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Our Ref: R19/18795
Contact: Trevor Smith

26 November 2019

Mr Michael Lennon
Chairperson
State Planning Commission

Via email DPTI.PlanningReformSubmissions@sa.gov.au

Dear Mr Lennon

Re: Draft Planning and Design Code – Phase 2 District Council of Tumby Bay

The District Council of Tumby Bay has reviewed the Draft Planning and Design Code – Phase 2 Rural Areas documentation and provides the following submission as it relates to the transition of the current Development Plan into the Planning and Design Code.

The Transition Table for Tumby Bay has been reviewed and a summary of the comments regarding each of the proposed Planning and Design Code Zones and Sub Zones are provided in the **attached** table. In general terms, many of the issues raised in the table are small technical issues that can be resolved with simple and straightforward updates to the draft Planning and Design Code.

However, Council has a number of more substantive issues with the draft Planning and Design Code that it considers requires some more substantial review and reconsideration. The key issues which Council feels requires more significant reconsideration prior to the finalisation of the draft Planning and Design Code are as detailed as follows.

Tumby Bay Town Centre Zone

In the Tumby Bay Township DPA, which was authorised in February 2018, Council enlarged the extent of the Town Centre Zone to incorporate areas to the north and south of the core of the township and provide the capacity for a broader range of uses, residential infill and adaptive reuse opportunities in these locations. While the areas to the north and south are predominantly residential, they contain a variety of institutional uses, including the hospital, churches and a number of tourist accommodation facilities and other small businesses. Additionally, much of the building stock in these areas dates from the early times of the township and features a variety of character elements.

The inclusion of this area in the Town Centre Zone was a deliberate, considered approach in the DPA. The DPA underwent public and agency consultation and the final DPA that was adopted as policy was ultimately supported and endorsed by DPTI. Council is disappointed that, less than two years later, the effort expended in creating this policy outcome is effectively being reversed by the imposition of the Planning and Design Code.

- 1. Given that Council has been through an extensive process very recently to establish the zoning, Council requires that the extent of the Township Activity Centre Zone remains the same as that of the current Town Centre Zone.**

Coastal Zones

Council considers that the approach of not having a Coastal Zone as a basic zone is fundamentally flawed. South Australia's coastline is a key character element of the whole state that is a cornerstone in defining the state economically, socially and environmentally. While it is understood that Zones revolve around use and activity, Council considers that the status and complexity of the coastal interface needs to be the underpinning definition of the policy response.

The approach in the draft Planning and Design Code results in policy frameworks for both urban and extra-urban coastal areas in the District Council of Tumby Bay that appear to be less refined and sophisticated than the Development Plan zones they are replacing.

The Coastal Open Space Zone currently applies to the public areas adjacent to Tumby Bay and Port Neill. This zone was imposed following the outcomes of the Eyre Peninsula Coastal Strategy and was specifically designed to reflect that in coastal regional townships, the coastal interface is frequently the dominant characteristic in defining the character of the township. To suggest in policy that this interface is not worthy of a defined and properly focussed zone and, instead needs to be 'shoehorned' into a zone that is better suited to urban parks and sporting fields within metropolitan Adelaide is an affront to rural communities across South Australia.

The transition to an Open Space Zone grossly downgrades the importance of these areas of the coast and without a sub zone fails to transition the existing policy appropriately. It should provide policy and refer to land uses common to these areas including jetty, boat ramp, pontoons, kiosks, public car parking and sporting activities related to water activities.

The transition of the Coastal Conservation to Conservation Zone with a Coastal Overlay is generally accepted but the wording and the nomenclature of the Visitors Experience Sub-Zone does not comfortably fit with the character and use of the land. The Coastal Conservation Zone in Tumby Bay frequently extends a significant distance inland and covers significant areas of privately held land. As a key example, tourist accommodation is a desired outcome and yet it is listed restricted development.

The policy contained within the Zone and Sub-Zone appears to be directed primarily towards public land and yet applies to all the sub-zone, which is predominantly private land and extends a considerable distance from the coastline. Given the high levels of community concern that accompanied the introduction of the Coastal Conservation Zone a number of years ago, further changes to the policy framework for coastal areas need to be clear in their intent and policy outcomes. Ideally, the policy should mirror the intent and policy outcomes of current policy unless clear justification is presented for policy changes.

