.

Strategic Directions

Further to prior correspondence and more recent liaison with DPTI, we draw your attention to our Strategic Directions Report, 2015.

Without wishing to repeat the finding of the Strategic Directions Report, the report outlines a series of recommendations with regard to refinement of land use planning and planning policy as it affects the future growth, management and prosperity of Kangaroo Island.

Should you have any questions please do not hesitate to contact us.

We look forward to your reply.

Yours sincerely

A handwritten signature in black ink, appearing to read "Peter Clements".

Peter I Clements
Mayor

