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Jason Bailey - Project Lead Planning and Design Code
Department of Planning, Transport and Infrastructure
GPO Box 1815
Adelaide SA 5001

Email: DPTI.PlanningEngagement@sa.gov.au

Dear Jason

Adelaide Hills Council Submission on the Planning and Design Code in the Outback

Adelaide Hills Council is grateful for the opportunity to provide feedback on the draft Planning and Design Code (P & D Code) – Phase One released for community consultation by the State Planning Commission on the 5 February 2019.

In preparing this submission, a comprehensive review of Phase 1 of the P & D Code was undertaken including consultation with Council Members and relevant staff.

General comments on the structure and content of the P & D Code have been provided below, with further commentary and suggested changes made in the Submission Form are provided in **Appendix A**.

Support of the P & D Code Structure

At the outset Council would like to acknowledge that the structure of the Code is highly legible from a practitioner's perspective (noting that it is outside of its natural 'e-solution' environment) and navigation is considered intuitive, simple and flexible.

In addition, the P & D Code Phase 1 provides sufficient content and structure to allow an evolved level of analysis to take place, which is considered to put Council in a good position to start refining its proposals for policy content in anticipation for the subsequent phases of the Code which will be applicable to our Council area (i.e. Phase 3).

In summary the P & D Code appears to provide a responsive and adaptive framework and Council looks forward to the opportunity to test it in its e-solution environment.

Notwithstanding the above, there are issues with respect to certain aspects of the P & D Code which following Council's review have raised some questions, and require further confirmation or analysis by the Department of Planning, Transport and Infrastructure (DPTI), as outlined below.

General Comments

It is understood that when an applicant enters an address and a proposed type of development in the e-planning solution, that the system will have the capacity to extract all relevant criteria for that particular development in that location, provided it is envisaged in the subject Zone. Although the inherent efficiencies of such a framework are understood, it is questioned who determines which criteria are relevant to a specific query/development proposal. If it is DPTI's intention to centralise this process, then Council with its abundant local knowledge and experience requests the opportunity to contribute to this important aspect of the new system.

Zones

The role of Desired Outcomes is not fully understood in the context of the new zoning structure, in particular when relating to built form and character. The Commission has stated that "Performance outcomes should align with the Desired Outcomes." However, it is noted in the first iteration of the code that there is no explicit link to the Desired Outcomes in the listed Performance Outcomes, as has been the conventional practice under the current system, whereby a Principle of Development Control will explicitly seek development to align with the desired character as outlined in the corresponding zone or policy area.

To expand on this issue, PO 3.1 under the Township Zone of the P & D Code has been highlighted. This Performance Outcome under Built Form and Character seeks the following:

"Buildings are of a scale and design that complements surrounding built form, streetscapes and local character".

This is a generic outcome for Townships within the LNWCA that are ultimately restricted by economic parameters. However, as we start to bed down Phase 2 and 3 of the Code it is reasonable to assume that inherent complexities will emerge between existing and desired characters of a locality. It is therefore logical that a Desired Outcome would be built into a generic Performance Outcome relating to built form and character. To avoid this would surely result in duplication and the potential for unintentionally prohibitive or diluted Zone outcomes. An example referencing PO 3.1 above would read:

"Buildings are to be of a scale and design that complements surrounding built form, streetscapes and local character and demonstrate consistency with DO 2".

Note that the loss of Desired Character statements for each zone in all council areas is a significant concern for the sector and reference to established character is essential in ensuring this is a consideration in the assessment of any development proposal. It is therefore considered that this element be picked up and strengthened in the policy wording of the Code along the lines of what has been suggested above.

Overlays

It is considered, that Overlays provide both a greater level of understanding regarding spatial issues within the State and additional clarity when applying particular policy suites. In general, the overlay suite offered in the Phase 1 provides sufficient content to understand how they will function in practice and Council looks forward to reviewing how particular Overlays such as Hazards (e.g. Bushfire Protection), Sloping Land and Water Resources will evolve in future iterations of the Code.

