



Government of South Australia

South Australian Murray-Darling Basin
Natural Resources Management Board

RECEIVED

03 Dec 2018

DPTI

30/11/2018

Head Office

PO Box 2343
MURRAY BRIDGE SA 5253

Tel 08 8532 1432

Fax 08 8532 5300

ABN 14 305 414 800

www.samdbnrm.sa.gov.au

Ms Sarah Elding,
Project Lead State Planning Policies
Department of Planning, Transport and Infrastructure
Level 5, 50 Flinders Street, Adelaide 5000
GPO Box 1815, Adelaide SA 5001

Dear Ms Elding,

The SA Murray-Darling Basin Natural Resource Management Board (the Board) would like to submit some comments on the Natural Resources and Environment Policy Discussion Paper currently out for public consultation.

General comments from the Board to be noted:

- The Board are thankful for the opportunity to provide comments on this important policy discussion paper.
- The Board are keen to keep working closely with Department for Planning, Transport and Infrastructure to achieve the best possible results for the environment, and to work closely with local Councils to achieve the best outcomes through implementation of the new Planning and Design Code when it is finalised.

Specific comments relating to sections in the Natural Resources and Environment Policy Discussion Paper from Natural Resources SA Murray-Darling Basin staff to be included in this submission can be found in 'Attachment1_SAMDB NRM Board submission - Natural Resources and Environment Policy'.

Yours sincerely

Sharon Starick.

Presiding Member
SA Murray Darling Basin NRM Board



Submission to the State Planning Policies for SA

Prepared by the SA Murray-Darling Basin NRM Board

Presiding Member: Sharon Starick

November 2018

1 Introduction and Background

The State Government is responding to changes within land-use planning and development in South Australia by progressively introducing the *Planning, Development and Infrastructure Act 2016* (the Act) to replace the Development Act 1993. This will enable a more efficient, responsive and effective planning system.

The Act provides for the creation of the Planning and Design Code (the Code) – a single planning rulebook for assessing all development applications across the state. The Code will replace the complex and at times inconsistent planning rules found within the 72 Development Plans currently in use.

In March 2018 the State Planning Commission released its Blueprint for South Australia’s Planning and Design Code, which introduced:

- A series of policy discussion papers designed to stimulate thought around the policy direction for the Code
- A series of technical discussion papers to establish the operational framework and content requirements for the Code

The Department of Planning, Transport and Infrastructure and the State Planning Commission are currently seeking feedback on the rules for the protection of our natural resources and environment that should be included in the new Planning and Design Code. The Natural Resources and Environment Policy Discussion Paper focusses on Green Infrastructure, Water Sensitive SA and Environmental Resilience.

This document outlines the feedback of the SA Murray-Darling Basin NRM Board (the Board) in response to the Natural Resources and Environment policy discussion paper.

2 GENERAL FEEDBACK

- Principles of ‘good planning’ should be included in the new Planning policies, one of these being cumulative impact planning.
- The Board believes that there are already a lot of good policies in place but there needs to be improvements in regards to their implementation and sufficient resourcing to do this.
- The Board also suggests there are real benefits and opportunities that can come from more better partnering and collaboration between Boards (NRM/Landscape), Local Government and Developers.
- There is an opportunity in the design code to revisit the language used in relation to the environment, being more precise about the outcomes being sought. For example instead of ‘more’ biodiversity, the

frame should be 'there should be no loss of biodiversity'. If there is a desire to require 'more' then change to 'an increase' in biodiversity.

- Providing the option of a simpler pathway for Development Assessments that have minimal or no impact on natural resources and the environment (eg. building in an area where no clearance of native vegetation is required) would encourage best outcomes for the environment as well as decreasing hazard risks.
- The Board understands it is challenging in the complex planning system but clarity should be provided to applicants early in the process so people know what all their requirements and obligations are when planning a development.
- In the Board's experience many referrals come in without sufficient information being supplied by the applicant. This creates delays in the review process when additional information then has to be sought and also creates a perception that the Board are delaying the process. If, through the e-planning tool, more guidance on this could be accessible for developers when submitting applications, this could further streamline the referral processes, i.e. if a development is over a certain size, flag that they need to meet certain criteria/have a certain amount of information. .

