



28 February 2020

Michael Lennon  
Chairperson  
State Planning Commission  
GPO Box 1815  
ADELAIDE SA 5001

Dear Mr Lennon,

**RE: DRAFT PLANNING AND DESIGN CODE – CITY OF PORT LINCOLN CONSULTATION SUBMISSION**

We refer to the release of the Planning and Design Code (the code) by the State Planning Commission (the Commission) for public consultation. In preparing this submission, the City of Port Lincoln (referred to hereafter as 'the Council') would like to sincerely thank David Lake, our Transition Manager from the Department of Planning, Transport and Infrastructure (DPTI) as well as Denise LeBlond and Andrew Mitchell for their assistance, education and support during the transition to the new Planning, Development and Infrastructure Act 2016 (PDI Act) to date.

Council staff are generally supportive of the proposed Code and the conversion of the existing Development Plan, however propose to put forward the following recommendations, comments and observations.

**1. Implementation Date**

The Council commends the Commission for the recent decision to delay the implementation of the Code for Phase 2 and 3 Councils. Whilst the City of Port Lincoln is in Phase 3 and is schedule to go live around September 2020, the rest of the Eyre Peninsula Councils sit in Phase 2 with a 1 July go live date. The ten Eyre Peninsula Councils have voted to form a Regional Assessment Panel (RAP) and therefore the Council needs to adopt a Phase 2 'readiness' approach.

**Recommendation:** *Ensure that the City of Port Lincoln is included within the testing and training schedule for Phase 2 Councils.*

**2. Zone Naming Conventions**

Council is concerned with the introduction of unfamiliar and over complicated zoning terms that are inappropriate in a regional setting. Examples being:

- Residential Zone becomes a Suburban Neighbourhood Zone
- Industry Zone becomes an Employment Zone
- Commercial Zone becomes a Suburban Employment Zone

**Recommendation:** *Reinstate zone names with familiar terminology that is appropriate and legible in both a metropolitan and regional setting.*

### 3. *Anomalies*

The Navigator College site (Certificate of Title reference Volume 6170 Folio 375) being an educational establishment currently straddles a Residential Zone and Recreation Zone in the current Development Plan. The Code proposes to carry through the dual zoning and place it in a Suburban Neighbourhood and Recreation Zone. Council believes the conversion to the Code presents an opportunity to fix this anomaly.

***Recommendation:*** *Place the entire site Navigator College site within a Community Facilities Zone.*

A portion of the Lincoln Cove Marina has been included in the Suburban Neighbourhood Zone whereas it should be in the General Neighbourhood Zone. This relates to a mapping anomaly with Precinct 5 Lincoln Cove that occurred during a previous Development Plan Amendment (DPA) and requires rectification as it was never intentional.

As you'll see from the attached Precinct Map PtL/10 from the Development Plan consolidated on January 16 2018, Monterey Drive and surrounding streets are included in Precinct 5. On Precinct Map PtL/10 from the Development Plan consolidated on 6 February 2018 (after the gazettal of the Lincoln Cove Expansion DPA), Monterey Drive and surrounding streets are no longer included in Precinct 5. These properties on this Plan are being called up as 'Residential' with no precinct or policy area on the South Australian Property and Planning Atlas (SAPPA), whereas other properties elsewhere in Precinct 5 on other maps have remained unchanged.

In reviewing the explanatory statement and analysis within the DPA document it can be seen that the most current Precinct Map in the Development Plan is the same one that was listed to replace the old one, but there's nowhere in the documentation that we can see any justification for doing so, or why it would be required in the context of the DPA. The DPA documentation has not been included with this submission however it can be provided by Council staff if required.

It was later confirmed with Council's planning consultant at the time Paul Vivian that this was a mapping error, however it doesn't appear that this matter has been rectified.

This requires rectification as it impacts on the minimum allotment sizes and could make some applications Performance Assessed when they should have a Deemed to Satisfy pathway.

