

28 February 2020



Urban & Regional Planners
Local Government Consultants

Department of Planning, Transport and Infrastructure
GPO Box 1815
Adelaide SA 5001
Email: DPTI.PlanningReformSubmissions@sa.gov.au

PO Box 573
Goolwa SA 5214

t: [REDACTED]
e: [REDACTED]

Dear Sir / Madam

Re: Draft Planning and Design Code Phase Three (Urban Areas)

I write on behalf of Mr Don Galpin, the owner of a farming property ("Kooroora") which is located approximately five (5) kilometres north-west of the township of Goolwa. This property comprises approximately 438 hectares, including 301 allotments (each being approximately 2,000m² - 2,200m² in area) within the old Currency Creek township. These "township" allotments are under 188 titles, although all can be provided with individual titles.

The Galpin family committed considerable resources back in the mid 1990's to achieve Torrens titles over all of the allotments which they owned. The issue of these titles not only provided the family with security of tenure over the individual allotments, but also served to formally recognize the existence of each of the individual allotments by the state government. Not long after this occurred the then District Council of Port Elliot Goolwa amended its Development Plan provisions in order to prevent the development of dwellings on the individual allotments. It would appear from Council records that the Council of the day was concerned that any development at Currency Creek would come with serious demands for the provision of infrastructure (at Council's cost).

My client has long been opposed to this land use restriction; and is keen to develop some of the existing allotments for rural living purposes. Such a project would provide my client with the financial resources required to maintain and improve the remainder of his farm.

Under the proposed Planning and Design Code (the Code), my client's land lies within the Rural Zone and is impacted by the Limited Dwelling Overlay (wherein the development of a dwelling is classified as "Restricted"). The purpose of this submission is to request that this classification be reviewed and amended to "Performance Assessed Development", which may require the Limited Dwelling Overlay being added to the list of Overlays applicable thereto.

The aforementioned amendment relates more to procedure, and will still result in the requirement of a comprehensive assessment of the merits and potential impacts of any proposal for the development of a detached dwelling upon any part of my client's land, albeit by the local planning authority (with its local knowledge and local planning strategies) rather than the State Planning Commission.

In support of this proposal I offer the following.

1. Documentation pertaining to the Code indicates that "Restricted" classification generally relates to forms of development that are not envisaged within the relevant Zone or Overlay.

The same documentation indicates that development could be deemed "Restricted" if it is determined to be highly complex; requires a higher order of assessment; it is beyond an expected use and/or scale; a form of development that might create an unacceptable impact; impacts are unknown or potentially significant; and/or the solutions to address impacts are unknown or require additional investigation (my interpretation).

It is difficult to determine how the development of a detached dwelling on any one of my client's existing "township" allotments could realistically be considered to align with any of the aforementioned circumstances pertaining to "Restricted" development.

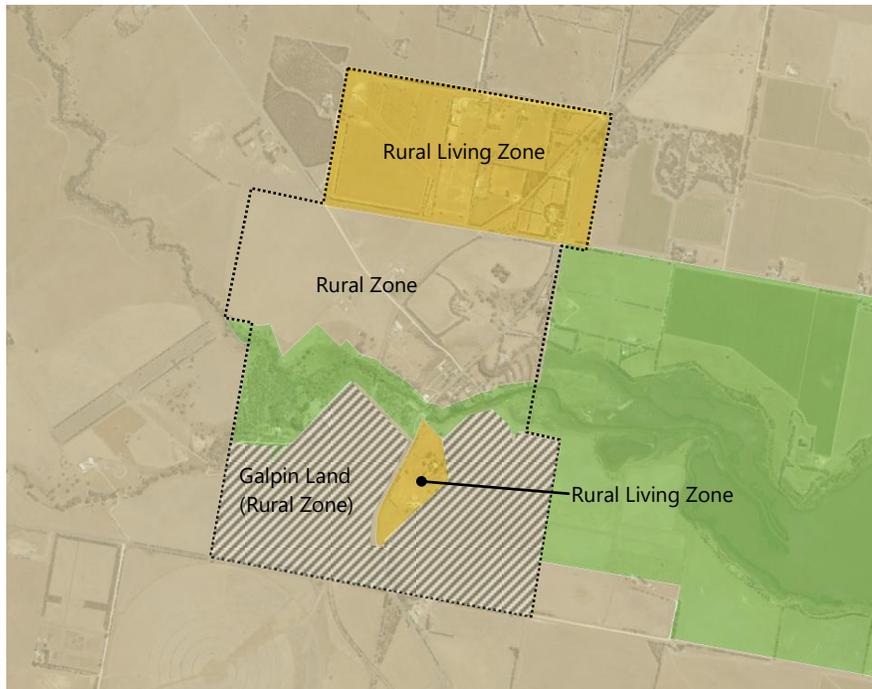
Further, the Code provides no detail or justification as to why the Limited Dwelling Overlay applies to my client's land (although it is assumed that this is simply based on the existing non-complying categorization under the Development Plan). Given the time and resources committed to the preparation of the Code, it may have been prudent to review the relevance and/or objectives of the more extraordinary existing zoning provisions within the current Development Plan in order to substantiate the proposed development classifications under the Code.