3 Feedback on the Themes for the new Planning and Design Code

3.1 Theme 1: Sustainable and Liveable Urban Environments

Green Infrastructure and Water Sensitive Urban Design

- The Board considers that existing WSUD and GI policies should also apply to regional areas for all development scales and types, although they may require some regionally specific rules.
- For example there is a need to be mindful of the integration between WSUD and Water Planning; e.g. The catchments of the Eastern Mt Lofty Ranges need run-off from the surrounding land to ensure adequate 'natural' flow, however Councils tend to infer that all water stays on the development (according to WSUD principles). It is important to find the correct balance though, as too much run-off causes erosion and sediment load issues too.
- The Board would like to highlight that there is a need to ensure clarity through the design code process for who is responsible for which part of Development Applications relating to water. A recent example from the region is where a Council developed a stormwater management plan (SMP); which the Board were asked to comment on and comments were provided, particularly referencing the relevant water allocation plans. Comments were not given regarding technical engineering advice as we are not resourced nor required to provide this level of comment. There is now a perception in the Council that as we provided feedback this acts as an endorsement of the SMP. That being said, it is unclear whose role it is to approve a SMP? Given that council have now had some issues related to the management of stormwater in the council area (see example from Mt Lofty Ranges above) there is some frustration around whose role it is to address the issues and why the SMP is not seen as adequate, if it was 'endorsed' by the Board.
- The Board suggests that an online assessment tool would be useful for WSUD
- The Board are yet to see the Green infrastructure and Water Sensitive Urban Design Background Paper. When released it would be good to;
 - check if 'no water off development' is standard recommendation/ rule
 - see how it relates to the SA MDB Region which is different from most metro areas i.e. natural flow needed in catchments

- see how cumulative impact issues are to be tackled– too much run off/not enough
 - seek clarity on co-ordination/interaction between Boards and Councils
- Green infrastructure should be part of strategic planning for an area, looking at it as a landscape, particularly when large scale developments are occurring eg. Mt Barker, and should be included in Regional Plans. Looking at backyards and parks as part of the surrounding ecosystem is a good way to look at things.
- GI plans should match up with biodiversity goals for a region.
- Good quality open space should be a priority and preferably provide areas for recreation and biodiversity – we need to meet the needs of both (and where it is not possible to address both in the same space, more than one area will be needed).
- The Board suggests a minimum % should be set for each; recreation and biodiversity, for developments over a certain size and over the whole region, making sure that the land set aside for biodiversity is really meeting that objective, and not just recreational objectives.
- Biodiversity Sensitive Urban Design (BSUD) is a new concept that has merit. It aims to create spaces that do not result in conflict with native species e.g. not promoting nectar feeding aggressive birds. The Board believes it would be good to be as prescriptive with BSUD as we currently are with WSUD. There have been fact sheets produced for Councils and developers by various Natural Resources regions and DEW Urban Biodiversity Unit that may be a good starting point for compiling something more prescriptive to add into the library.
- In regards to 1D in the discussion paper regarding the opportunities to consider off-site solutions; if solutions address the problem they created it might be ok, however it needs to be well thought out using a strategic approach to the catchment as a whole. Off-site GI and WSUD is seen by the Board generally being more metropolitan focused, and less ideal in regional areas, as offsets are generally too far away to mitigate impacts of development.