Council encourages DPTI to further develop the Overlay Suite to capture additional spatial considerations, and to this end the following wish list is provided below.

Additional overlays considered imperative in future iterations of the code:

- Mount Lofty Ranges Watershed Protection Area (based on the recent Mount Barker Watershed Overlay and should be applied consistently across all nine 'watershed' councils)
- Primary Production Priority Areas as developed by PIRSA for some councils within Greater Adelaide
- Native Vegetation
- The Environment & Food Production Areas (EFPA)
- Conservation
- Flood Risk

Additional overlays considered useful with respect to future reform:

- Landscaping Schedules for Preferred Native Plant Species
- Climate Change Adaptation Priority Areas
- Key Biodiversity Hot Spots
- Climatic Zones - Appropriate Ecologically Sustainable Design Response

General Modules

The General Provision Suite offered in the Phase 1 provides a much condensed and compact version of the existing Council Wide Provision Suite. Council looks forward to closely reviewing how particular Modules such as Design and Siting, Interface between Land Uses, Residential Liveability and Tourism Development will evolve in future iterations of the Code.

Referrals

The rationalisation of the referral process is considered a positive step in improving system efficiency. Council is also supportive of the Deemed to Satisfy exemption criteria being expanded as a means to further incentivise good planning outcomes that respond appropriately to site and locality constraints.

Definitions

A detailed review of the land use and administrative definitions is provided in **Appendix A – Submission Form** attached to this letter.

Summary

In summary, the Adelaide Hills Council considers that the Planning and Design Code in the Outback sets a strong foundation for future iterations of the Code. Although the release of this version of the P & D Code provides good context and understanding of the structure of the Code, it is considered light on with respect to policy content relevant to Adelaide Hills Council. As such we look forward to and anticipate providing thorough and detailed analysis of relevant policy content in future iterations of the Code.

If you have any queries regarding the above comments then please do not hesitate to contact Marc Salver, Director Development and Regulatory Services on [REDACTED].

Yours sincerely



Andrew Aitken
Chief Executive Officer



Appendix A – Submission Form



Submission form: Planning and Design Code in the outback (land not within a council area)



This submission form is being used to collect feedback from practitioners and the community on the Planning and Design Code in the outback (land not within a council area). It will help us consolidate comments under specific themes so that we can more easily identify trends and consider feedback according to the zone, overlay or general module to which it applies. Your input will ensure that the new planning and development rules for the outback meet the planning needs of rural South Australians and address planning issues relevant to land outside of council boundaries.

Please send your completed submission form to:

Jason Bailey, Project Lead Planning and Design Code
Department of Planning, Transport and Infrastructure
Level 5, 50 Flinders Street, Adelaide 5000
GPO Box 1815, Adelaide SA 5001
Email: DPTI.PlanningEngagement@sa.gov.au

Section one:

1. Are you a planning, design or building industry professional?

- Yes
 No

If yes, please choose the professional field that best describes you from the drop-down list below:

Planning

2. Are you lodging this submission on behalf of yourself or an organisation?

- Self
 Organisation

If you are lodging a submission on behalf of an organisation, please provide the name of your organisation below:

Adelaide Hills Council

3. What council (or non-council) area do you typically reside in?

N/A

4. **If you wish to receive a report on the feedback received during this consultation, please provide your name and email address.**

Name: Adelaide Hills Council Attention: Marc Salver

Email address: mail@ahc.sa.gov.au

Section two: Feedback on the Planning and Design Code in the outback

5. **Please provide your feedback on any or all of the Code sections outlined below.**

PART 1 – RULES OF INTERPRETATION

Desired Outcomes

With respect to Desired Outcomes (DO) Council seeks further clarity regarding how the assessment weighting should be afforded when considered in association with Performance Outcomes for Performance Assessed development. Currently there is some confusion surrounding how this aspect of the new system should be navigated.

PART 2 - ZONES AND SUBZONES

Council generally supports the structure and layout of the Zones including the Zone procedural tables.

