

Department of Planning, Transport and Infrastructure
Planning Reform Submission
Level 5, 50 Flinders Street
Adelaide SA 5000

22nd November, 2019

General Comments in relation to the Planning and Design Code

Council at its recent meeting discussed the draft Planning and Design Code and more specifically the Tatiara District Council Code Extract.

It was resolved *“to authorise staff to prepare submission to the Department of Planning, Transport and Infrastructure which reflects the issues highlighted in the “Draft Planning and Development Code report provided by the Director of Development and Environmental Services.”*

The following summary provides an overview of the issues discussed by Council.

General

The release of the draft Code has highlighted significant differences in comparison to Council’s current Development Plan, with much of the local content not reflected in the Code. This has the potential to create some inconsistencies when assessments are undertaken.

There seems to be significant issues with the Code as it currently stands, including anomalies in the overlays provided to reflect local content therefore, it has and will continue to take substantial time to work through these issues. DPTI acknowledge the Code is not 100% complete at consultation and are also aware of errors in the text and mapping. The Department is relying on Council staff with their local expertise, knowledge and experience to identify where the errors, inconsistencies or gaps exist.

Council is concerned that without existing local variations included in the Code this may contribute to inconsistencies when assessments are undertaken in the future. A simple example may be a private garage in a Residential zone which current policy allows a floor area of 81m² with a 3.3m wall height which is “complying” development. Under the proposed Code it won’t be “Accepted” or “Deemed to Satisfy” therefore will be performance assessed against the Code.

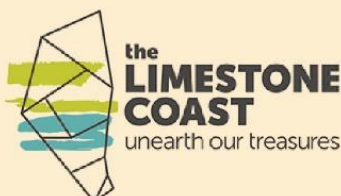
If an application was to be assessed against P &DC and did not meet the Deemed to Satisfy provisions, it is possible the application may be refused which is a concern. There does seem to be increased flexibility to deal with local issues in the Code but with this there may be inconsistencies in assessment, especially if the planning function of Council is undertaken by an external provider in the future.

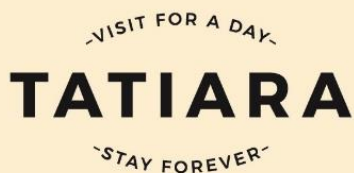


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DPTI have said that the short time frame for public consultation will not be extended as they are of the opinion that Council can always run a Code Amendment once the Code is implemented if something is overlooked in April.

It is understood that DPTI are still working through the format for a Code Amendment keeping in mind, any such amendment will still cost money for Councils once initiated. This would not be necessary if the Code was accurate when adopted.

A Code Amendment to amend something that was overlooked also suggests there may be a loop hole in the planning policy that could potentially allow inappropriate development to occur in inappropriate areas until such time as the loop hole is able to be closed.

A majority of Councils strongly support the LGA with the position they are taking in lobbying for more time to get this right. Whilst it is acknowledged that the Code has been written to ultimately be 'electronic', that doesn't help Council staff who has to read, absorb and assess the changes in such a tight timeframe (2 months) whilst trying to do other work which the ratepayers still expect to be done.

Unlike larger metro Councils, most rural Councils don't have dedicated planning policy teams to be doing the review. It is also interesting that Phase 3 councils have an extended period to review the Code so they could recommend changes which could be included after the consultation period for rural councils has closed.

Over the years Tatiara Council has spent significant funds to develop planning policy in a manner acceptable to Council and in most parts to the general community. It is of great concern that the Code writers appear to have taken a single minded, metro-focused, one-size-fits-all approach to the new Code.

The Development Plan has traditionally been owned by Council, and it is important that the Council itself are familiar with a document which will guide future development in the district. Unfortunately we are not sure that this new system will provide that outcome.

