

To: [DPTI.PlanningReformSubmissions@sa.gov.au](mailto:DPTI.PlanningReformSubmissions@sa.gov.au)

29 November 2019

**Draft Planning and Design Code. Phase Two (Rural)**

Thank you for the opportunity to provide comment on the draft Planning and Design Code (PDC) Phase Two Rural Areas.

This submission only touches on a number of points because of the short time frame available to firstly try and understand the structure of the code, then comment on the content of the code. Despite extensive time spent on the code, I still don't have a firm understanding of it, especially in relation to various policies. I am still unclear about what's new or amended, as well as what's been transferred over from existing development plans. I'm aware of numerous errors, omissions and anomalies in the code. This makes the code very confusing for me to interpret. If the consultation period had been extended for Phase Two, I would've provided a more detailed submission. Furthermore, the consultation period clashed with the busy harvest period in rural districts in SA, so the timing for the consultation period was not ideal. I expect that comments from primary producers in rural areas of SA may be under-represented due to all consuming harvest commitments over the Oct/Nov period. I'd hoped the deadline for comment on Phase Two would've been extended, however this did not occur, so this submission is incomplete. Furthermore, it might contain typographical and grammatical errors because of the limited time available to write it. Given that Phase Three is still open for public comment I think Phase Two respondents have been unfairly disadvantaged by having much less time to fully consider and comment on the draft code at a particularly busy time of year in rural areas of SA.

In this submission I've listed issues that I've identified in the draft Code. I've also offered possible solutions.

I planned to include a further part to this submission with details about difficulties and issues I encountered during the consultation period. Due to lack of time before the submission deadline, I will provide this information at a later date under separate cover. My aim is to provide constructive criticism that can be used to help improve public consultation processes by DPTI and DEW in the future, especially given the community has found this a difficult, complex and confusing document to respond to.

Regards

Eva Squire

ISSUE	SOLUTION
<p><b>Threatened species information does not appear in the code.</b></p>	<p><b>Create ‘Threatened Species’ Overlay.</b></p> <p><b>Overlay to contain regional, as well as state and federal conservation ratings.</b></p> <p>Regional mapping is available via DEW.  Refer to information about the Regional Species Conservation Assessment Project  <a href="https://www.environment.sa.gov.au/topics/plants-and-animals/Threatened_species_ecological_communities/Regional_significant_projects/Regional_Species_Conservation_Assessment_Project">https://www.environment.sa.gov.au/topics/plants-and-animals/Threatened_species_ecological_communities/Regional_significant_projects/Regional_Species_Conservation_Assessment_Project</a></p>
<p><b>The Code doesn’t fully address SPP 4.1</b></p> <p><b>State Planning Policy 4 ‘Biodiversity’</b>  <i>SPP 4.1 Minimise impacts of development on areas with recognised natural character and values, such as native vegetation and critical habitat so that critical life-supporting functions to our state can be maintained.</i></p> <p>Accredited Consultant reports do not always address all the requirements listed in NVC policy documents. A critical habitat overlay may help alleviate this known issue.</p>	<p><b>Create Critical Habitat Overlay in the Code.</b></p> <p>Also refer to Nationally Endangered Glossy Black Cockatoo (Kangaroo Island sub-species) critical habitat . Info is missing from the code- see next page.</p>
<p><b>A reference to ‘important feeding areas’ is missing from the Code. Rather than ‘avoid’ , wording needs to be more definitive.</b></p> <p>Conservation Zone.  PO 3.1 Environmental Protection.  Development avoids important nesting or breeding areas or areas that are important for the movement/migration patterns of fauna.</p>	<p><b>This information should be contained in a Critical Habitat overlay (or similar name).</b></p> <p><b>In the first instance amend the text.</b>  Insert the word ‘feeding’ and replace the word ‘avoid’ with ‘shall not occur in’ so the text reads as follows:</p> <p>Conservation Zone.  PO 3.1 Environmental Protection.  Development <b>shall not occur in</b> important nesting, <b>feeding</b> or breeding areas or areas that are important for the movement/migration patterns of fauna.</p>