Caravan and Tourist Park Zone

The current restriction of land division policy in the Caravan and Tourist Park Zone in Tumby Bay has not been transitioned.

- 2. We require that this policy should be included in the Land Division Overlay similar to which currently applies to our Township zones.**

Suburban Employment Zone

The zone module relating to Suburban Employment is not appropriate as a replacement for the existing Commercial Zone in Port Neill and the use of “suburban” terminology and policy in rural areas and small towns is not considered to be appropriate.

- 3. The Council’s requirement is for this area to be included in the adjoining Town Activity Centre Zone which was previously recommended in the February 2018 review and subsequent advice put forward by Council staff.**

General Neighbourhood Zone

The transition of the Marina Policy Area and Town Policy Area to a General Neighbourhood Zone is supported and the minimum allotment areas listed are correct except for the Town Policy Area which needs to be corrected to be 350 square metres in lieu of 300 square metres to be consistent with current policy.

- 4. Council requires that the correction to 350 square meters be made.**

Suburban Neighbourhood Zone

The transition of the remainder of the residential area to a Suburban Neighbourhood Zone is not considered to constitute the appropriate Zone for this area. It should not be a “suburban” module but rather needs to be the Residential Neighbourhood module which is more appropriate to rural residential areas. Again, Council would question the nomenclature of many of the Zones as being inappropriate for areas outside of metropolitan Adelaide, other than large regional cities.

Rural Shack Settlement Zone

The use of the terminology, 'Rural' Shack Settlement Zone is not considered appropriate for the relevant areas given they are all located within the existing towns. The 200 square metre minimum allotment size is picked up at Mottled Cove but the different height policy between the front and back shacks, which is important to the existing and desired character for this area has not been included and is required to adequately preserve the existing character. The TNV of 200 square metres minimum allotment size is not included for the existing Cape Burr and Elfreida areas.

- 5. Council requires the inclusion of the height policy and the TNV of 200 square meters to be included in the appropriate shack areas**

Rural Living Zone

There is an existing buffer principle in the Rural Living Zone applying to the adjoining landfill site at Tumby Bay (PDC 11) which is not included. This policy was added to the Development Plan in the Tumby Bay Township DPA at the request of the EPA so needs to be retained in policy going forward.

- 6. Council requires the buffer to be retained in the policy**

General Commentary

Council would express concern in respect of the timeframe for the review and submissions on what is a large, unwieldy and difficult to read document.

While it is understood that the document will ultimately reside on the Planning Portal in a form that allows all of the policy applicable to a particular site and locality to be easily assembled, the lack of this functionality for the consultation period is most unfortunate. Regional Councils have limited resources to apply to such processes and given what has been seen on consultation, Council remains concerned as to the resource implications of the early stages of implementation of the Code and assessment of applications against it in April 2020. These concerns would be particularly pertinent if the electronic version of the Code is not available in a fully functional form by the implementation date.

Council would also seek confirmation that the electronic planning system will be operational prior to the implementation of the Code in April 2020. The electronic planning system has been a key element of the overall reform process in offering potential productivity improvements, particularly for regional Councils.

- 7. Council seeks that if these critical elements of the system are not ready for implementation at the time that Phase 2 of the Code is implemented, the implementation should be delayed until they are ready. If a delay is not possible, Council seeks to understand what contingencies are in place to mitigate the impacts of having to manually process applications through the new system.**

We would also augment our specific comments above by highlighting that the language adopted throughout the Code is frequently unapproachable and jargonistic. The importance of language in planning policy cannot be overstated, and poor choice and construction of language can serve to subjugate and marginalise particular groups. The language in the draft Planning and Design Code frequently adopts nomenclature and expression which is highly urban and is considered inappropriate to regional areas.

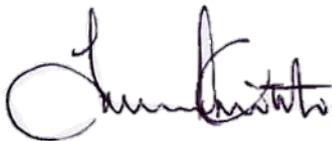
The implementation of a document containing such language has the potential to reinforce perceptions held in regional communities that the reform process is primarily focussed on the Adelaide metropolitan area. Council would implore DPTI and the Commission to reconsider the language and expression used throughout the document prior to it being finalised in order to make it suitably inclusive.

