Ref: 3/CON/SUR/1/MM

28 March 2019

Department of Planning, Transport & Infrastructure
Planning Reform Team
GPO Box 1815
ADELAIDE SA 5001

Via email DPTI.PlanningEngagement@sa.gov.au

Dear Sir/Madam,

Planning and Design Code in the Outback (Phase 1) Submission

In reference to the Planning and Design Code in the Outback Phase 1, the Mid Murray Council provides the following comments for consideration:

General

- The Practitioners guide was very useful, particularly the ‘writing style’ which should promote consistency and be useful for the Courts.
- Whilst it is appreciated that the P&D Code is designed to be used electronically via the e-planning solution, we suggest the order of the Code is re-structured so that it flows in sequence of ‘assessment’ e.g. accepted development, deemed to satisfy, performance assessed, restricted. This will make it easier for practitioners to assess applications at times when the e-planning is unavailable (this may affect rural Council’s more so than metropolitan Council’s where often access to internet is unreliable).
- Supportive of the reduction in River Murray referrals as the River Murray Flood Plain overlay will be relevant to the Mid Murray Council.
- Removal of the blanket ‘non-complying in water protection area’ referral to the Environment Protection Authority is supported as it will remove a lot of unnecessary referrals which we currently experience.
- The use of the term ‘minor’ with respect to development of a State Heritage Place is of some concern as it may be used to avoid referral. Defining the term ‘minor’ in this instance would be useful.
- Supportive of land use definitions which ‘includes’ and ‘excludes’ types of development, providing greater clarification for planners.
- Under the definition of ‘Agricultural Building’ I note the inclusion list does not include Frost Fans. A 2017 ERD Court judgement (SAERDC 36) considered these structures to be Horticultural Buildings. Consideration should be given to include Frost Fans as part of the definition for clarity.
- Will there be a definition for ‘Tourist Accommodation’? Given the term is referred to throughout the Code and there is a Specific Use (Tourism Development) Zone and Tourism Development provisions. This matter is often contentious for planners when considering if a building is a ‘dwelling’ or ‘tourist accommodation’.

River Murray Flood Plain

- There does not appear to be any criteria for managing wastewater for a dwelling within the River Murray Flood Plain. Will there be a requirement to connect to existing CWMS (if available) or an Environment Protection Authority/SA Health approved on site wastewater system?
- **DTS 3.1**: Size of dwelling/building or underside of elevated building should be incorporated at DTS criteria within the River Murray Flood Plain. Currently, the Mid Murray Council Development Plan limits buildings and underfloor enclosures to 54 square metres when located in a flood plain. Existing ground level dwellings can be increased up to 90 square metres if they can connect to CWMS.
- **DTS 7.6**: Floating Pontoon size restriction is supported, however the wording ‘depending on proximity to other structures’ should be removed. As a general rule Mid Murray Council ensure there is always 3m between river structures to ensure enough room for access for a vessel.
- **PO 7.8**: This performance outcome needs to include a separation distance from designated residential or shack areas. Currently no on-river mooring can occur within 100m of the Shack Settlement Policy Area for safety and amenity reasons. Council has significant issues with houseboats mooring in shack areas and do not want to lose policy which assists in controlling this.

I thank you for your consideration of Council’s comments and commend DPTI staff for the amount of work that has gone into this process so far. Please do not hesitate to contact me via either telephone on [redacted] or via email at [redacted] to discuss this matter further.

Yours faithfully,

Jake McVicar  
**Director – Development & Environmental Services**

cc. Stephen Smith – Director, Policy  
Local Government Association