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<p><i>SPP 4.1 Minimise impacts of development on areas with recognised natural character and values, such as native vegetation and critical habitat so that critical life-supporting functions to our state can be maintained.</i></p> <p><b>Critical habitat info for the Nationally Endangered Glossy Black Cockatoo (Kangaroo Island sub species) has not been transferred to the Code even though info exists in the current Kangaroo Island Development Plan. On 4/11/19 at the DEW/ DPTI Information Session/Workshop Allan Holmes (State Planning Commission) stated that because GBC critical habitat info exists in the current KI Development Plan, it needs to be transferred over to the Code.</b></p> <p>The Kangaroo Island Development Plan contains information about critical habitat in American River, Kangaroo Island, however the plan does not mention all the areas of habitat on Kangaroo Island that are critical or potentially critical to the survival of the sub-species. It would be remiss to only include critical habitat info related to American River and omit info from the PDC about other critical habitat or potentially critical habitat areas across Kangaroo Island. Please note that a previous application for subdivision in GBC critical habitat was refused outright via the EPBC Act referral and assessment process.</p>	<p><b>Mapping of critical and potentially critical habitat (available via DEW) should be used to create a Glossy Black Cockatoo (GBC) Critical Habitat overlay in the code. Furthermore, critical habitat for other threatened species in SA should be included in a Critical Habitat Overlay in the code. Important to make sure all mapping is up to date prior to creating an overlay.</b></p> <p><b>GBC nest locations on Kangaroo Island are confidential, therefore there should be a trigger for DEW to check for nest locations in any proposed developments on Kangaroo Island that contain critical habitat.</b></p> <p>Background information can be sought from DEW and via the following website links. Further documents may also be available via DEW.</p> <p>Mooney, P. A. &amp; Pedler, L. P. (2005). 'Recovery plan for the South Australian subspecies of the Glossy Black-Cockatoo (<i>Calyptorhynchus lathami halmaturinus</i>): 2005–2010'. Department for the Environment and Heritage, South Australia.</p> <p><a href="https://www.environment.gov.au/system/files/resources/eba7ed3d-80fa-4519-b39e-f1cff0dc71d2/files/c-lathami-halmaturinus.pdf">https://www.environment.gov.au/system/files/resources/eba7ed3d-80fa-4519-b39e-f1cff0dc71d2/files/c-lathami-halmaturinus.pdf</a></p> <p>Threatened Species Committee. Conservation Advice for the Glossy Black Cockatoo (Kangaroo Island). The Minister's delegate approved this conservation advice on 01/04/2016. <a href="http://www.environment.gov.au/biodiversity/threatened/species/pubs/64436-conservation-advice-01042016.pdf">http://www.environment.gov.au/biodiversity/threatened/species/pubs/64436-conservation-advice-01042016.pdf</a></p> <p>Info below found in Mooney, P. A. &amp; Pedler, L. P. (2005). 'Recovery plan for the South Australian subspecies of the Glossy Black-Cockatoo (<i>Calyptorhynchus lathami halmaturinus</i>): 2005–2010'. Department for the Environment and Heritage, South Australia.. Important to make sure all mapping is up to date prior to creating an overlay.</p> <p><b>4.4 Habitat that is critical to survival</b></p> <p>4.4.1 Feeding Habitat All the mapped <i>Allocasuarina verticillata</i> habitat on Kangaroo Island may be regarded as critical to the survival of the SA Glossy Black-Cockatoo. While the area mapped is more than that required by the current population (Crowley <i>et al.</i> 1997), significant areas could be lost in wildfire. In addition, as the population continues to expand, larger areas of habitat will be required. It should be noted that GBCs appear to have preferences for certain trees or patches of trees, and so a percentage only of Drooping Sheoak trees in the area mapped will be utilised by the birds (See discussion in Part C, Section 1.1).</p> <p>4.4.2 Nesting habitat As stated in Section 4.2, the GIS nesting habitat layer needs some refining before habitat critical to the GBC's survival can be determined. At this stage, it is proposed that critical nesting habitat be defined by a buffer of one kilometre in 'suitable nesting habitat' surrounding existing nest sites. However, it is likely that future natural nest sites used by the GBC may lie outside this buffered area and so, until further refinement occurs, the remainder of the mapped 'suitable nesting habitat' should be regarded as potentially critical habitat.</p> <p>4.4.3 Mapping of habitat critical to survival Six GIS layers have been provided: a) Drooping Sheoak feeding habitat – Kangaroo Island b) 'Suitable nesting habitat' – Kangaroo Island c) Nest locations – Kangaroo Island (confidential) d) Critical nesting habitat – Kangaroo Island e) 'Suitable feeding habitat' – Fleurieu Peninsula f) 'Suitable nesting habitat' – Fleurieu Peninsula</p> <p>As stated elsewhere, the 'suitable nesting habitat' layers for both Kangaroo Island and Fleurieu Peninsula are based on vegetation associations containing suitable nest tree species and only some of this area is likely to contain suitable nest sites.</p>