Closure

We trust the Commission will have regard to Council's comments and make necessary amendments to the draft Planning and Design Code to address these issues prior to implementation.

If you require any further information or clarification regarding these issues, please do not hesitate to contact Emma McDonald at Council on [REDACTED] in respect of general issues. If you wish to discuss technical or policy issues, you are welcome to contact Council's planning consults Michael Richardson and Wayne Gladigau of MasterPlan on [REDACTED].

Yours sincerely



TJ Smith
Chief Executive Officer

enc: Transition Table Comment Summary.
cc: The Hon Stephan Knoll MP, Minister for Planning (by email).

District Council of Tumby Bay

Planning & Design Code Phase 2 – (Rural Areas)

CURRENT DEVELOPMENT PLAN ZONE AND POLICY AREA	PLANNING & DESIGN CODE	OVERLAYS	COMMENTS
Airfield Zone	Infrastructure (Airfield)	Airport Building Heights Airfields Building Near Airfields	<ul style="list-style-type: none"> The Infrastructure (Airfield) Zone is a direct replacement of the Airfield Zone. Tables 1-3 Standard. (Accepted Development, Deemed to Satisfy, Performance Assessment Development policies). Table 4 Restricted Development: <ul style="list-style-type: none"> Shop greater than 250 in association with terminal. <p><u>Assessment Provisions</u></p> <ul style="list-style-type: none"> Additional flight simulation and training facility land use. No visitor accommodation ancillary to aviation or caretakers dwelling. No mention of other ancillary facilities such as a solar renewable energy facility (2018 Review).
Bulk Handling Zone	Employment (Bulk Handling)	Airport Building Heights Airfields Building Near Airfields	<ul style="list-style-type: none"> Direct replacement of existing Bulk Handling Zone at Tumby Bay. Also, still part of Ungarra Township. Tables 1-3 Standard. Table 4 Restricted Development: <ul style="list-style-type: none"> Dwelling except where in association with the land use. <p><u>Assessment Provisions</u></p> <ul style="list-style-type: none"> Similar transition of policy. Advertisement added to land uses. Road transport terminal and value-added industries removed although there is a Performance Outcome encouraging the latter. Additional zone policy regarding fencing.



CURRENT DEVELOPMENT PLAN ZONE AND POLICY AREA	PLANNING & DESIGN CODE	OVERLAYS	COMMENTS
<p>Caravan & Tourist Park Zone & Policy Area 1</p>	<p>Caravan and Tourist Park Zone No Policy Area or Sub-Zone</p>	<p>AHD Levels Coastal Areas</p>	<ul style="list-style-type: none"> • The Caravan and Tourist Park Zone is a direct replacement of the existing zone. A Coastal Overlay applies to the policy area at Tumby Bay. • Tables 1-3 Standard. • Table 4 Restricted Development: <ul style="list-style-type: none"> - Industry except Light Industry. - Land Division except in relation to lease under <i>Residential Parks Act 2007</i>. - Shop greater than 300m². <p><u>Assessment Provisions</u></p> <ul style="list-style-type: none"> • Similar transition of policy. • The Principle 12 restriction on Land Division except for realignment for certain titles has not been transitioned and is an important component of current policy. • It is suggested that the limited Land Division Overlay be used to retain current policy.





CURRENT DEVELOPMENT PLAN ZONE AND POLICY AREA	PLANNING & DESIGN CODE	OVERLAYS	COMMENTS
Coastal Conservation	Conservation Zone Visitors Experience Sub-Zone	Coastal Areas	<p>All of the Coastal Conservation Zone is now the Conservation Zone and the Visitors Experience Sub-Zone with the appropriate Coastal Areas Overlay.</p> <ul style="list-style-type: none"> • Tables 1-3 Standard. • Table 4 Restricted Development: <ul style="list-style-type: none"> - Dwelling, except in sub-zones. - Land Division and Tourist Accommodation in Visitors Experience Sub Zone. <p><u>Assessment Provisions</u> – Zone</p> <ul style="list-style-type: none"> • Similar transition of policy. • Advertisement, campground, farming and renewable energy added to land uses. <p><u>Assessment Provisions</u> – Sub-Zone</p> <ul style="list-style-type: none"> • Desired Outcome’s and Performance Outcome’s encouraging tourist accommodation, tourist facility, café, shops, restaurants, and yet Tourist Accommodation is Restricted. • Sub Zone policy does not reflect that the majority of the zone which is in private rather than public ownership. • No reference to PDC 6 Re existing LMA’s north of Port Neill. Suggest use of overlay. • No reference to existing PDC’s 16-20 regarding replacement dwellings. Suggest use of overlay. • Insufficient policy exists to reflect that much of the zone is currently used for primary production purposes. • Given high level of community concern when the Coastal Conservation Zone was created, the transition needs to be more consistent with current policy.





