

To: [DPTI.PlanningReformSubmissions@sa.gov.au](mailto:DPTI.PlanningReformSubmissions@sa.gov.au)

28 February 2020

**Draft Planning and Design Code. Phase Three (Urban)**

Thank you for the opportunity to provide comment on the draft Planning and Design Code (PDC) Phase Three Urban Areas.

In this submission I've listed issues that I've identified in the draft Code. I've also offered possible solutions.

Despite extensive time spent on the code, I still don't have a firm understanding of it, especially in relation to various policies. I am still unclear about what's new or amended, as well as what's been transferred over from existing development plans. I'm aware of numerous errors, omissions and anomalies in the code. This makes the code very confusing for me to interpret.

Regards

Eva Squire

ISSUE	SOLUTION
<p><b>Threatened species information does not appear in the draft Planning and Design Code.</b></p>	<p><b>Create 'Threatened Species' Overlay. Where threatened species habitat mapping is not available, records should be extracted from relevant regional, state and federal databases. Scientists and others with expertise in threatened species conservation should be consulted.</b></p> <p>Regional mapping is available via DEW.  Refer to information about the Regional Species Conservation Assessment Project  <a href="https://www.environment.sa.gov.au/topics/plants-and-animals/Threatened_species_ecological_communities/Regional_significant_projects/Regional_Species_Conservation_Assessment_Project">https://www.environment.sa.gov.au/topics/plants-and-animals/Threatened_species_ecological_communities/Regional_significant_projects/Regional_Species_Conservation_Assessment_Project</a></p>

ISSUE	SOLUTION
<p><b>The Code doesn't fully address SPP 4.1</b></p> <p><b>State Planning Policy 4 'Biodiversity'</b>  <b>SPP 4.1</b> <i>Minimise impacts of development on areas with recognised natural character and values, such as native vegetation and critical habitat so that critical life-supporting functions to our state can be maintained.</i></p>	<p><b>Create Critical Habitat Overlay in the Code.</b></p> <p><b>Create Threatened Species Overlay in the Code.</b>  Where threatened species habitat mapping is not available, records should be extracted from relevant regional, state and federal databases. <b>Scientists and others with expertise in threatened species conservation should be consulted.</b></p> <p><b>Regional mapping is available via DEW.</b>  <b>Refer to information about the Regional Species Conservation Assessment Project</b>  <a href="https://www.environment.sa.gov.au/topics/plants-and-animals/Threatened_species_ecological_communities/Regional_significant_projects/Regional_Species_Conservation_Assessment_Project">https://www.environment.sa.gov.au/topics/plants-and-animals/Threatened_species_ecological_communities/Regional_significant_projects/Regional_Species_Conservation_Assessment_Project</a></p> <p><b>Rather than only considering <i>impacts</i> of development proposals on threatened species and threatened ecological communities, consideration should be made re the <i>requirements needed for recovery of species and ecosystems so that critical life-supporting functions to our state can be maintained.</i></b>  With threatened species the focus is on recovery - ie not leaving species in a threatened status with further possible reduction in habitat and a decline in population numbers.</p> <p><b>Critical habitat is required for species recovery and under no circumstances should it be cleared for development.</b> Species may not be currently found in an area of critical habitat, however they may use that area of critical habitat at a later date or in the case of an emergency as is occurring now in bushfire affected areas of SA. For example, the protection of all remaining habitat is critical to the survival of the Glossy Black Cockatoo post-fire on Kangaroo Island.</p> <p><b>If development proposals are submitted, proposals should demonstrate how proactive efforts will be made to minimise impacts and promote threatened species and threatened ecological communities recovery.</b></p> <p><b>Development assessment processes need to be dynamic and responsive to current information. In the case of an emergency, the Code should be amended to reflect the current situation,</b></p> <p><b>Consider prior, current and future community and government investment in conservation measures. Determine whether a proposed development may jeopardise relationships with the community and/or devalue previous government investment.</b> There can be significant community investment in conservation measures and coupled with that is an expectation that species and areas of habitat will be protected. There may also be considerable government funding towards conservation measures over time.</p>

