



26 February 2020

Mr Michael Lennon  
Chair  
State Planning Commission  
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ADELAIDE SA 5001

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Dear Mr Lennon

### **Planning & Design Code Submission**

The Mount Lofty Ranges Planners Group (MLRPG) is pleased to take the opportunity to provide a response to the Draft Planning and Design Code (the draft Code) released for public consultation for phase 3 Councils.

The MLRPG is a professional group made up of Local Government Planners from nine (9) Councils including:

- Adelaide Hills Council;
- Alexandrina Council;
- The Barossa Council;
- Mid Murray Council;
- Mount Barker District Council;
- Rural City of Murray Bridge;
- City of Onkaparinga;
- City of Victor Harbor; and
- District Council of Yankalilla.

Collectively these nine (9) Councils:

- include significant areas of primary production land including highly productive farming, horticulture, viticulture, cereal growing, forestry, fishing and intensive animal keeping;
- make a significant contribution to the State's economy;
- provide significant growth pockets both in population and development, placing demands on infrastructure and the natural environment; and

- have major tourism destinations, many of which are included in the SA tourism plan with tourist numbers targeted to double over the next decade.

As evidenced above, the MLRPG covers a diverse region facing a wide variety of development issues, which will be greatly influenced by the draft Planning and Design Code (the Code). I'm sure each Council will represent these specific issues effectively in their individual submissions.

The MLRPG recognise that the Planning Reforms and the development of the Draft Code is a significant undertaking and support the intent of the planning reforms to modernise and improve the State's planning system. The MLRPG also supports the notion that a modern planning system is fundamental for South Australia, as it will ensure our State remains liveable, prosperous and vibrant.

It is noted that the draft Code seeks to implement a consistent statewide approach in regard to the structure, content and understanding of development zones, policies and provisions. However, it is considered that this has resulted in a Code which is largely urban centric and fails to recognise and incorporate policy which best guides development in rural, regional and township settings.

Of significant concern to the MLRPG is the loss of development policy that addresses the local nuances of our diverse region. With this in mind, it is considered that our Councils are set to lose these significant elements of policy detail, as well as existing highly effective planning policy tools which have been developed proactively to protect, enhance and enable appropriate development in the region consistent with the 30 Year Plan for Greater Adelaide. Much of this soon to be lost content has been developed in consultation with our communities, and has been subsequently refined over many years to provide for robust development policies which achieve the desired planning outcomes for our region. The existing development policies also represent a significant investment of both public money and the time and expertise of councils, as well as the goodwill of communities and stakeholders involved in the policy development process.

It is therefore the MLRPG's recommendation that the Code allow for a degree of diversity to recognise local nuances in character in the region. This can be achieved by allowing for discretionary local specific policies or Technical and Numeric Variations (TNVs), thereby reflecting the differences of local places and context. Typically, this has occurred through the use of Desired Character Statements that detail the unique and different character, history, values and local aspirations of communities. The MLRPG would therefore support the reintroduction of these Statements in the Code via a Desired Character Area Overlay or as a TNV, which would ensure local nuances and quality of existing policy is recognised and carried over in to the Code.

Other key considerations for the MLRPG include the following:

#### Inclusion of the Primary Production Priority Area Mapping

The inclusion of PIRSA's Primary Production Priority Areas (PPPA) mapping, to assist in the development of a holistic approach to land use and rationalisation policy within land zoned for primary production purposes, is considered critical. The PPPA mapping project was a scientifically based study undertaken by PIRSA and which considers slope, soil type, moisture content, etc. The PPPA mapping identified where prime versus lower value agricultural land was located within the Mt Lofty Ranges region. This PPPA mapping would assist in addressing the issue of fragmentation of good quality agricultural land through boundary realignment applications (i.e. where a farmer seeks to readjust title boundaries between a number of titles). It is considered that an additional overlay which

identifies high versus low value agricultural land would greatly assist council planning officers and private consultants in making decisions in relation to such applications, where smaller titles are potentially being created for rural living purposes. The MLRPG therefore urges the SPC to include this mapping as an overlay in the P+D Code.