At the time of consultation Registered Land Management Agreements don't seem to have been included in the mapping but we suspect this will occur once the Code appears on the South Australian Property and Planning Atlas.

ePlanning

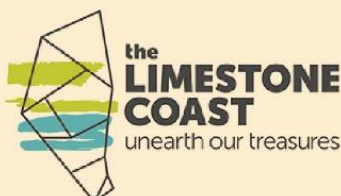
The concept of ePlanning is supported but unfortunately, the interactive electronic planning system is yet to be established (expected by February 2020). The draft hard copy of the Planning and Design Code provided to Councils seems convoluted, difficult to read, and over 1,000 pages long for this Council alone (almost 3,000 pages for the entire Code).



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The draft Code is written in a way that is not conducive to planners working with/understanding it, let alone the community who are not dealing with planning matters regularly. Even though the new electronic planning system may be beneficial in the longer term, early indications suggest there will be numerous issues to work through in the shorter term.

It is envisaged there will be resource implications for Council when dealing with applicants lodging applications, as there will be an expectation that Council staff will be required to load the information into the Planning Portal.

A majority of applicants will only lodge a single application in their lifetime so it is difficult to imagine that they will lodge an application electronically.

There is also some debate on whether the Planning Portal will provide all the relevant provisions associated with an application when submitted, so this does have the potential to cause problems in the context of a Development.

Currently a development is assessed against all the relevant provisions of the Development Plan.

Zone Descriptions and Changes

The principle of reducing zones is supported and it is also understood the zoning in the Planning and Design Code is based on four categories; People and Neighbourhoods (Residential), Productive Economy (Commercial/Industry), Natural Resources and Environment and Integrated Movement Systems and Infrastructure.

It is noted that a majority of the zones in the current Development Plan have been retained. Council certainly supports the concept of a productive economy but is the change from Commercial to Suburban Employment or Industry to Employment necessary. In an area such as the Tatiara there are probably more people employed in a Primary Production zone rather than the former Industrial/Commercial zones.

Some of the proposed zone names do seem unusual and don't seem to reflect what really happens in these zones.

Concept Plans

Council does have numerous concept plans in the current Development Plan as the primary purpose of these plans is to guide future development in specific localities. It is acknowledged that many of these plans may be superfluous and possibly removed if there was to be an amendment to the current Development Plan.

Council is still of the view there is a need for concept plans. The following plans should therefore be included in the Planning and Design Code;

- Concept Plan Tat/1 Weir Drive Bordertown
- Concept Plan Tat/4 Commercial Estate Naracoorte Rd Keith
- Concept Plan Tat/9 South Avenue East Bordertown
- Concept Plan Tat/11 Ramsay Terrace Bordertown
- Concept Plan Tat/15 Horse Keeping Precinct Bordertown
- Concept Plan Tat/16 Ramsay Terrace Rural Living Bordertown
- Concept Plan Tat/18 Development Constraints Water Protection
- Concept Plan Tat/20 Development Constraints Conservation Areas
- Concept Plan Tat/21 Development Constraints Groundwater Salinity.

Residential Zone (General Neighbourhood Zone)

Council does believe the proposed GNZ does have some implications for Council as many of the DTS provisions and Technical and Numerical variables certainly differ from the policy in the current Development Plan.

Examples of these include but are not limited to the following;

- Dwelling frontages have been substantially reduced, 15m to 9m for a detached dwelling.
- Lot sizes 350m² reduced to 300m².
- Minimum allotment size of 1,000m² in Padthaway has not been included in the P&DC.
- Building height 8m to 9m.
- Building set backs from primary street frontage 7m to 8m on an Arterial Road, 5m from any other road.
- Building set back from a secondary street frontage at least 900mm where the Development Plan requires a 5.5m set back where there is vehicle access into a garage or carport.

It would seem appropriate that the Technical and Numerical Variations layer be amended to reflect local policy rather than trying to work with the discrepancies and inconsistencies.

Rural Living Zone

This zone in the Development Plan has numerous areas covered by Precincts with many being carried over into the P&DC.

The areas not covered by a Precinct such as on the outskirts of Mundulla are of concern. The Development Plan allows for a land division with an allotment size of 1ha but also requires that the average allotment size in a division must be 2ha. This provision has not been carried over into the P&DC.