***Recommendation:*** *The Portion of Lincoln Cove Marina that inadvertently had Precinct 5 Lincoln Cove removed be included in a General Neighbourhood Zone consistent with the rest of the residential marina area.*

### 4. *Sewer*

Council is concerned that current Development Plan policy in the Residential and Residential Hills Zones that states that development should only occur if it is connected to the city's sewerage system (SA Water mains) has been removed. This specific policy was included as part of the 2015 Residential Development Plan Amendment (DPA) based on the advice from the Environmental Protection Authority who advised that any areas proposed for infill residential development should be planned to manage wastewater through the existing SA Water sewage infrastructure or a community wastewater management system in preference to individual onsite disposal systems.

***Recommendation:*** *Include additional policy in the proposed Neighbourhood Zones that requires wastewater generating development to be connected to SA Water mains sewer if it is to fall into a Deemed to Satisfy pathway. Performance assessed development should also have this requirement with a corresponding Designated Performance Feature.*

## **5. On-site Wastewater Systems**

Where on-site wastewater systems are appropriate, there is a lack of policy guidance and control around wastewater provisions. A significant issue for regional Councils is to ensure there is improved consideration given to the assessment of on-site wastewater systems at a development application stage. This is often overlooked by private certifiers and in such cases this puts Councils and land owners in a difficult position when having to resolve building siting and design issues post a Development Approval stage.

It is therefore imperative that the Code policy be amended to place a stronger requirement for on-site wastewater to be assessed at a development application stage, and that Deemed to Satisfy and Performance Assessed assessment tables be strengthened to ensure development approvals are not issued in advance of detailed wastewater assessments by qualified wastewater engineers.

**Recommendation:** *Include Code policy that requires wastewater approvals to be issued prior to a development approval.*

## **6. Water Sensitive Urban Design**

Council looks favourably upon the inclusion of improved ESD principles relating to water retention and reuse within the Code. However, we believe the Code policy could be strengthened to reduce reliance on persons accessing and using mains water as a default position. Mandated capture of roof-water for reuse on site should be via larger domestic tanks than what the Building Code currently requires that can be readily placed on dwelling lots either above or in ground, as well as large commercial tanks for commercial, industrial and business uses.

There should also be a requirement to incorporate stormwater detention tanks where appropriate to more effectively manage loads of stormwater release into Council's drainage network to help prevent flooding.

**Recommendation:** *Improve Code policy to ensure water sensitive design is a critical element of site and building design and not a tokenistic afterthought.*

## **7. Coastal Zones and Flood Risk Areas**

In the relevant coastal location areas, the Code does not currently carry forward Development Plan Australian Height Datum (AHD) levels in zoning policy, which stipulates specific Finishes Floor Levels for development to account for future sea level rise. This currently exists within the current Coastal Marina Zone and Regional Town Centre within the current Development Plan.

**Recommendation:** *Incorporate the current Development Plan AHD level policy into the Code via suitable Overlays, TNVs or data layers. We also seek that the Commission includes up to date sea flood mapping to ensure the proper assessment of site constraints and to avoid inappropriate developments occurring in potentially hazardous areas.*

The City of Port Lincoln has its own recent floodplain data that has not been mapped or reflected within our Development Plan. Notwithstanding, we understand that it is common practice among other Councils to rely upon more recent and comprehensive floodplain mapping in development assessment notwithstanding that precise mapping is not contained in the Development Plan. Council requests that there be an opportunity to incorporate recent floodplain data into the Code via a data overlay to ensure hazard prone areas are appropriately developed. Further information can be sought from Council staff should this be required.

## **8. Technical Matters**

Council questions the use of Deemed to Satisfy (DTS) criteria for Performance Assessed applications via the use of the corresponding Designated Performance Feature (DPF). The manner in which DTS criteria is expressed could lead to Performance Assessed development applications being refused due to a lack of guidance as to what variations from DTS criteria are and are not appropriate in a Performance Assessment.