ISSUE	SOLUTION
<p><b>A reference to 'important feeding areas' is missing from the Code. Rather than 'avoid' , wording needs to be more definitive.</b></p> <p>Conservation Zone. PO 3.1 Environmental Protection. Development avoids important nesting or breeding areas or areas that are important for the movement/migration patterns of fauna.</p>	<p><b>This information should be contained in a Critical Habitat overlay (or similar name).</b></p> <p><b>In the first instance amend the text.</b></p> <p>Insert the word 'feeding' and replace the word 'avoid' with 'shall not occur in' so the text reads as follows:</p> <p>Conservation Zone. PO 3.1 Environmental Protection. Development <b>shall not occur in</b> important nesting, <b>feeding</b> or breeding areas or areas that are important for the movement/migration patterns of fauna.</p>
<p><b>MAPPING ISSUE</b></p> <p><b>Various reserves / parts of reserves isted in the National Parks and Wildlife Act 1972 are not included in the Conservation Zone.</b></p>	<p>DPTI advised the Conservation Zone will be applied to all reserves and parks listed in the National Parks and Wildlife Act 1972 and the Wilderness Protection Act 1992 after the consultation period has ended.</p> <p>Para Wirra Conservation Park is not listed in the National Parks and Wildlife Act 1972, however I understand it has been formally recognised as a Conservation Park, so it should also be included in the Conservation Zone.</p>
<p><b>It is unclear whether the Visitor Experience Subzone exists over land parcels dedicated for Conservation purposes or other purposes under the Crown Land Management Act 2009.</b></p>	<p><b>Determine whether the Visitor Experience Subzone has been applied over land parcels dedicated for Conservation or other purposes under the Crown Land Management Act 2009.</b></p> <p><b>If a land parcel is dedicated for Conservation purposes under the Crown Land Management Act 2009, the Visitor Experience Subzone should no longer be applied to the land parcel.</b></p> <p>Identify other land dedicated for particular purposes under the Crown Land Management Act 2009 and determine whether or not the dedication is consistent or inconsistent with policies included in the Visitor Experience Subzone. If the Visitor Experience Subzone policies are inconsistent with the dedication, the Visitor Experience Subzone should no longer be applied to the land parcel.</p> <p>Some of the development land uses included in the Visitor Experience Subzone include Tourism Accommodation, Tourist Facility, Cafe, Shop and Restaurant.</p>

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<p><b>It is unclear whether the Visitor Experience Subzone exists over Perpetual Crown Leases or other Crown Leases that list the purpose of the lease as 'Conservation' or other purposes that are inconsistent with policies associated with the Visitor Experience Subzone.</b></p>	<p>It is unclear whether or not the Visitor Experience Subzone has been applied over land parcels held under a Perpetual Crown Lease or other Crown Leases that list the purpose of the lease as 'Conservation' or another specific purpose.</p> <p><b>Identify Perpetual Crown Leases that list the purpose of the lease as 'Conservation'. The Visitor Experience Subzone should no longer be applied to these leased parcels of land.</b></p> <p>Identify other Crown Leases and determine whether the lease conditions are consistent or inconsistent with policies listed in the Visitor Experience Subzone. If the policies in the Visitor Experience Subzone are inconsistent with the crown lease conditions, the Visitor Experience Subzone should no longer be applied to these leased parcels of land.</p>
<p><b>Private/Commercial Tourism Accommodation in parks and reserves listed under the National Parks and Wildlife Act 1972 and the Wilderness Protection Act 1992.</b></p> <p><b>Public Good vs commercial interests</b></p>	<p>Amongst other things, the National Parks and Wildlife Act provides for the establishment and management of reserves for <b>public</b> benefit and enjoyment &amp; to provide for the conservation of wildlife in a natural environment.</p> <p>The Wilderness Protection Act 1992 is an Act to provide for the protection of wilderness.</p> <p>Public access should not be denied access to a public asset by 'for profit' private developments</p> <p>Any development which reduces the conservation value of a park should be denied.</p>
<p><b>Procedural Matters (PM) Notification. Notification (ie public notification) information is found in the Procedural Matters section that occurs in each Zone. It is difficult to find this information in the Code.</b></p>	<p>Create a list and include details about Notification for each Zone, so users can easily find this information.</p> <p>Create an additional section of the Code titled 'Notification' and include a list re Notification for each Zone listed in the Code.</p>
<p><b>Code content</b></p>	<p>Many policies are very general or are missing information.</p>

