

29 November 2019



ABN: 98 512 933 456

PO Box 1211,
Kensington Gardens
South Australia 5068

Draft Planning and Design Code

Thank you for the opportunity to comment on the draft Planning and Design Code. This is an area of great interest and importance to our member groups and we are keen to be involved in policy development in this area.

Our Executive Officer received a briefing on the draft Code, along with some of the other Primary Producer SA member groups, just yesterday – and we have been seeking a briefing and an opportunity to work through some of the details both on the draft code and the planning reforms generally. We understand that it should be possible for this to happen in January. This will be a critical opportunity for our diverse membership to understand and discuss this important policy.

At 1833 pages, the Phase Two component of the draft code requires a significant amount of time and effort to reach a good level of understanding and provide constructive input. This is particularly the case for industry groups who are concurrently being consulted on a number of different matters (with just two of the other current examples being the new Biosecurity Act and an ACCC inquiry into Murray Darling Basin water markets) and with a number of our industry members particularly busy in their businesses, including some currently harvesting.

We and/or our members intend to provide input on the Phase Three consultation, which we understand will also feed back to influence the Phase Two component. We question the motivation and efficiency of bringing the Phase Two component into operation (in April) before the Phase Three consultation will be complete. We note that the LGA and local Councils have also commented that more time is required for this consultation.

Bearing in mind that our members really require a proper briefing and more time to digest the 1833 and 3031 page draft documents, including through a workshop session (hopefully in January), we provide the following initial points and issues arising from discussions so far:

- Requirements for new buildings and structures are of particular interest where they relate to protected cropping structures (including greenhouses/glasshouses and netting structures), as well as sheds. There have been significant problems with the requirements imposed on proposals for new protected cropping structures; including CFS/fire response requirements, which have been stopping growth.
- 200m² and 250m² thresholds for total floor area for agricultural buildings are too low and not in step with the size of horticultural and agricultural operations.
- Requirements for horticulture to be sited on land with a slope not greater than 10% and not within 50 metres of a watercourse or native vegetation are not appropriate. For example, this would exclude much of the existing horticulture in the Adelaide Hills.

- We note that in a number of zones protective tree netting structures are Accepted Developments except in the case of a number of overlays including the Sloping Land Overlay, Water Protection Area Overlay and Water Resources Overlay. Given that tree netting has been shown to increase water use efficiency, the need for assessment and consent in the listed overlay areas is strongly queried and seems to constitute a perverse incentive. This is just one example but there is potential for the application of the overlay areas to create a lot of additional bureaucracy and administrative burden in key horticultural areas.
- The sector clearly has a key interest in policies relating to Environment and Food Production Areas, along with any urban growth boundaries and policies. This is particularly the case due to the prevalence of horticulture in peri-urban areas.
- There is a strong need to protect primary production land and primary production activities but for higher intensity primary production in particular (such as horticulture), the block sizes required can be significantly smaller and labour requirements (and the accompanying needs for nearby housing) are higher. Workforce accommodation requirements can be an issue across horticultural regions.
- Vertical integration and strong linkages between primary production and packing or processing need to be taken into account (e.g. packing facilities, bottling facilities and potentially a range of other activities, which may include tourism and hospitality activities); as well as growth opportunities in areas such as farmgate sales.
- Most planners should be aware of the close interactions between generational succession and the planning system. The ability for older generations of primary producers to support their retirement is commonly a critical element in the ongoing success of the business for the next generations.
- Flexibility for the code to allow for new enterprises and trends is an important consideration. For example, we note the provisions for the production of beer, cider or any other alcoholic beverage (breweries, cideries, distilleries and wineries) but not non-alcoholic beverage production, such as juices.

Some other specific queries or concerns include:

- Restrictions on excavation or filling of land;
- Solar power facilities – a threshold of 160m² panel size in total has been suggested (instead of 80m² x 2) and flexibility to have more than 2 panel structures to optimise siting; 100m from a dwelling (either on the same allotment or another allotment) is queried

We look forward to organising a workshop session for January – potentially in conjunction with PIRSA and the Wine Grape Council of SA – and providing further input.