**Recommendation:** *Separate DTS and DPF criteria within the Code.*

Council has identified unnecessary public notification triggers for performance assessed development within certain Zones. For example, notification where 'the site of the development is adjacent land to land in a different zone' will call up notification in circumstances that may not have an impact on the adjoining Zone i.e two different types of Residential zones where the quantitative parameters for development are only marginally different.

**Recommendation:** *Refine the Code to ensure only forms of development where there are impact or interface considerations require public notification.*

In applying the draft Code to routine development applications, Councils has identified that assessment and public notification can be more onerous under the Code than is currently the case in the Development Plan and Regulations. In some instances, Accepted Development is made more difficult through the Overlay exclusion list in Table 1 of each Zone. For example, a carport which is currently Building Rules only is now performance assessed because of the application of the Native Vegetation Overlay across the entire Council area. We are unsure if this is a mapping error given native vegetation is only found in the outer parts of the City boundary that are undeveloped, however if it is to remain in place it would be a significantly backwards step for those applications that currently only require a building code assessment, not planning.

**Recommendation:** *Only apply the Native Vegetation overlay to areas where there are actually remnants of native vegetation.*

Additionally, many types of development will fall into 'All other Code Assessed Development', which means hundreds of policies must be reviewed to determine which apply.

There is concern with the trigger threshold for a 'shop' being a restricted form of development within the Neighbourhood Zones being increased to 1000 square metres whereas the threshold for when a 'shop' is non-complying in the current Development Plan is only 250 square metres. This may result in inappropriate out of centre development occurring and interface impacts with residential dwellings.

**Recommendation:** *Any 'shop' in excess of 250 square metres in a Neighbourhood Zone should be a restricted form of development.*

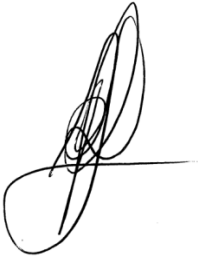
## **9. General matters**

There is a lack of policy guidance around 'store' in the Neighbourhood Zones, which is currently non-complying in the Residential Zone of Council's Development Plan. A store in the General Neighbourhood, Suburban Neighbourhood, Residential Neighbourhood Zone and Deferred Urban Zones is not restricted whilst in the current Development Plan it is non-complying in equivalent zones. Under the Code, a store will be Performance Assessed, however there is insufficient policy to limit and/or guide key built form aspects such as size and height of stores and to guide the circumstances where they might be supported or opposed. Stores on vacant land (i.e a shed not in associated with a dwelling) are not an orderly development outcome, and poses a serious issue in regional SA with the proliferation of people living in sheds and the associated visual, amenity and public health (wastewater) impacts as well as unauthorised changes in land use that can adversely impact on residential amenity.

***Recommendation:*** *Incorporate improved policy in the Code that will provide planning practitioners are clearer understanding of when a store may or may not be appropriate.*

Please contact Jess Burns, Coordinator Development Services should you require any further information or clarification on any of the above.