#### Liquor Licensing and Development Assessment Application Alignment

It is considered that where a proposed land use has the ability to be a licensed premises under the *Liquor Licensing Act 1997*, the Liquor Licensing Approval process should be up front in the development application process (similar to what is proposed for the Native Vegetation clearance process). The objective here is to achieve consistency between approvals under the PDI Act and the Liquor Licensing Act, for factors such as licensed premises capacity, operating hours, entertainment and licensed areas.

These factors influence a development application through assessment of matters such as the capacity of on-site waste systems and car parking requirements to name a few. It is our experience that too often a liquor licensing application is inconsistent with the conditions of the associated Development Approval, generally resulting in higher numbers of patrons not envisaged in the development approval. This can result in post development issues such as failing on-site waste water systems, overflow parking in surrounding streets and entertainment and other noise impacts on surrounding residential neighbourhoods. It also results in unnecessary compliance issues between neighbours and creates agitation for councils and business operators within the region.

#### DTS vs DPF in 'Peri-Urban' and Rural Areas

It is considered that there is a fundamental tension between the use of 'Deemed-to-Satisfy' criteria as 'Designated Performance Features' for the purpose of performance assessed development, within the 'Peri Urban' and Rural Zones. The manner in which DTS criteria are expressed could lead to performance-assessed development applications being contested due to a lack of guidance as to what variations (above the DTS criteria) are and are not, appropriate in a performance assessment. The relationship between the function of each of these criteria requires careful consideration and refinement where appropriate. It is considered that one way of addressing this issue, particularly where maximum building size is considered, might be to apply a ratio approach that corresponds directly to land size.

#### Heritage Statements

The table format being implemented for the historic area statements is quite restrictive in being able to express the context of an area's history and its key characteristics. It is suggested that a context section be added to the statements that allows for contextual information to be added to reflect the area's evolution and why certain land division patterns or housing styles should be maintained and complemented. Given that the Heritage Statements are replacing the Desired Character Statements, this addition becomes even more important in order to reflect current policy.

Through having to utilise these statements, a significant amount of policy has been lost from Development Plans. Where specific guidelines and diagrams are available, there should be an ability to refer to them. For example, diagrams highlighting the key building characteristics and relevant materials are an effective tool to provide land owners and developers that are proposing redevelop or undertake extensions to existing buildings.

Alternatively there should be more policies included in the Code to reflect such guidelines.

## Design and Land Division in Rural Areas

We note that there is no specific policy contained in the Design in Rural Areas and Land Division in Rural Areas modules. Each of these modules is a word-for-word replication of the Design in Urban Areas and Land Division in Urban Areas modules. We assume that this was an oversight and that appropriate policy has or will be drafted for these modules.

Our group would be pleased to assist in the drafting or reviewing of this policy, should the Department request our assistance.

## Notification of dwellings in rural areas

An area that needs further refinement is the procedural matters tables. Of particular concern is the listing of detached dwellings within the Rural Zone. In the majority of cases, a detached dwelling is an envisaged use within the Rural Zone and is currently not a development requiring notification. Unless there are specific reasons why the Department would like these relatively minor developments notified, we suggest that the draft Code should be amended to rectify this anomaly.

## In conclusion

The MLRPG notes that the consultation version of the Draft Code is a large, complex and complicated document. This complexity was meant to be supported by implementation of a working version of the ePlanning Portal. Unfortunately, this was not released with the Code. This lack of ePlanning integration and the sheer size and complexity of the document has hampered much of the councils' and communities' ability to accurately review the content as it applies to them. This matter is of specific concern for the MLRPG given the diverse range of policies that apply to the region and the limited ability for our communities to understand the potential impacts of the Code.

The MLRPG see value in the intent of the reforms but urges the Commission to work collaboratively with councils and the LGA to ensure the Code reflects the values, character, history and aspirations of our communities. We seek the opportunity for a second round of consultation once a working version of the ePlanning Portal and the revised draft Code is available, to permit councils and our communities to fully appreciate the proposed changes and their impact.

Please do not hesitate to contact me on 8555 7000 should wish to discuss this matter further or if you require any further information.

Yours sincerely



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**Chairperson**  
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