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<p><b>Heritage Agreements appear in the State Significant Native Vegetation Overlay. I was advised that Heritage Agreements will be placed in the Conservation Zone in the future.</b> Some development types such as Tourism Accommodation, should not occur in Heritage Agreements. Heritage Agreements are set aside for conservation purposes. Heritage Agreements sometimes provide the last refuge for endangered plant species. For example a South Australian Heritage Agreement is one of only two known locations across Australia for an EPBC listed Nationally Endangered plant species.</p>	<p>Heritage Agreements should be removed from the State Significant Native Vegetation Overlay and placed in a dedicated Heritage Agreements overlay with prohibitions in place regarding certain development types.</p> <p>If Heritage Agreements are eventually moved into the Conservation Zone, expert scientific advice should be sought and tourism development excluded.</p>
<p><b>Tourist accommodation in National parks, Conservation Parks and Wilderness Protection Areas</b></p> <p><b>The use of the word ‘contemplate’ is too vague.</b></p>	<p>Refer to Table 3 (Performance Assessed) and Table 4 (Restricted). The word ‘contemplated by the relevant ‘management plan’ is used in both tables in relation to tourism accommodation in parks and wilderness protection areas. The word ‘contemplated’ is not defined in the PDI Act 2016, nor defined in the code. It should be replaced with stronger wording such as ‘specifically authorised in a management plan created under the National Parks and Wildlife Act 1972 or the Wilderness Protection Act 1992’</p>

ISSUE	SOLUTION
<p><b>No notification (ie public comment) possible for certain types of Performance Assessed development in the Coastal waters and Offshore Islands Zone.</b></p> <p>Procedural Matters (PM) Notification of Performance Assessed Development</p> <p>All classes of performance assessed development are excluded from notification except:</p> <ul style="list-style-type: none"> <li>(a) Telecommunications Facility</li> <li>(b) Renewable Energy Facility</li> <li>(c) Development identified as 'all other core assessed development' in Coastal Waters Zone Table 3</li> </ul> <p>In the Performance Assessed table the following classes of development are all excluded from notification: Aquaculture, Agricultural Building, Boat Berth, Demolition of a State or Local Heritage Place, Demolition within an Historic Areas Overlay area or State Heritage Area, Farming and Jetty.</p>	<p>In the case of Aquaculture, under the Aquaculture Act no notification is required in the Aquaculture Zone. Does the Aquaculture Zone in the Aquaculture Act cover identical areas to the Coastal Waters and Offshore Islands Zone in the code? If not, areas outside of the defined zone in the Aquaculture Act should be made publicly notifiable.</p> <p>Threatened species occur on certain Offshore Islands. Any development type on Offshore Islands that may impact on threatened species should be classified in such a way to allow public notification, public comment and third party appeal rights.</p>
<p><b>Development (especially Tourist Accommodation) in areas listed in the National Parks and Wildlife Act 1972 and the Wilderness Protection Act 1992</b></p> <p><b>Public notification and public comment needs to be possible when development is proposed</b></p>	<p>Public notification and public comment should be possible when development is proposed in areas listed in the National Parks and Wildlife Act 1972 and the Wilderness Protection Act 1992.</p> <p>If the planning system is set up in such a way to exclude public notification and public comment when development is proposed, this will create nothing but distress and discontent in the community. The community deserves a right to have input into any proposed developments (especially proposed Tourist Accommodation) in parks, reserves and Wilderness Areas.</p>

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<p><b>Third party appeal rights</b></p>	<p>The public should have a right of appeal in relation to proposed development in areas listed under the National Parks and Wildlife Act 1972 and the Wilderness Protection Act 1992. They are Crown assets. Public Land.</p> <p>The public deserves to be able to appeal decisions about proposed development on land listed in the Acts mentioned above, no matter what assessment pathway is determined. Third party appeal rights should be included in the Code.</p>
<p><b>Development is not outright prohibited in some areas listed in the National Parks and Wildlife Act 1972 and Wilderness Protection Act 1992</b></p>	<p>Some areas should be 'off limits' to any developments due to environmental sensitivities.</p>
<p><b>Mapping tool did not work properly</b></p>	<p>The mapping tool did not work properly and I had multiple issues using it. It should be made fit for purpose.</p>