The primary reason this policy was included in the Development Plan was to have a sufficient area of land to mitigate the risk of flooding.

This is another example of why local variations are required to be included in the P&DC.

Primary Production Zone (Rural Zone)

In the current Council Development Plan the minimum Allotment area is 40ha. It is understood this will be carried over into the P & D Code. The existing policy also allows for a range of minimum allotment sizes based on specific forms of development.

These include;

- an additional allotment of 1 ha to be used to accommodate buildings and facilities involved with the processing, display and sale of locally grown produce.
- the division for the purpose of facilitating more intensive forms of primary production, and provided the proposed allotment or allotments are not less than 10 hectares in size and also meet certain other provisions.

Council certainly supports the inclusion of the Dwelling Excision Overlay as this continues to provide primary producers the opportunity to create an allotment to dispose of a surplus dwelling.

The current Development Plan does stipulate a minimum area of 1ha and maximum area of 3ha which is very workable. It seems the proposed overlay only requires that one of the allotments is 1ha or more and the second allotment having an area not less than 40ha.

It is envisaged there still will be developments in the Rural zone which support Industry and warehousing if associated with primary production, especially if using products produced on the same site.

DTS/DPF 4.1 does limit industry, storage and warehousing to a floor area of 250m² and allotments to at least 20ha which seems unrealistic especially where there may be smaller primary industry developments which do have merit but may not require that amount of land.

Water Protection Zone

It is noted that this zone has been excluded from the P&D Code. This is a concern especially if non-complying developments currently in the Development Plan are not included as a "Restricted Development" in the P&D Code.

The underground water supply to Bordertown is within this zone and the resource certainly needs to be protected.



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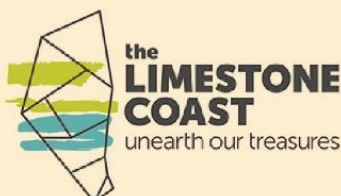
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Township Zone

The Township zone currently includes the Mundulla Policy Area 6 which has not been carried over into the P & D Code. There is specific policy for Mundulla which provides guidance for developments as they should be sympathetic in terms of siting, scale, form colours, materials and landscaping with existing buildings and the historical character of the town.

It is extremely difficult to provide guidance to applicants if these policies are removed.

Industry Zone (Employment Zone)

Council does have Industrial Estates at both Bordertown and Keith and within this zone there are various industrial uses, logistical, warehousing, storage and other high impacting activities. It does seem unusual in the P&DC, that Industry is included within the Restricted Development Classification.

This is obviously an error and oversight that needs to be rectified.

Waste water disposal

Council has Community Waste Water Management Schemes within the townships of Bordertown, Keith, Mundulla and Wolseley but not in Padthaway. If the minimum allotment size is reduced in Padthaway, (currently 1,000m²) it will be difficult to install and maintain an effluent disposal system that operates effectively and more importantly minimise risks to human health and environmental harm.

Summary

Council does acknowledge the current system is in need of an overhaul but it is essential the e-planning portal is implemented successfully. It will certainly be a challenge in regional areas and there will need to be substantial resources required from Council to train the community and staff.

As for the single state-wide Planning & Design Code replacing the 72 Development Plans, there seems to be too many variables and it clearly shows that this Code will provide fewer opportunities for Councils and communities to develop local policy content.

Perhaps there should have been consideration given to having separate Regional and Metro Codes.

From a Tatiara Council perspective we do acknowledge there is change and will adapt over a period of time but we also believe that amendments do need to be made to reflect local conditions prior to the Code being implemented.



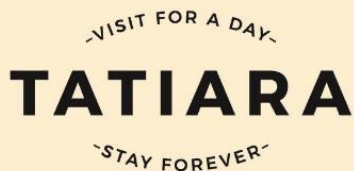
Hopefully the above comments are taken into consideration when summarising the extensive consultation process.

If any additional clarification is required please don't hesitate to contact me at the Council office.

Yours Sincerely

Rocco Callisto

Director Development & Inspectorial Services.



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