Please don't hesitate to contact us with any queries and we look forward to further engagement on this important issue.

Yours sincerely



Angelo Demasi
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28 February 2020



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Draft Planning and Design Code

Thank you for the opportunity to comment on the draft Planning and Design Code (*the draft Code*). This is an area of great interest and importance to our member groups and we are keen to be involved in policy development in this area.

The Horticulture Coalition of SA represents South Australia's horticulture industry, which is consistently worth in excess of \$3 billion in Gross Food Revenue and is now valued at over \$1 billion at the farmgate in SA. Horticultural production, packing and processing occurs across the state but key production areas include the Murray and Mallee region, Northern Adelaide, the Limestone Coast and Adelaide Hills, Fleurieu and Kangaroo Island.

The Horticulture Coalition's members include:

- Almond Board of Australia
- Apple and Pear Growers Association of SA
- Australian Mushroom Growers Association
- AUSVEG SA
- Citrus SA
- Hortex Alliance
- Nursery and Garden Industry of SA
- Olives SA
- Onions Australia
- Pistachio Growers' Association
- South Australian Chamber of Fruit and Vegetable Industries
- SA Produce Market
- Summerfruit SA
- Women in Horticulture

As commented in our Phase Two submission, a significant amount of time and effort is required to reach a good level of understanding of both the Phase Two and Phase Three components of the draft Code and provide constructive input. We understand that there will now be the opportunity for industry groups to propose Code amendments and we look forward to working with PIRSA, local government and DPTI to seek continuous improvement in this system.

We recently held a meeting with PIRSA, DEW and planners from some of the relevant local government areas and would like to highlight the following points.

We note that "Farming" is Accepted Development in both the Rural Zone and Rural Horticulture Zone. **There is significant inequity in the fact that Horticulture is not Accepted Development** – noting that Agricultural Buildings are classified as Deemed-To-Satisfy Development in both zones.

We recommend that Horticulture be classified as **Accepted Development** in Rural and Rural Horticulture Zones, in particular (with consideration to be given to extending this to any other relevant Zones) and that Accepted Development Classification Criteria are identified in consultation with industry, PIRSA and local planners from key horticultural areas.

Significant concerns have been raised about the appropriateness of the Peri-Urban Zone, in terms of both its existence and its boundaries. The merit and justification for this zone is queried and it seems that, in this zone, the bureaucracy and burden of applications and administrative processes for horticultural businesses is likely to increase.

Concerns have also been raised about the combination of Designated Performance Features with Deemed to Satisfy Criteria which are very prescriptive (thresholds). For example, authorities undertaking a performance assessment might tend to fall back on the Designated Performance Features to determine whether a development is approved when they don't have relevant expertise. We would be happy to provide input into the development of Designated Performance Features (as well as Deemed to Satisfy Criteria). There is also concern about the potential costs to engage consultants to demonstrate that Performance Outcomes are being met if DTS/DPF criteria are not met.

Requirements for horticulture to be sited on land with a slope not greater than 10% and not within 50 metres of a watercourse or native vegetation are not appropriate. For example, this would exclude much of the existing horticulture in the Adelaide Hills.

We are also concerned about excessive restrictions on excavation or filling of land. This should only apply to major earthworks.

Some overarching points:

- There is a strong need to protect primary production land and primary production activities but for higher intensity primary production in particular (such as horticulture), the block sizes required can be significantly smaller and labour requirements (and the accompanying needs for nearby housing) are higher. The idea that primary production can be protected and facilitated simply by preventing subdivision of the existing block sizes is extremely simplistic. This should be much more closely related to the block sizes required for a viable business. This will vary for different crops and types of horticulture, in different regions and over time.

For example, stakeholders in the Riverland have suggested amalgamation of blocks (as well as property realignments) for more commercially viable block sizes (as well as with reference to the viability of maintaining irrigation infrastructure). Other stakeholders in the Northern Adelaide Plains have suggested that there should be greater flexibility in allowing horticultural businesses to subdivide blocks.

