Dear Mr Lennon,

Re - Draft Planning & Design Code - Consultation Submission

We refer to the recent release of the Planning and Design Code (the Code) by the State Planning Commission (the Commission), for public consultation.

Our submission is as follows.

1. Consultation period
Although Council is disappointed in the time made available to review the Code, with the limited time available to us, we provide the following comments.

2. Go live date
We implore that rural Councils go live as of 1 July 2020, as per other parts of SA.

This will enable more time to review and be trained on the new State Government Portal and to set up internal and external systems for the operation of the new system. The enormity of this task and the education required cannot and must not be under-estimated, especially given that the Portal is not yet ready and no training or education on the operation of the Portal has yet commenced.

In fairness, we implore that the Commission extends our go live date to 1 July 2020.
3. Zone and policy matters

Caravan and Tourist Park Zone
We note that the existing caravan parks at Port Broughton have been included in the Caravan and Tourist Park Zone – we support such.

Although we support the retention of the land to the north of Tickera in the Caravan and Tourist Park Zone, we note that the land has yet to take up that development opportunity.

We urge that the AHD coastal hazard site level policy be reinstated into the Code for this and other zones.

Coastal Zones
In the relevant coastal location areas, the Code does not currently carry forward Development Plan AHD levels in zoning policy. The current Development Plan AHD level policy needs to be included into the Code, via suitable Overlays, TNVs or data layers.

We also seek that the Commission includes the sea flood mapping prepared by DEW/Planning SA over recent years.

The flood mapping is crucial to ensure the proper assessment of site constraints and to avoid inappropriate developments occurring in potentially hazardous areas.

Conservation Zone
The Conservation Zone in the Code treats all forms of Renewable Energy Facilities as Performance Assessed.

This is of significant concern as it relates to wind farms and large scale solar farms, as the Conservation Zone applies to sensitive environmental areas along the coast.

Fisherman Bay
The Code needs to reflect the unique set of circumstances that applies to the township of Fisherman Bay, and the coastal protection measures against coastal erosion, sea and storm water flooding and need for management of other coastal processes that are specifically recognised in the current Development Plan.

The Code should also introduce policy to better manage building setbacks, height guidelines, appearance/form, urban design principles for two storey development, overshadowing, open space and privacy, and finished floor/site levels. The Code should limit future land division given the existing high density of the township with over 400 leasehold titles and approval for individual freehold titles with an associated sea wall, township effluent management system and other improved services.
The basis of the new policy should be derived from the work undertaken by Council with the 'Fisherman Bay Concept Plan and Built Form Study, January 2015', prepared by Hames Sharley – the Commission/DPTI are familiar with this study.

**General Neighbourhood Zone**

Policy for 200-300 square metre lots for detached dwellings and other forms of dwellings in a General Neighbourhood Zone is too dense in the context of our district – and is also far denser than the Development Plan currently allows.

Therefore, we seek the Zone be altered to a Suburban Neighbourhood Zone with inclusion of the current townships dwelling lots size criteria (in the Residential Zone – Development Plan) via the Minimum Allotment Size Technical and Numeric Variation Overlay.

We seek site specific policy for land located between Fisherman Bay Road and Parma Street at Port Broughton – these lots have dual street frontage – it is considered that Fisherman Bay Road should be specified as the primary street frontage in order for better site design outcomes facing that street. A similar issue applies along John Lewis Drive at Port Broughton, where building setbacks are extremely close to the street frontage and where the street is treated as the ‘back of the lot’ so that the dwellings can take advantage of sea views – whilst this is a well-entrenched development pattern, the Code should have policy to help better address this into the future.

There is a drafting error in the General Neighbourhood Zone, where it references the Suburban Neighbourhood Zone in point (b) of the Notification procedure table.

**Rural Zone**

**Envisaged development**

DTS/DPF 1.1 should be amended to include a wider list of envisaged uses and associated performance assessed criteria so that appropriate land uses are not inadvertently overlooked. Some land uses which are not contained within this provision but should be included, are, waste facility, stock slaughter works/abattoir, renewable energy facilities, workers accommodation and caretaker dwellings.

**Greenhouses**

DTS/DPF 3.1 limits a greenhouse to 250 square metres (sqm).

Commercial greenhouse developments are usually considerably larger than 250 sqm.
We seek that there be no floor area limit on the size of greenhouses, and each case be considered on a performance basis – this is the approach stated in the Rural Horticulture Zone, and we see no valid reason to apply a different criteria/approach in the Rural Zone.

Rural Industry
DTS/DPF 4.1 limits industry, storage, warehousing and transport distribution activities to a floor area of 250 sqm and allotments at least 20 hectares (ha). The floor area and minimum allotment size are both considered problematic and not realistic for rural/agricultural areas.

The 250 sqm floor area should be increased and that some consideration be given to having separate Deemed to Satisfy (DTS) and Performance Assessed criteria for floor areas. The 20 hectare minimum allotment size is considered too large and may “lock out” smaller primary industry developments from developing such facilities. Again, consideration needs to be given to having separate DTS and Performance Assessed criteria for allotment sizes.

Secondary dwellings
DTS/DPF 5.2 requires that a secondary dwelling on an allotment is “located on an allotment not less than 40ha in area”. This size requirement is considered unworkable and will inhibit the implementation of secondary dwellings as envisaged by PO 5.3.

Furthermore, the term secondary implies a second dwelling only, whereas PO 5.3 promotes more than one dwelling in the case of farm hands, managers residences and aging in place – the term secondary dwelling should be replaced with the term more than one dwelling.