CURRENT DEVELOPMENT PLAN ZONE AND POLICY AREA	PLANNING & DESIGN CODE	OVERLAYS	COMMENTS
Coastal Open Space Zone	Open Space No Sub-Zone	AHD Levels Coastal Areas	<ul style="list-style-type: none"> • The existing Coastal Open Space Zone is now the Open Space Zone. There is no separate Precinct for the current zone area north of the Marina entrance. • Tables 1-3 Standard. • Table 4 - No restricted development. <p><u>Assessment Provisions</u></p> <ul style="list-style-type: none"> • The integrity of the Coastal Open Space Zone is lost with the transition to an Open Space Zone. The Visitors Experience sub zone maybe more appropriate. • The Zone is very urban in its focus and doesn't reflect the importance of the interface between land and sea that the coastline plays in the character in rural coastal townships. • DO's and PO's are too broad re: open space. • The Zone should refer to recreation and sporting activities related to the coast i.e. jetty, pontoons, boat ramps. • Assume local policy for Tumby Bay and Port Neill foreshore is covered in the overlays • Reference to shops should be less than 150m², not 50m² to be consistent with current zone. • Current PDC 10 re camping restriction on lot 11 in DP 28246 is not covered. This is suggested to be covered as an overlay.





CURRENT DEVELOPMENT PLAN ZONE AND POLICY AREA	PLANNING & DESIGN CODE	OVERLAYS	COMMENTS
Commercial Zone	Suburban Employment		<p>The only Commercial Zone in Port Neill is converted to a Suburban Employment Zone (Incorporating Precinct 3).</p> <ul style="list-style-type: none"> • Tables 1-3 Standard. • Table 4 -Industry, shop, waste and wrecking yard listed as Restricted Development (Number of existing forms of non-complying development are now Performance Assessed). <p><u>Assessment Provisions</u></p> <ul style="list-style-type: none"> • Covers existing policy but adds additional “suburban” policy i.e. Design policy, building heights, building heights on boundaries. • The zone module is very metropolitan focussed and is not considered appropriate for a small settlement like Port Neill. • The use of ‘suburban’ terminology in all rural neighbourhoods is questioned. <p>This zone should be part of the Town Activity Centre which was recommended in Feb 2018 review.</p> <p>The range of uses present and envisaged in the zone are generally covered in the adjoining Town Activity Centre Zone.</p>
Conservation	Conservation Zone		<p>The existing zone on Bratten Way remains a Conservation Zone (No sub-zone or coastal overlays).</p> <ul style="list-style-type: none"> • Tables 1-3 Standard. • Table 4 Restricted Development: <ul style="list-style-type: none"> - Nil apart from subzones which are not relevant. <p><u>Assessment Provisions – similar</u></p> <ul style="list-style-type: none"> • <u>Sensible transition.</u>





CURRENT DEVELOPMENT PLAN ZONE AND POLICY AREA	PLANNING & DESIGN CODE	OVERLAYS	COMMENTS
Deferred Urban	Deferred Urban		<ul style="list-style-type: none"> • This is a direct transition of the existing Deferred Zone on Ski Beach Road. • Tables 1-4 Standard. • Building Near Airfields Overlay is listed but not applicable. The zone is approximately three (3) kilometres away from the airstrip (further than all existing urban zones within the Tumby Bay township). The overlay should only apply to the zones adjoining the Airstrip.
Industry Zone	Employment Zone Including Commercial Precinct 4		<p>The existing Industry Zones on Bratten Way are now the Employment Zone.</p> <ul style="list-style-type: none"> • Tables 1-3 Standard. • Table 4 Restricted Development: <ul style="list-style-type: none"> - Industry except Special Industry is Restricted? (Assume this is an error). - Shop <1,000m², not bulky goods and ancillary to an industry not restricted. <p><u>Assessment Provisions – similar</u></p> <ul style="list-style-type: none"> • Sensible transition. • Notification – all development excluded except when adjacent to a different zone and some listed land uses.