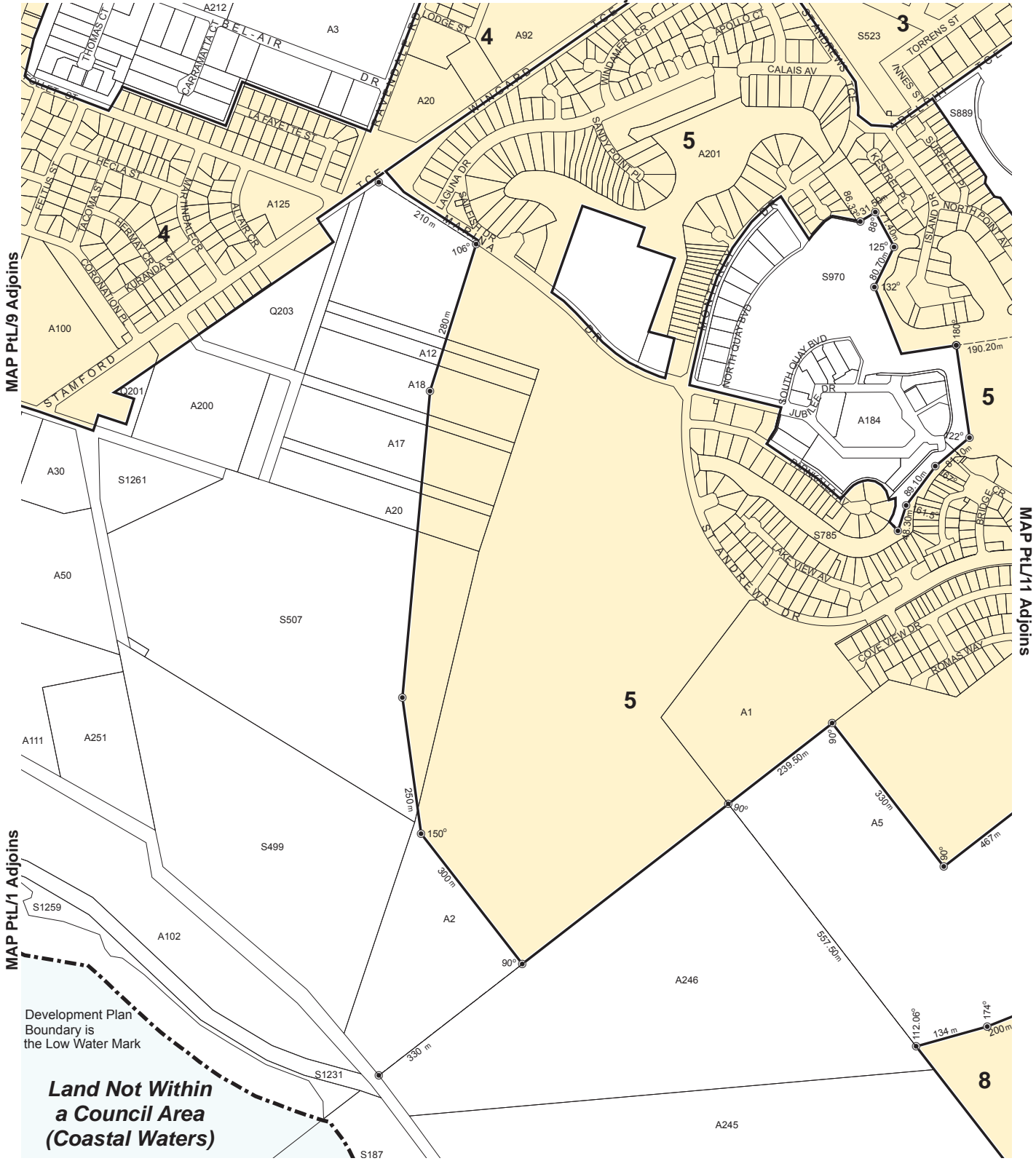
Yours sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a horizontal line extending to the left.