Tourist accommodation
DTS/DPF 6.3 outlines a 100 square metre limit for tourist accommodation - this should be revisited as it will limit the ability for large scale tourism development, innovation in design and developments where more than one type of tourist accommodation facility is proposed.

Further, the phrase “in relation to the area used for accommodation” is not entirely clear. Whilst we read it as being the total area used for guest rooms, it could be interpreted more broadly. The phrase may also lead to confusion in developments that propose more than one form of tourist accommodation – for instance, a development that contains hotel-style rooms together with detached, self-contained tourist accommodation buildings. We recommend that this provision be reviewed and amended so that it is entirely clear and does not inadvertently discourage tourism development.

Agricultural buildings

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DTS/DPF 12.1 outlines a total floor area limit of 250 sqm and minimum allotment size of 10 ha – this provision may result in acceptable, performance assessed buildings being refused.

Put simply in the context of rural/agricultural farms needing large machinery sheds, shearing sheds, hay sheds and the like, a 250 square metre policy is not realistic and must be altered.

Again, creating separate DTS and Performance Assessed criteria for agricultural buildings is considered an appropriate mechanism to “balance” the need for relatively conservative DTS criteria and more facilitative Performance Assessed criteria.

Land division policy
We support the retention of the Councils’ land division minimum allotment sizes, but we seek the reinstatement of the boundary realignment criteria.

One of the key policies applicable for the assessment of land division application is PO 1.1 of the Rural Land Division general module, which is applied to ensure allotments are suitable for their intended purpose taking into account physical characteristics of the land and the like.

However, PO 1.1 of the Rural Land Division module is not called up in the corresponding Performance Assessed table – this must be included in the assessment table.

Dwelling excisions
We note that the Land division Dwelling Excision Overlay has not been applied to our Council area – we query such as our current Development Plan has an excision policy in PDC 11 of the Primary Production Zone.

We seek that this policy be reinstated in the Code.

We also urge the Commission to include date criteria into the Code (i.e. possibly the date of the authorisation of the Code) or some other method to avoid unwarranted repetitious use of this policy.

Rural Living Zone
We seek that the Code retains the Councils’ land division minimum allotment sizes and boundary realignment policy through the Technical and Numeric Variation data layers.

Stores – sheds not associated with a dwelling
A Store in the General Neighbourhood, Residential Neighbourhood Zone, Rural Shack Settlement Zone and Rural Living Zone is not Restricted whilst in the current Development Plan it is non-complying in equivalent zones. Under the Code a Store will be Performance
Assessed, but there is inadequate policy to limit and/or guide key built form aspects such as size and height of Stores and to guide the circumstances where they might be supported or opposed, and to avert a potential high probability of appeals where such are refused.

As you would respect, Stores on vacant land are not an orderly development outcome, and poses a serious issue in coastal and rural regions with the proliferation of people living in sheds and leading to visual, amenity, public health (wastewater issues) and illegal changes in land use. The above approach should also apply to the Township Zone.

Solar farms
The DTS/DPF 9.2 provision in the Rural Zone refers to a “panel” size of 80 sqm per structure. Given that the community’s understanding of what a panel is (i.e. each individual panel), we suggest that this term be revisited to avoid confusion.

4. Notification requirements
We ask that there be a more practical approach to Notification requirements in rural and regional areas. Firstly, we note that in the notification tables for Zones, Performance Assessed development where “the site of the development is adjacent to land in a different zone” must be notified. This appears to be an overly onerous requirement where the proposed development adjoins a similar use or is of a lesser intensity than a development it abuts - we ask that appropriate exclusions to the notification “trigger” should be considered to avoid needless notification. Secondly, the need or placement of Notification Signs on land in rural areas is not practical or sensible and that requirement needs to be altered/refined.

5. Deemed to Satisfy (DTS) v Designated Performance Feature (DPF) criteria
We question the use of DTS criteria for Performance Assessment developments, via use of the same DPF. The manner in which DTS criteria is expressed could lead to Performance Assessed development applications being refused due to a lack of guidance as to what variations from DTS criteria are and are not appropriate in a Performance Assessment.

6. Definitions
Ancillary accommodation
We support the inclusion of the new definition for Ancillary Accommodation in the Code to provide clarity on defining housing options for granny flats and dependant accommodation.
However, we do not support the definition restricting ancillary accommodation not having more than 1 bedroom or room or area capable of being used as a bedroom – this is simply not a practical or reasonable proposition, say for a family member (aging in place) wishing to have an ancillary study/ sewing room and/or guest room for grandchildren or visitors.

The definition should be amended to say not more than 2 bedrooms.

**Tourist accommodation**

We support the new definition of Tourist Accommodation in the Code but there is opportunity for the Code to provide clearer land use definition and policy guidance where boutique style tourist accommodation is envisaged, so as to avoid confusion where such development often has a similar form to a dwelling in coastal, rural and landscape/scenic settings.

7. **Need for audit**

We urge the Commission to undertake a thorough audit of the Code before it goes live – this is considered critical to resolving errors, anomalies, inconsistencies, incorrect formatting and policy labelling, policy issues and running-in issues before the new Planning System goes live.

It is far too important and poses serious risks if the Commission allows the system to go live without thorough road testing - the Commission needs to allocate more time to testing, verification and running of the new system in a safe ‘non-live’ or ‘testing environment’.

Likewise the Commission is strongly urged to allocate more time towards the equally critical task of road-testing a draft Portal, and to allow more lead time to the training and education of users of the Portal being the community, businesses, councils and agencies.

Yours sincerely,

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