CURRENT DEVELOPMENT PLAN ZONE AND POLICY AREA	PLANNING & DESIGN CODE	OVERLAYS	COMMENTS
<p>Primary Production Water Protection Zone</p>	<p>Rural Zone</p>	<p>Dwelling Excision Lot Size Minimum Water Protection Overlay Limited Land Division Dwelling Excision.</p>	<p>Straight Transition.</p> <ul style="list-style-type: none"> • Table 1- Farming an Accepted Development. • Table 2 – Deemed to satisfy criteria for: <ul style="list-style-type: none"> - Agricultural Building. - Horse Keeping. - Horticulture. • Table 3 – Standard. • Table 4 – Restricted Development applies to: <ul style="list-style-type: none"> - Dwelling within Limited Dwelling Overlay.* - Land Division with Overlays.* - Renewable Energy Facility within Overlays.* - Shop with exceptions. <p><u>Assessment Provisions</u></p> <ul style="list-style-type: none"> • Standard. • Dates removed from Excision policy for land division. A suitable resolution is required to ensure policy is similar and fair to existing landowners. Note DCTB policy relates to 1 January 1980. • The existing Water Protection Zone is incorporated into the Rural Zone with an appropriate overlay.
<p>Recreation Zone</p>	<p>Recreation Zone</p>	<p>AHD Levels</p>	<ul style="list-style-type: none"> • This applies to the existing Recreation Zones north of Tumby Bay and at Port Neill. • Tables 1 – 3 Standard. • Table 4 – No Restricted Development (compared to existing list of non-complying but all public land and unlikely to be an issue). <p><u>Assessment Provisions</u></p> <ul style="list-style-type: none"> • Standard. • No local addition of tourist purposes as an envisaged land use. This applies to the existing RV site north of Tumby Bay.



CURRENT DEVELOPMENT PLAN ZONE AND POLICY AREA	PLANNING & DESIGN CODE	OVERLAYS	COMMENTS
Residential Zone <ul style="list-style-type: none"> Including Marina Policy Area and Town Policy Area 	General Neighbourhood	Maximum Building Heights (Storeys) Maximum Building Heights (Metres) Frontage Minimum Lot Size Minimum AHD Levels	<ul style="list-style-type: none"> All of the existing Residential Zone in Tumby Bay including the Marina and Town Policy Area. (Note that the Town Centre Fringe Precinct has been removed from the Township Activity Zone and is included in the General Neighbourhood Zone.) Tables 1-3 Standard. Table 4 Restricted Development. Shop greater than 1,000m ² . <u>Assessment Provisions</u> <ul style="list-style-type: none"> Standard for low rise, low and medium density. Minimum allotment size should be 350m² in lieu of 300m² in Town Policy Area 5. Minimum allotment size in Marina area correct. Remove Precinct 6 and return to Township Centre Activity Zone. This amendment was a major part of the recent Tumby Bay Township DPA and similar policy and zoning should be retained for this area.





CURRENT DEVELOPMENT PLAN ZONE AND POLICY AREA	PLANNING & DESIGN CODE	OVERLAYS	COMMENTS
<p>Residential Zone</p> <ul style="list-style-type: none"> Including Cape Burr, Elfreida & Mottled Cove Policy Areas 	<p>Rural Shack Settlement</p>	<p>Maximum Building Heights (Storeys) Maximum Building Heights (Metres) Frontage Minimum Lot Size Minimum AHD Levels</p>	<p>The Cape Burr, Elfreida and Mottled Cove Policy Areas of the existing Residential Zone are now part of the Rural Shack Settlement Zone.</p> <ul style="list-style-type: none"> Tables 1 – 3 Standard. Table 4 – Restricted Development includes no more than one dwelling and land division. <p><u>Assessment Provisions</u></p> <ul style="list-style-type: none"> Standard for low scale and low-density housing. Question the use of “Rural” shack terminology in township areas as confusing and inappropriate. Does not include TNV of 200m² for Cape Burr and Elfreida areas which are important character elements of these area. Does not include different height policy between front and back at Mottled Cove which is an important character element of these areas. While the policy transition is generally reasonable, to nomenclature is wholly inappropriate.