3.2 Theme 2: Water Security and Quality

Mount Lofty Ranges Watershed Protection Area and Other Water Protection Areas

- The Board strongly believes that there is a need to link development planning with water planning from the start, keeping rules consistent while avoiding duplication.
- The suggested overlay should also incorporate water quantity considerations (e.g. linkages to water allocation planning policies), or else an additional overlay to consider these issues is needed.
- The Board suggests having an additional water planning overlay (or an over-arching overlay that encompasses all water issues, including Mt Lofty Ranges watershed protection area, River Murray and other areas). This should include:
 - prescribed areas;
 - areas where water policies relate to development (e.g. areas where water affecting activity (WAA) permit policies in regional NRM Plans apply); and
 - River Murray protection areas (both Floodplain and Tributaries areas) under the River Murray Act.

The rationale is that there are referrals and permits required for development outside of the prescribed areas in our region (and other regions) e.g. Dam construction.

- Having a general water planning overlay encompassing both water quality and quantity would help to identify which areas are prescribed or non-prescribed and this could then provide information on:
 - the appropriate referral mechanisms needed for development activities that are directly regulated by water planning policies as part of the development approval process via referrals (e.g. dam construction, commercial forestry); and
 - linkages to other types of approvals that are relevant to the type of development; a) in addition to obtaining development approval (e.g. water licencing, water allocation, native veg), or b) may be required instead of a development approval (e.g. water affecting activities for works in and around watercourses for activities that are not considered to be development).
- Current requirement to refer certain types of development in both of the River Murray Protection Areas (under River Murray Act) is important and should be retained – for example this allows regulation of commercial forestry in Marne Saunders to meet Basin Plan requirements (not currently regulated under Marne Saunders Water Allocation Plan).

Discussion question: *Should dams be assessed as development in the planning system?*

- Yes, as long as they continue to be referred to the Board for direction in relation to dam construction policies in water allocation plans and regional NRM/Landscapes plans. Some have a DA, some have a Water Affecting Activity permit – there is a need for 1 simple solution.
- Under current system, larger dams require a DA (over 5 ML or over 3 m wall height) but application is referred to Minister or Board for direction; and smaller dams require a water affecting activity permit from the Board. This will continue to be a partnership approach between council and the Board, as the Boards don't have the engineering and safety expertise required and the Councils require the technical advice regarding the water resources impact.
- If the e-planning system had the functionality built-in that a person could go in and for example, indicate how many megalitres for a dam at a certain location, and then the system would trigger the next relevant steps i.e. include links to design code rules and dam construction/ engineering information.
 - The overlay would also need to extend beyond the prescribed areas, as suggested in the section above.
 - Construction code to sit in the design code with the size triggers etc. High risk vs low risk – ie downstream neighbours, safety, amenity issues for bigger dams. High risk dam design code with safety and engineering issues should be flagged early etc.
 - This approval process should also be necessary for all works on existing dams, modification/repair etc. – this needs consistency.
 - Should provide clarity for someone seeking approval, regarding if a DA is or isn't needed for a dam, if a DA is not needed then Water Affecting Activities Permit is applied for.
 - Planning/Native Veg included in referrals as needed– as part of the development process for dam construction; need to retain this to ensure it happens properly.
- A future consideration could be to develop a matrix related to dam risk that identifies high risk dams that require development approval.
- Sub-divisions should be flagged for referral as well, as dams/retention basins are needed.

River Murray

- As mentioned above, the Board reiterates the importance of including the River Murray Act as an overlay/ part of an overlay and that the referral process is key.

Discussion question: *Should we instead use the 1956 flood data as an indicator of risk in the future?*

- The Board is keen to highlight that there is increasing pressure for development on the floodplain and this might be why Councils are keen to revisit this.
- The 1956 flood extent is the data already used to define the River Murray Protected Area under the River Murray Act and also defines the River Murray floodplain environmental asset under the environmental watering plans under the Basin Plan. It's already the standard metric used for environmental and planning purposes and should continue to be used.
- The Board would strongly caution any change to this as it may also jeopardise our state's delivery of the Basin Plan.