We would be happy to facilitate workshops in key horticultural regions to discuss viable block sizes and subdivision restrictions.

The lack of the "right to farm" is a concern across all horticultural regions. This encompasses noise issues (including bird scarers, machinery noise and traffic), lights (night time operations) and chemical use. Of course, this is a critical element of decisions relating to subdivisions and block sizes. However, we also appreciate that a balance is required, as horticulturalists generally live as well as work in horticultural regions.

The ability for older generations of primary producers to support their retirement is also commonly a key factor in the ongoing success of the business for the next generations. Most planners should be aware of the close interactions between generational succession and the planning system.

- Workforce accommodation requirements are an issue which is commonly raised across horticultural regions, as well as the need for additional dwellings on horticultural properties (e.g. for the next generation also involved in the management and/or operations, or managers). It is important that workers can be housed in proximity to their work, and sensible and efficient solutions are found when issues arise.
- Vertical integration and strong linkages between primary production and packing or processing need to be taken into account (e.g. packing facilities, bottling facilities and potentially a range of other activities, which may include tourism and hospitality activities); as well as growth opportunities in areas such as farmgate sales.

Flexibility for the code to allow for new enterprises and trends is an important consideration.

- Points were raised at our meeting about the **recognition of accepted industry best practices** (e.g. codes of practice) and **audited QA systems** (which can include requirements such as noise management). **This could be discussed as part of the proposed Northern Adelaide Plains pilot project to review horticultural development approval requirements and processes mentioned below** (on page 4).
- Queries have been raised about assessment times. We have been informed that the new provisions should result in improvements in timeframes for assessment. It is important that this is the case and that there aren't additional assessment processes (e.g. as a result of overlays or proposed developments falling into a higher level of assessment) which cause longer waiting times.
- A Regional Assessment Panel including Northern Adelaide local government areas such as Playford, Adelaide Plains, Light and Barossa could potentially cover the Northern Adelaide Plains horticultural area and facilitate the development of sensible and streamlined horticulture-related and/or horticulture-specific policy. We would be pleased to be involved in such an initiative. We understand that a regional panel is in place in the Riverland and this model may have applicability in other horticultural regions too. The importance of industry expertise within "the system", including assessment processes, was emphasised at our meeting and is seen as an integral component of a workable planning system.
- Comments have been made that buffer zones currently used and proposed are excessive and out of step with improved practices and technology. We have particular concern with buffers relating to chemical use. The expertise and jurisdiction of the APVMA and the expertise of PIRSA's Rural Chemicals unit need to be taken into account.
- The need to enforce cleaning up of abandoned blocks and 'feral trees' has also been raised. This is critical in preventing fruit fly incursions, particularly in a Pest Free Area like the Riverland, and other horticultural pests across SA.

Definitions

- We strongly recommend that "Protective tree netting structure" be amended to "**Protective horticultural netting structure**" or "Protective crop netting structure" as the term currently excludes valid inclusions such as berries, for example. The body of the definition, however, does talk about protecting "trees or plants".

- Workers' accommodation – Why is this only “on a temporary basis”? What constitutes “temporary”? We recommend the removal of “on a temporary basis” from this definition. This is already covered by “used to accommodate workers ... *while they carry out employment*”.
- Renewable energy facility – We suggest that this be re-worded to “Means land and/or water used to generate **more than 5MW of** electricity from a renewable source such as wind, solar, tidal, hydropower, biomass and/or geothermal” to improve clarity – and remove the last paragraph (starting “The use does not include...”) from the definition.
- Solar power facilities – A threshold of 160m² panel size in total is suggested (instead of 80m² x 2) and flexibility to have more than 2 panel structures to optimise siting. The 100m threshold distance from a dwelling (either on the same allotment or another allotment) is queried. Horticultural stakeholders are keen to be able to develop renewable energy sources without excessive red tape.
- The definition for Farming covers cropping, grazing or low intensity animal husbandry. There are separate standalone definitions for cropping and low intensity agriculture but there is no definition for grazing.