ISSUE	SOLUTION
<p><b>MAPPING ISSUE</b>  <b>Various reserves / parts of reserves listed in the National Parks and Wildlife Act 1972 are not included in the Conservation Zone.</b></p>	<p>DPTI advised the Conservation Zone will be applied to all reserves and parks listed in the National Parks and Wildlife Act 1972 and the Wilderness Protection Act 1992 after the consultation period has ended.</p> <p>Para Wirra Conservation Park is not listed in the National Parks and Wildlife Act 1972, however I understand it has been formally recognised as a Conservation Park, so it should also be included in the Conservation Zone.</p>
<p><b>The Visitor Experience Subzone has inappropriately been applied to waterfront crown land adjacent areas listed in the National Parks and Wildlife Act 1972 and well as areas listed in the Wilderness Protection Act 1992.</b></p>	<p><b>Areas of Waterfront Crown Land that adjoin Wilderness Protection Areas and Reserves and Parks listed in the National Parks and Wildlife Act 1972 should be incorporated into the Reserves system. The Visitor Experience Subzone should be removed from these land parcels.</b></p> <p><b>The Visitor Experience Subzone has been applied to Waterfront Crown Land that adjoins Wilderness Protection Areas and National Parks, Conservation Parks etc. These areas of Waterfront Crown Land are inappropriate for development as outlined in Performance Outcomes and Deemed to Satisfy / Designated Performance Outcome Criteria.</b></p> <p>Some of the development land uses included in the Visitor Experience Subzone include Tourism Accommodation, Tourist Facility, Cafe, Shop and Restaurant.</p>

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<p><b>The Visitor Experience Subzone has been applied to Waterfront crown land near an area previously identified in a Major Development Process as an ecologically sensitive area to avoid due to threatened species considerations.</b></p> <p>The area has also been identified as an important wildlife corridor</p> <p><i>Refer to pages 535-537 of The South Australian Government Gazette, 18 February 2016 for details about a Major Development Approval.</i></p> <p>Refer to pages 29-30 of the Assessment Report for the PER for further information about the area in question along Waterfront Crown Land near Pelican Lagoon.</p>	<p><b>Remove the Visitor Experience Subzone from parcels of Waterfront Crown Land that are important to threatened species conservation.</b></p> <p><b>The area is recognised as an important wildlife corridor so the Visitor Experience Subzone should be removed from the parcels of land.</b></p> <p>Refer to the DPTI Assessment Report for the PER and The South Australian Government Gazette for further information about the Major Project and significance of the land in question.</p> <p>Also refer to letters from the KI NRM Board.</p>
<p><b>It is unclear whether the Visitor Experience Subzone exists over land parcels dedicated for Conservation purposes or other purposes under the Crown Land Management Act 2009.</b></p>	<p><b>Determine whether the Visitor Experience Subzone has been applied over land parcels dedicated for Conservation or other purposes under the Crown Land Management Act 2009.</b></p> <p><b>If a land parcel is dedicated for Conservation purposes under the Crown Land Management Act 2009, the Visitor Experience Subzone should no longer be applied to the land parcel.</b></p> <p>Identify other land dedicated for particular purposes under the Crown Land Management Act 2009 and determine whether or not the dedication is consistent or inconsistent with policies included in the Visitor Experience Subzone. If the Visitor Experience Subzone policies are inconsistent with the dedication, the Visitor Experience Subzone should no longer be applied to the land parcel.</p>