Discussion question: *Should sheds be made an exemption from the requirement to refer notice under the River Murray Act 2003?*

- The Board suggest that some sheds can be very large in nature particularly in regional areas therefore they would not like to see sheds exempt. However there could be a size limit trigger on the shed as to whether it should be included in a referral process or not.
- **2.2 2E:** The Board wants to highlight the importance of reviewing the existing SAPPL and development land division policies in areas adjacent to the river. This should be viewed as a high priority to undertake now and not wait until Generation 2.
- In regards to the 2.2.F, developing an overlay which aligns to the River Murray Water Protection area, the Board suggests that this overlay needs to cover more than one 'area', as we need to ensure that the tributaries are included too; could be part of the one 'water overlay' already described above under - Other Water Protection Areas .
- In terms of the Basin Plan forming part of the overlay, the Board is confident that local plans (water allocation plans and regional NRM plans (and hopefully their successors) are the instruments that provide compliance with Basin Plan requirements.

3.3 Theme 3: Biodiversity

- The Board would like to see better integration of development planning with the Native Vegetation, Crown Lands & EPBC Acts. This would create a better process for triggering referrals or at least a process to 'flag' the requirements earlier on in the referral process (applicants are often not made aware of their obligations under the EPBC Act).
- **3A/C** Refining and strengthen existing policies – The Board strongly believes that the planning process needs to work for people, therefore good information to base decision making on is very important. Currently there is some mapping done but this is very limited and doesn't cover the extent of information that would be required for good decision making around biodiversity aspects and impacts related to development. Therefore the Board believes that the referral process is still required to ensure the best outcomes.

- Native vegetation clearance for a building site is currently an exemption under the Native Vegetation Act, this results in councils possibly assuming that this native vegetation clearance is not having an impact on biodiversity locally or regionally. Once building approval is granted there are limitations to what the Native Vegetation Council can do to restrict clearance. In addition, once a building is constructed there are additional clearance exemptions that will automatically be enacted, such as clearance buffers for fire risk (which will extend 20 meters from the edge of buildings). Councils should be considering the biodiversity implication of this clearance at development assessment time, as they have the authority to restrict development and therefore clearance on the site. This should also be included in the e-planning tool to flag implications to both the proponent and regulatory authorities before detailed planning commences.
- The Board agrees that intensification of land use on a property is an issue but wants to highlight that this intensification should also be looked at over different scales (not just property scale but catchment also, for example). We need to be smarter in our policies to capture the cumulative impact, this is imperative to restore and recover, and this should be built into planning. When the planning goes to e-planning the mapping should reflect the opportunities for restoration and recovering of native species, not just current extent of species.
- There is an opportunity to bring to the forefront the requirements under the EPCB Act through the new code (this is not something that is generally on council's or applicant's radar).
- The Board would like to reiterate that collectively we should be concerned about the impacts (direct and cumulative) on both EPBC listed and state listed species – this is SA planning law so it should protect the species that the NP&W Act lists as threatened at a state level. We acknowledge some of the challenges to be overcome including:
 - Mapping for decision making - Needing to get state government commitment to getting mapping right
 - Working out how to represent through mapping things like paddock trees/ag lands e.g. grazed grasslands that are important for biodiversity
 - Flagging and assessing cumulative impacts
 - Measuring intensification of land use across multiple scales
 - Representing plans for recovery of threatened species with a spatial extent
- In the supporting Environment and Natural Resources background paper there is some discussion about translocation options and offsetting. The Board would like to highlight that translocations of threatened species are usually very expensive exercises and there is strong evidence surfacing from NSW, VIC and Qld that the movement of threatened plant species to enable development requirements has not been successful (the translocations are failing). This is also relevant in regards to offsetting, you can't just fence another section of native vegetation in the hope you are preserving the same species. Moreover, even if you are conserving the same species, you have still resulted in a net loss of the species, which for a threatened species can be problematic. What's more, the native vegetation that is being "protected" as this off-set, is theoretically protected by the Native Vegetation Act anyway. There is also evidence from Victoria that more intensive efforts to provide net offsets through expensive management regimes is still not enough to outweigh the impacts of clearing.
- Need to encourage extending native vegetation – the current off-set scheme is based on a model of continued decline in the health of these native systems, so it accepts a further decline in the new off-sets.
- There is an opportunity to rethink how we approach mapping. We should be coming from a recovery point of view i.e. map what is required for recovery and then areas around that could be developed, rather than development be the driver.