With regard to the direction provided in the Deemed to Satisfy table under the 'Relevant Requirements' heading there is some confusion where the commentary stipulates the following:

“In these instances (where development trips from Deemed-to-Satisfy to performance assessed) the relevant provisions are the Performance Outcomes that correspond with the specified Deemed-to-Satisfy requirement, plus any Desired Outcomes from the relevant module”.

Although on the surface this appears to be an efficient approach to deal with performance assessed development, Council would seek clarity and question whether it would restrict a relevant authority from undertaking a full and balanced assessment of all relevant criteria within the Code. Particularly where a development has certain elements that pull in other relevant Performance Outcome criteria in for instance the General Modules, which had not been identified as Deemed to Satisfy criteria. This issue has been elaborated on in Council's accompanying letter and centres on the issue of who arbitrates the discretionary role of applying relevant criteria to a specific development proposal.

If it is DPTI's intention to centralise this process, then Council with its abundant local knowledge and experience requests the opportunity to contribute to the development of this important aspect of the new system.

PART 3 - OVERLAYS

Council generally supports the structure and layout of the Overlays and the associated referral frameworks.

PART 4 - GENERAL MODULES

Council generally supports the structure and layout of the General Modules and has no further commentary at this time.

PART 5 - MAPPING

Council supports the ease of access to the spatial data that the mapping provides, and this is seen as a very positive aspect of the proposed e-planning system

PART 6 – LAND USE DEFINITIONS

The following table outlines key questions or comment regarding the land use definitions as presented in the P & D Code:

Land Use Definition	Question	Comment
Agricultural building	Should this include workers accommodation?	It is considered that agricultural workers accommodation should be picked up whether in this definition or a separate one for this use
Animal keeping	Should this include snail farm?	N/A
Bulky Goods outlet	Should exclusions be expanded for clarity?	It is considered that the exclusions should be expanded for clarity in order to know exactly what's in and what's out in this instance
Consulting Room	How is curative science defined?	This is an important element to include in the definition i.e. all forms of curative science and practices should be allowed within the ambit of the definition for consulting room
Indoor Rec Centre	N/A	It is good to see this definition included
Industry	Why is an agricultural industry excluded?	It is considered that 'industry' should be clearly defined in order to clarify if this includes or excludes agricultural industries. If agricultural industry is to be excluded in this instance, then a separate definition should be provided in this instance
Shop	Is there scope to include a small scale ancillary use to capture limited dining (not to be confused with restaurant). Is there scope to exclude licensed premises?	It is considered that the definition of shop should include a small scale ancillary use to capture limited dining but not a restaurant which is separate and defined use

In addition to the above Council considers it imperative that in future iterations of the P & D Code that the following land use classes be defined and permitted in rural zones/areas:

- Winery, distillery and cideries;
- Community Facilities; and
- Agriculture

PART 7– ADMINISTRATIVE DEFINITIONS

The following table outlines key questions or comment regarding the administrative definitions as presented in the P & D Code:

Administrative Definition	Question	Comment
Gross Leasable Floor Area	Does this include toilets and verandahs?	It is considered that what's included and excluded should be made explicit.
Medium and high Density	N/A	The same definition is provided for both scenarios.
Protective Tree Netting Structure	Why has this definition changed?	It is considered that the established term should be transferred from the existing system to the new system. In this case Environmental Covers was generally adopted as the common term to describe tree netting structures.
Site	Can this definition be further refined?	This definition is still considered vague in the context of trying to calculate reasonable expansion of existing non-complying use or building, particularly its curtilage vs the whole site.
Wall height	Can this definition be further refined?	Consideration may need to be given to how gable ends are considered. In addition consideration should be given to how such a definition may impact the adaptation of roof spaces, where mass inducing attic development could proliferate as a poor design outcome, while still achieving wall height criteria for deemed-to-satisfy development.

PART 8 – REFERRALS TO OTHER AUTHORITIES OR AGENCIES

Council generally supports the Referral framework and has no further commentary at this time.

Thank you for the opportunity to provide feedback.