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<p><b>It is unclear whether the Visitor Experience Subzone exists over Perpetual Crown Leases or other Crown Leases that list the purpose of the lease as ‘Conservation’ or other purposes that are inconsistent with policies associated with the Visitor Experience Subzone.</b></p>	<p>It is unclear whether or not the Visitor Experience Subzone has been applied over land parcels held under a Perpetual Crown Lease or other Crown Leases that list the purpose of the lease as ‘Conservation’ or another specific purpose.</p> <p><b>Identify Perpetual Crown Leases that list the purpose of the lease as ‘Conservation’. The Visitor Experience Subzone should no longer be applied to these leased parcels of land.</b></p> <p>Identify other Crown Leases and determine whether the lease conditions are consistent or inconsistent with policies listed in the Visitor Experience Subzone. If the policies in the Visitor Experience Subzone are inconsistent with the crown lease conditions, the Visitor Experience Subzone should no longer be applied to these leased parcels of land.</p>
<p><b>The Conservation Zone and Visitor Experience Subzone contain policies that are not consistent with the provisions of the Wilderness Protection Act 1992.</b></p>	<p><b>Create a Wilderness Protection subzone for all areas of SA currently proclaimed under the Wilderness Protection Act 1992.</b></p> <p>Policies that relate to the Wilderness Protection Areas subzone should be consistent with provisions in the Wilderness Protection Act 1992.</p>
<p><b>Private/Commercial Tourism Accommodation in parks and reserves listed under the National Parks and Wildlife Act 1972 and the Wilderness Protection Act 1992.</b></p> <p><b>Public Good vs commercial interests</b></p>	<p>Amongst other things, the National Parks and Wildlife Act provides for the establishment and management of reserves for <b>public</b> benefit and enjoyment &amp; to provide for the conservation of wildlife in a natural environment.</p> <p>The Wilderness Protection Act 1992 is an Act to provide for the protection of wilderness.</p> <p>Public access should not be denied access to a public asset by ‘for profit’ private developments</p> <p>Any development which reduces the conservation value of a park should be denied.</p>
<p>Procedural Matters (PM) Notification. Notification (ie public notification) information is found in the Procedural Matters section that occurs in each Zone. It is difficult to find this information in the Code.</p>	<p>Create a list and include details about Notification for each Zone, so users can easily find this information.</p> <p>Create an additional section of the Code titled ‘Notification’ and include a list re Notification for each Zone listed in the Code.</p>
<p>Code content</p>	<p>Many policies are very general or are missing information.</p>