CURRENT DEVELOPMENT PLAN ZONE AND POLICY AREA	PLANNING & DESIGN CODE	OVERLAYS	COMMENTS
<p>Residential Zone</p> <ul style="list-style-type: none"> Island and Port Neill Town Policy Areas Part of Town Policy Area, Precinct 9 in Tumby Bay (Former Home industry Zone) 	<p>Suburban Neighbourhood Zone</p>	<p>Maximum Building Heights (Storeys)</p> <p>Maximum Building Heights (Metres)</p> <p>Frontage Minimum</p> <p>Lot Size Minimum</p> <p>AHD Levels</p>	<p>The Main Residential Area at Port Neill, the Island and Precinct 9 (former Home Industry Zone) in Tumby Bay are in the Suburban Neighbourhood Zone.</p> <ul style="list-style-type: none"> Tables 1-3 Standard. Table 4 – Restricted Development: <ul style="list-style-type: none"> Shop except with GLA less than 1,000m². Currently less than 100m². <p><u>Assessment Provisions</u></p> <ul style="list-style-type: none"> Standard for low to very low-density housing The TNV for minimum allotment sizes are correct. i.e. 700, 500 and 450m² respectively. The Suburban Neighbourhood Zone is inappropriate for rural residential areas. Should use the Residential Neighbourhood instead. The use of the name suburban isn't particularly appropriate in regional areas, other than in large regional cities.





CURRENT DEVELOPMENT PLAN ZONE AND POLICY AREA	PLANNING & DESIGN CODE	OVERLAYS	COMMENTS
Rural Living	Rural Living (no sub-zone)	Lot Size Minimum Overlay	<p>Straight forward transition</p> <ul style="list-style-type: none"> • Tables 1-3 Standard • Table 4 – Restricted Development: <ul style="list-style-type: none"> - Restaurant. - Shops GLA greater than 200m2. <p><u>Assessment Provisions</u></p> <ul style="list-style-type: none"> • Similar with additional requirements for horse keeping (deemed to satisfy criteria). • One 15 metre setback for all boundaries compared to range. • Additional building height requirement. • DTS requirements for Buildings and Structures, kennels, stables, shelters, alterations, outbuildings, carports and verandas. • Land Division TNV minimum allotment size overlay is correct. • Does not include existing buffer zone principle 11 in regard to the land fill site on Bratten Road which is important and was only inserted in recent DPA.
Town Centre	Township Activity Centre Zone Includes existing Recreation and Commercial Precinct	AHD Levels	<p>The existing Town Centre Zone, apart from the Town Centre Fringe Precincts are transitioned to the Township Activity Centre Zone.</p> <ul style="list-style-type: none"> • Tables 1-3 Standard. • Table 4 – Restricted Development: <ul style="list-style-type: none"> - Industry except for Light Industry. <p><u>Assessment Provisions</u></p> <ul style="list-style-type: none"> • Similar transition. • Reasonably flexible. • Needs Residential Precinct 6 added in to be consistent with the recent DPA. Precinct 6 includes a number of mixed uses including the Hospital which were included in the Town Centre Zone in the Township DPA in 2018.



CURRENT DEVELOPMENT PLAN ZONE AND POLICY AREA	PLANNING & DESIGN CODE	OVERLAYS	COMMENTS
Township	Township Zone	Limited Land Division	<p>This is a straightforward transition of the existing Township Zones in Lipson and Ungarra.</p> <p>Note – the Ungarra Zone does not incorporate the existing Bulk Handling Area adjacent, which was suggested in the 2018 review.</p> <ul style="list-style-type: none">• Tables 1-3 Standard.• Table 4 – Restricted Development. <p><u>Assessment Provisions</u></p> <ul style="list-style-type: none">• Similar transition.