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28 November 2019

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

Dear Mr Lennon

Consultation Submission – SA Planning and Design Code

Thank you for providing the opportunity to provide our feedback regarding the draft Planning and Design Code that has been released for public consultation.

Consultation period

The *Planning, Development and Infrastructure Act 2016* has introduced a level of change to the planning system that has not been seen for over 20 years by replacing current development plans with the Planning and Design Code. Despite the extent of this, Phase Two councils have been offered a limited timeframe to respond to the Code. This does not provide a reasonable opportunity for these councils to respond due to:-

1. Limited Staffing – most, if not all, Phase two councils have limited (if any) planning staff to undertake the analysis required of the extensive document and compare that to their existing development plan
2. The 8 week consultation period is in reality considerably less as Council's responses need to be approved by Council at their meeting with agendas usually due mid month. This requires staff to analyse and prepare responses in a reduced timeframe of 5-6 weeks.

We express our disappointment in the timeframes and the seeming lack of understanding or consideration for those councils with the most limited resources.

Whilst we appreciate that the code is written to be utilised as an online tool within the Planning Portal, the layout of the document presented to councils, and the community at large, during the consultation phase is difficult to navigate and understand. Council staff have found the process of analysing and understanding the document to be difficult and this task has been undertaken in addition to their usual duties with much of the analysis done in excess of their usual work hours.

Furthermore, Council staff have also had various other elements concurrently out for consultation, for example Heritage and Character, which also requests responses to be submitted by 29 November 2019, and the Renewable Energy Discussion Paper which closes February 2020. Regional councils do not have the resources to provide analysis and a considered response to multiple elements concurrently, this is likely to result in poor policy outcomes for regional areas most impacted by the changes.

We have concerns that the public engagement process undertaken to date with the general community has been tokenistic and at odds with the Community Engagement Charter outlined within the Act. The community consultation for Wakefield Regional Council (WRC) area was advertised once in the local paper, if it weren't for the efforts of council communications staff it is unlikely that the three attendees would have known about the consultation session. Considering the

significant changes proposed under the new Code with regards to what can now be approved within each of the zones, this means the WRC community remains generally unaware and ill informed about the proposed changes.

Planning policy

Councils have invested significant time and resources in consulting with their communities to develop planning policy that uniquely reflects their local needs. Whilst we support a streamlined approach to the assessment process we feel the code is metro focused with policies that result in loss of local content for our diverse rural communities.

Naming conventions

We are concerned about naming conventions for zones under the Code. The use of the term 'Suburban' in the zoning name is confusing for rural communities, which are not suburbs of metropolitan Adelaide and have no parallel to urban form in regional areas. Developers and the community are keen for descriptive terms which clearly define the intended character of an area, which we don't see in the current zone names. We urge a return to former naming conventions or a review of the new names to prevent confusion and provide clear and distinguished differentiation between rural and urban communities.

Reducing the prominence of town centres

Town Centre zones are critical to the hierarchy of townships and are the lifeline to maintaining services within the communities. Supporting commercial and retail development outside of town centres without an assessment of the demand, need or impact of policy changes will likely result in poorer uptake of vacant shop space, and ultimately, unattractive and inactive town centres. Regional councils and local communities are working together to maintain activity and vibrancy in the town centres and this policy change will only fragment and weaken our centres and collaborative efforts.

Issues with numbering, referencing and missing criteria

Further to the discussion on the difficulties in analysing the document in the current format, there are a significant number of items which are incorrectly referenced, numbered or criteria simply missing within the document. The State Planning Commission had a responsibility to ensure the document was complete and accurate prior to distributing it for public consultation. These issues have further compounded the difficulties and confusion for council staff in providing a considered response to the document.

Wastewater Applications

Whilst metro based areas are largely sewered, Regional areas primarily comprise of onsite disposal or a hybrid system of a septic tank connected to a Community Wastewater Management Scheme. Code policy 'Design in Rural Areas' has a provision for Waste Control, however 'Design in Urban Areas' has no such equivalent provision. Some residential areas in our townships are directed to the 'Design in Urban Areas' rather than the 'Design in Rural Areas' provisions within the code potentially resulting in allotments or even developments without the necessary provisions for waste control. It is imperative that the Code provisions do not inadvertently negate the provisions of the *SA Public Health Act 2011* resulting in allotments which are undevelopable or result in unhealthy land.

Variations to the Development Plan

Council staff have compared the list of non-complying developments within the development plan with the proposed development types within the Code and found that many non-complying developments are now listed as deemed-to-satisfy or performance assessed. This is of concern as council, through the Development Plan Amendment process, has determined that certain forms of development are inappropriate within certain zones and have sought to restrict these developments to maintain the amenity of the locality. The Code has created opportunity for these developments to be located where they haven't been previously which may cause distress to the community. Furthermore, some of these developments may be approved by third parties whom have little to no knowledge of the region and may inadvertently provide approvals for inappropriate developments.

Whilst Council are actively supportive of development in the region, we wish to ensure that all developments are appropriate and will not negatively impact on the locality.

Overlays and Technical & Numerical Variations (TNV)

Council's development plan currently has the provision to excise off a habitable dwelling that was built prior to 21 January 1982, this provision is generally utilised for farming businesses that wish to sell off a dwelling which are surplus to farming requirements. The code has not allocated the Dwelling Excision Overlay to the Wakefield Regional Council area, despite this provision being available within the Development Plan. Whilst it is acknowledged that this provision may be abused in its current wording, we strongly encourage a provision to be applied to the Council area for dwellings which existed at a specific date, for example, the commencement of the Code, 1 July 2019. Council does not wish to see habitable dwellings left to deteriorate as a result of policy changes.

Council's development plan has minimum site and finished floor levels allocated to many of its areas, specifically those in and around Port Wakefield where there is an increased risk of sea level rise. We have concerns that the Coastal Flood Building Level Overlay has not been applied and there does not appear to be any other provisions within the Code to adequately protect against sea level rise or salt water flood inundation. We strongly encourage the Coastal Flood Building Level Overlay be applied or a TNV be applied for site and FFL at 3.5 and 3.75 AHD respectively.

The Wakefield Regional Council area has been impacted by flooding in recent years and has invested significant resources to flood mapping in affected areas, however this has not been reflected in our development plan as of yet and has only been documented in Council's mapping and records systems. Whilst this is still a functional resource for Council staff, a concern remains that this information is not captured within the Code and may result in at risk approvals from third parties.

Council has some areas within townships which do not have access to the CWMS, but have TNV minimum site levels too small to allow for onsite waste control disposal. TNV's will need to be amended to reflect the waste control requirements, alternatively, clear and concise provisions within the code to ensure waste control requirements are able to be met.

Council are generally supportive of the proposed changes within the new Planning and Design Code seeing a clear benefit to the Wakefield Regional Council community, however feel that there needs to be some further consideration of the information presented to ensure that it is appropriate for the needs of our rural communities.

We welcome your response to our concerns and ask that you contact our Planning Officer, Ms Sonya Jones, if you have any queries or if we can be of any assistance to you.

Yours sincerely



Andrew MacDonald
Chief Executive Officer