**Stephen Rufus**  
**CHIEF EXECUTIVE OFFICER**

Encl: Map PtL 10 – 16 Jan 18  
Map PtL 10 – 6 Feb 2018

MAP PtL/6 Adjoins



MAP PtL/9 Adjoins

MAP PtL/11 Adjoins

MAP PtL/1 Adjoins

MAP PtL/12 Adjoins

Development Plan Boundary is the Low Water Mark

**Land Not Within a Council Area (Coastal Waters)**

MAP PtL/1 Adjoins

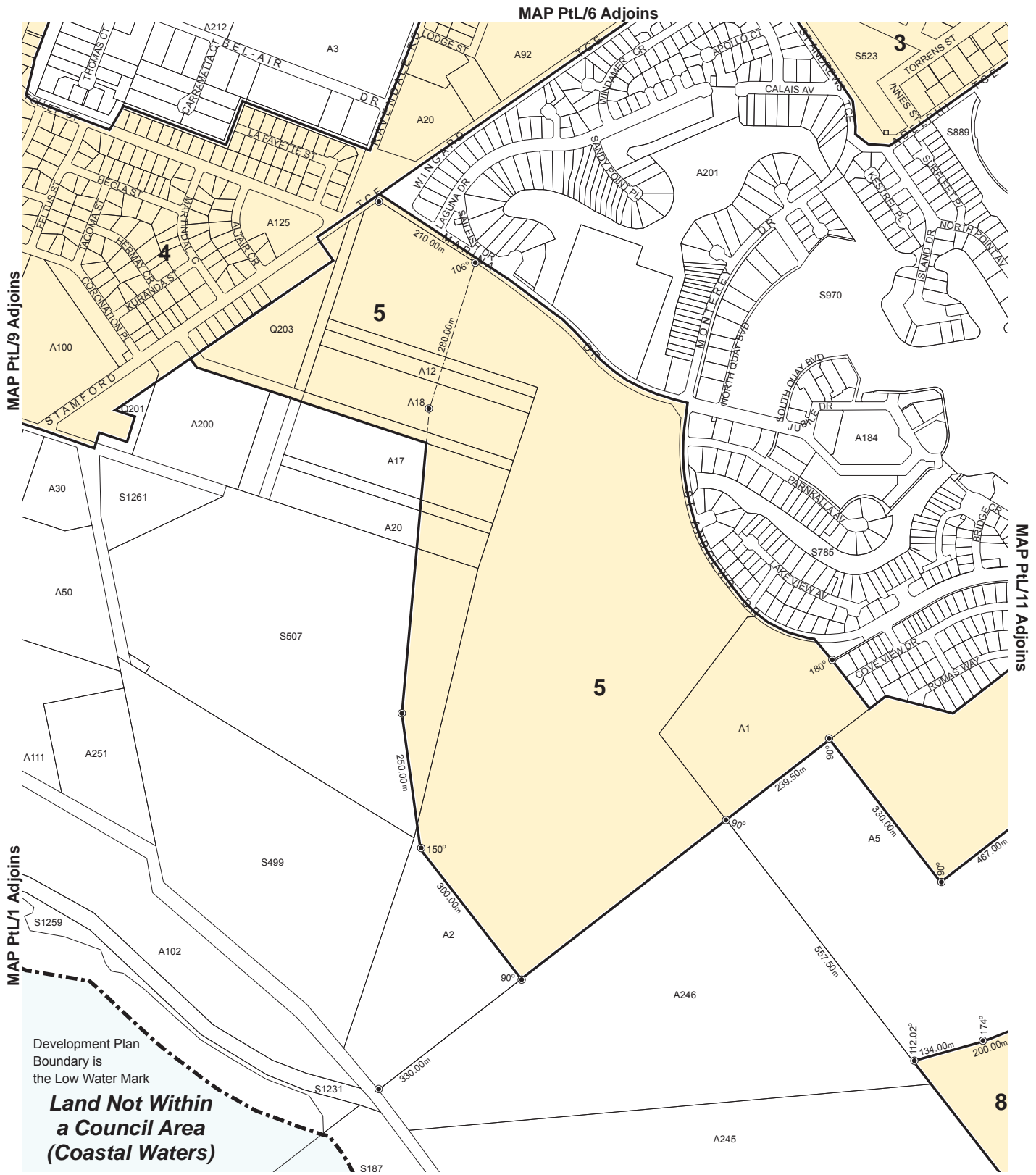
Lamberts Conformal Conic Projection, GDA94

- Precinct**
- 3 Kirton Point
  - 4 Southern
  - 5 Lincoln Cove
  - 8 Eastern



# Precinct Map PtL/10

- Precinct Boundary
- Development Plan Boundary



Development Plan Boundary is the Low Water Mark

**Land Not Within a Council Area (Coastal Waters)**

- Lamberts Conformal Conic Projection, GDA94
- Precinct**
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# Precinct Map PtL/10

- Precinct Boundary
- Development Plan Boundary