ISSUE	SOLUTION
<p><b>Heritage Agreements appear in the State Significant Native Vegetation Overlay. I was advised that Heritage Agreements will be placed in the Conservation Zone in the future.</b> Some development types such as Tourism Accommodation, should not occur in Heritage Agreements. Heritage Agreements are set aside for conservation purposes. Heritage Agreements sometimes provide the last refuge for endangered plant species. For example a South Australian Heritage Agreement is one of only two known locations across Australia for an EPBC listed Nationally Endangered plant species.</p>	<p>Heritage Agreements should be removed from the State Significant Native Vegetation Overlay and placed in a dedicated Heritage Agreements overlay with prohibitions in place regarding certain development types.</p> <p>If Heritage Agreements are eventually moved into the Conservation Zone, expert scientific advice should be sought and tourism development excluded.</p>
<p><b>Tourist accommodation in National parks, Conservation Parks and Wilderness Protection Areas</b></p> <p><b>The use of the word ‘contemplate’ is too vague.</b></p>	<p>Refer to Table 3 (Performance Assessed) and Table 4 (Restricted). The word ‘contemplated by the relevant ‘management plan’ is used in both tables in relation to tourism accommodation in parks and wilderness protection areas. The word ‘contemplated’ is not defined in the PDI Act 2016, nor defined in the code. It should be replaced with stronger wording such as ‘specifically authorised in a management plan created under the National Parks and Wildlife Act 1972 or the Wilderness Protection Act 1992’</p>

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<p><b>No notification (ie public comment) possible for certain types of Performance Assessed development in the Coastal waters and Offshore Islands Zone.</b></p> <p>Procedural Matters (PM) Notification of Performance Assessed Development</p> <p>All classes of performance assessed development are excluded from notification except:</p> <ul style="list-style-type: none"> <li>(a) Telecommunications Facility</li> <li>(b) Renewable Energy Facility</li> <li>(c) Development identified as 'all other core assessed development' in Coastal Waters Zone Table 3</li> </ul> <p>In the Performance Assessed table the following classes of development are all excluded from notification: Aquaculture, Agricultural Building, Boat Berth, Demolition of a State or Local Heritage Place, Demolition within an Historic Areas Overlay area or State Heritage Area, Farming and Jetty.</p>	<p>In the case of Aquaculture, under the Aquaculture Act no notification is required in the Aquaculture Zone. Does the Aquaculture Zone in the Aquaculture Act cover identical areas to the Coastal Waters and Offshore Islands Zone in the code? If not, areas outside of the defined zone in the Aquaculture Act should be made publicly notifiable.</p> <p>Threatened species occur on certain Offshore Islands. Any development type on Offshore Islands that may impact on threatened species should be classified in such a way to allow public notification, public comment and third party appeal rights.</p>

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**ADDENDUM**

**ADDITIONAL COMMENTS**

I was not aware that the public consultation deadline ended at midnight. I assumed it ended at 5pm as stated on the YourSAy website.

I have included additional comments given that extra time is available.

I would also like to state that I fully support the submission by Friends of Parks (inc).

Please add this part of my submission to the submission I sent via email at 4.58pm today.

Regards

Eva Squire

ISSUE	SOLUTION
<p><b>Development (especially Tourist Accommodation) in areas listed in the National Parks and Wildlife Act 1972 and the Wilderness Protection Act 1992</b></p> <p><b>Public notification and public comment needs to be possible when development is proposed</b></p>	<p>Public notification and public comment should be possible when development is proposed in areas listed in the National Parks and Wildlife Act 1972 and the Wilderness Protection Act 1992.</p> <p>If the planning system is set up in such a way to exclude public notification and public comment when development is proposed, this will create nothing but distress and discontent in the community. The community deserves a right to have input into any proposed developments (especially proposed Tourist Accommodation) in parks, reserves and Wilderness Areas.</p>
<p><b>Third party appeal rights</b></p>	<p>The public should have a right of appeal in relation to proposed development in areas listed under the National Parks and Wildlife Act 1972 and the Wilderness Protection Act 1992. They are Crown assets. Public Land.</p> <p>The public deserves to be able to appeal decisions about proposed development on land listed in the Acts mentioned above, no matter what assessment pathway is determined. Third party appeal rights should be included in the Code.</p>
<p><b>Development is not outright prohibited in some areas listed in the National Parks and Wildlife Act 1972 and Wilderness Protection Act 1992</b></p>	<p>Some areas should be 'off limits' to any developments due to environmental sensitivities.</p>
<p><b>Mapping tool did not work properly</b></p>	<p>The mapping tool did not work properly and I had multiple issues using it. It should be made fit for purpose.</p>