An overarching definition for Agriculture or Primary Production might be more logical, with a range of sub-sets. At the moment there are no linkages across the definitions, so an application for a “multi-purpose” or mixed farming business is going to have a complex set of definitions to deal with. For instance, some properties might have horticulture and grazing and aquaculture and involve three different definitions.

We also recommend that any specific reference to breweries, cideries, distilleries and wineries be amended to “**beverage production facilities**” (including but not restricted to breweries, cideries, distilleries and wineries). A point of caution was raised at our recent meeting about being too specific in the Code, as well as the need for regular review of definitions, conditions/criteria and the assessment pathways.

We further note that many of the threshold sizes are out of step with the scale of operations and need to be significantly increased in many cases. For example, 200m² and 250m² thresholds for the total floor area for agricultural buildings are too low and not in step with the size of horticultural and agricultural operations. These need to be increased significantly, with reference to the current and likely future sizes of horticultural buildings and operations.

Protective horticultural netting structures

We note that, in the draft Code, protective netting structures are Accepted Developments except in the case of a number of overlays including the Sloping Land Overlay, Water Protection Area Overlay and Water Resources Overlay.

We have identified no valid reasons for a more stringent assessment process or additional criteria to be applied in areas of acid sulphate soils, sloping land, Water Protection Areas or Water Resources Overlay areas, as well as Native Vegetation Overlay areas (for which other protections already apply). We also query this for the River Murray flood plain. In many of these cases, protective netting will improve outcomes (e.g. through increasing water use efficiency) and this seems to constitute a perverse incentive. **Any overlays without very strong justification for additional protection or criteria (including from a cost:benefit perspective) should be removed.**

This is just one example but there is potential for the application of the overlay areas to create significant additional bureaucracy and administrative burden in key horticultural areas.

Greenhouses and sheds

Requirements for new buildings and structures are of particular interest where they relate to protected cropping structures (such as greenhouses/glasshouses) and sheds. There have been significant problems with the requirements imposed on proposals for new protected cropping structures; including CFS/fire response requirements. These have been stopping growth. We understand that the Building Code applies, as well as development approval requirements. However, this is a longstanding and ongoing issue which needs to be urgently addressed.

There is a significant lack of clarity regarding horticultural structures and buildings (including within the definitions). We assume that greenhouses fit within "Horticulture" rather than "Agricultural buildings". What is the justification for excluding packaging and processing buildings from "Agricultural buildings"?

There should be a streamlined assessment process for greenhouses and other horticultural buildings, covering both the development approval requirements and Building Code requirements. All of the approval requirements for horticultural businesses (including vertically integrated businesses and elements such as workforce accommodation) need to be reviewed. **We propose that this could be reviewed for the Northern Adelaide Plains, as a pilot region, with collaboration between industry, PIRSA, local government/planners and DPTI.**

This is vital work if South Australia is to achieve its targets for growth – with the food, wine and agribusiness sector identified as a key area for growth.

Environment and Food Production Areas

We understand that any new subdivision in these areas – including horticultural and agricultural development – requires concurrence from both the relevant local Council and the State Planning Commission. We support this for urban development which is not linked to agriculture, horticulture or food production. However, given that these areas are meant to protect and promote food production, there should not be any unnecessary additional regulatory burdens placed on development related to food production (or other horticulture or agriculture) in these areas.

We acknowledge that this is contained in the legislation. That part of the Act should be reviewed, as it seems inconsistent with its own objectives (by placing additional burdens on the food production it seeks to protect).

Dams

Processes for dams should be streamlined, affordable and reasonable. For example, a standalone dam application should be lodged with, and assessed by, the relevant Landscape SA board. Applications for bigger developments, which include a dam or dams, could be lodged with the relevant planning authority and the dam could be assessed by (referred to) the Landscape SA board as part of that process.

Please don't hesitate to contact us with any queries and we look forward to further engagement on this important issue.

Yours sincerely



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