2. It is suggested that the issues addressed during the assessment of any proposal for a detached dwelling (including the possible impacts thereof) do not differ greatly from proposal to proposal, and should take into account all circumstances pertaining to the specific sites and localities. As such, there appears to be little need to have the development of dwellings in some parts of the Rural Zone classified as "Restricted", when the same form of development is generally classified as "Performance Assessed Development" throughout the remainder of the Zone. This approach is simply inconsistent and confusing, especially at the interface of the Zone and Overlay.
3. Curiously, the Desired Outcome (DO1) applicable to the Limited Dwelling Overlay states "*Establishment of additional dwellings in primary production areas limited to avoid undermining primary production*"; whilst the relevant Performance Outcome (PO 1.1) states "*Development does not result in the establishment of an additional dwelling.*" These provisions appear to be somewhat contradictory, with the DO suggesting that the number of additional dwellings should be limited, whereas the PO seemingly prohibits additional dwellings.
4. My client is not seeking the ability to create additional allotments, as the allotments contained within his farming property have all legally existed for 26 or more years.
5. Each of the existing "township" allotments can be sold and developed (for all manner of uses) as individual units.
6. Surprisingly, forms of development within the Rural Zone which are classified as "Deemed-to Satisfy Development" or "Performance Assessed Development" (rather than "Restricted" development) include a brewery, cidery, distillery and/or winery; a function centre; horse keeping; industry; store; transportation distribution, warehouse; shop; and tourist accommodation. Oddly, a dwelling and associated small-scale agricultural activity on a small rural living allotment would likely have less impact upon the agricultural productivity of the land (both in respect to the individual allotment and the subject land as a whole) and/or the character of the locality, than would any of the aforementioned land uses, yet an additional dwelling is classified as "Restricted" development.
7. Section 7 of the Planning Development and Infrastructure Bill 2017 specifically opposes the creation of additional allotments for residential development within the "Environment and Food Production Area". The intent of these legislative provisions is clearly to prevent the further fragmentation of productive agricultural land for rural living/residential purposes. In the case of my client's land, 301 "township" allotments already exist and, as such, the provisions of Section 7 are considered to be irrelevant.

Further, the consolidation of the existing allotments into "rural living" sized allotments should redress (in part) the fragmentation of the land; and potentially afford the opportunity for the establishment of small-scale rural/agricultural activities thereon which may serve to enhance the overall productivity of the land.

8. My client's land surrounds a small, existing (and proposed) rural living zone; and lies near the existing rural living zone at the northern periphery of the township (refer Map 1). It is considered illogical that some land within the township of Currency Creek has been zoned to accommodate rural living land uses, yet such a land use is deemed to be inappropriate or "Restricted" within the remainder of the township.

Map 1: Currency Creek township zoning (including Galpin land)



9. There is already a shortage of "rural living" allotments in and about the Goolwa, Hindmarsh Island, Currency Creek, Middleton and Port Elliot areas. A desktop survey undertaken in early December 2019 revealed that:

- there were 8 rural living related policy areas/precincts within the survey area;
- the minimum allotment sizes within the current 8 policy areas and precincts vary significantly (i.e. 2,500m² (provided the overall average allotment size is 5,000m²); 5,000m² (provided the overall average allotment size is 7,500m²); 7,500m²; 1.0 hectare (provided the overall average allotment size is 2.0 hectares); and 2.0 – 4.0 hectares);
- 391 rural living allotments exist within the survey area;
- only 66 (16.87%) of the existing rural living allotments were vacant; and
- only 2 existing rural living allotments (Frenchman Road, Port Elliot and Pullen Road, Hindmarsh Island) were being offered for sale at the time of the research.

The shortage of rural living allotments within the region could be rectified (in part) by the use and/or development of the existing "township" allotments which partly make up the land holding of my client, but for the fact that these existing, suitably sized and ideally located small rural allotments will not be able to accommodate dwellings given the provisions of the Limited Dwelling Overlay.

10. Mr Galpin is not expecting to be able to develop all of his existing 301 existing "township" allotments for rural living purposes, but rather seeks the opportunity to develop a fully planned and serviced node of rural living allotments with a minimum allotment size of 5,000m² - 1.0 hectare (to be determined at an appropriate future time). This would require consolidation of the existing "township" allotments into larger land parcels in order to comply with the specified minimum allotment size, an action that would obviously serve to significantly reduce the number of allotments (and potential additional dwellings).

In summary, it is accepted that the Code is generally procedural in nature, and that the provisions thereof clearly seek to protect rural, landscape and environmental areas from urban encroachment. Notwithstanding this, it is considered that the proposed prohibition of the development of any additional dwellings upon Mr Galpin's land (which effectively will be the case as a consequence of the "Restricted" classification and the provisions of the Limited Dwelling Overlay) is considered to be irrational and unwarranted, and will only serve to perpetuate the over-restrictive land use controls which have existed within the Development Plan for many years (without any detailed explanation or justification). Further, it is considered that the "Restricted" classification fails to take into account the extraordinary circumstances that apply in respect to my client's property, these being:

- there are 301 lawful "township" allotments which were presumably created to accommodate low-density township/rural living development;
- the allotments in question were granted individual title by the state government (circa 1994), again presumably to formalize ownership thereof and to facilitate their use and development for the purpose for which they were initially created;
- all of the existing allotments can be sold and developed independently; and
- all of the existing allotments are too small to be used (individually) for any productive agricultural purposes.

For the reasons detailed herein, it is considered appropriate that the Code provisions (as they relate to my client's land) be reviewed and amended, so that any future proposal for an additional dwelling to be developed upon land within the Currency Creek township is processed and assessed as a "Performance Assessed Development".

Should you require any additional information or wish to discuss any matter raised herein, please do not hesitate to contact the undersigned on telephone [REDACTED].

Yours faithfully



Craig Rowe
C L ROWE AND ASSOCIATES PTY LTD