- Some of the common interface issues that the Board experience are related to bushfire management, forcing clearing or A zone (zone requiring low fuel loads) burning on next door properties or parks to reduce risk. This comes from a philosophy that CFS don't really like to say no to building in areas of higher fire risk as they are concerned about the financial implications for property owners and consequent law suits, so instead they say "yes but you need to undertake several mitigation actions".
 - A better result would be only allowing development if the clearing can be done on their own property to reduce risk sufficiently. However, this still accepts a large level of biodiversity loss as people are then required (by CFS) to clear their properties – or at least the understorey vegetation which is providing much of the good quality habitat. Leaving trees and not understorey can also lead to perverse outcomes of more pest species such as noisy miners invading and then displacing the less aggressive species that would have existed within this vegetation and within the neighbouring bushes (the impacts of these aggressive birds can be far wider than the patch of bush disturbed).
- The Board considers the e-planning tool – one conservation zone with overlay triggers a good idea. In terms of the more specific overlays these would need to be regionally/locally relevant and included some of the interface challenges such as:
 - Buffers are in the current policies however there needs to be better enforced
 - Linking biodiversity with natural hazards - for example there is an expansion of development around Cooltong Park (Renmark Paringa Council) with particularly big horticulture developments (getting in under major developments). The councils Development Plan with regards to the Horticulture Plan only refers to a buffer zone in relation to olives. This does not account for risk to orchards related to fire. One existing orchard in Cooltong near the National Park has grown right to edge of property on the park boundary, there is now ongoing complaints when the orchard gets singed by fire.
- Other ways the tool would be useful is to be able to create a big picture or visionary thinking to ensure that the cumulative impacts of major developments don't result in more threatened species and threatened ecological communities or more pressure on those already threatened. For example there are some major developments occurring now in the Riverland and these seem to always get through when looking at them individually. The Board has concerns that no-one that has full oversight of the multiple developments occurring through multiple process in this same area and potential cumulative impact. These developments included things such as:
 - Sand mining
 - Solar farms in parks
 - New and expanding horticulture
 - Airport extension
 - Interconnector
- The Board suggests the inclusion of potential areas for biodiversity or threatened species habitat, for example mangrove expansion needed for climate change. All species need room to restore if we don't want more losses, particularly in the light of climate change.
- A good development assessment example that the Board have encountered recently is working in partnership with Mount Barker District Council and the developer regarding the Totness Employment Lands comprising of 35 hectares which is adjacent to the Totness Conservation Park. When the original referral was received the developers were looking to maximize the amount of land for development, however, through working together the Board achieved some really positive outcomes for the environment and the developers. It was agreed that a 20 metre buffer zone would be located on the

development site between the development and the conservation park. This buffer zone would be planted with native grasses which would provide a firebreak, reduce the weed incursions in to the conservation park and has meant that there will be less requirement for regular burning in the conservation park near the interface zone to reduce fire risk. Additional to this, it was agreed that a walking and cycling trail will be established along a revegetated creek line to provide an off-road recreational link for the public between Totness Recreation Park and Littlehampton.

Discussion question: *Do we need a policy to protect and encourage development of roadside vegetation?*

- It appears that currently new roadside plantings tend not to be achieving the best biodiversity outcomes. Although there are reasonably good policies within current Regional Plans that promote the use of indigenous species and not planting 'weeds', they do not tend to be followed. For example Mt Barker Council does not appear to be recommending the best options for developers planting roadsides in sub-divisions. Landscape Plans are supplied with development applications but never have to consider natives. As Councils need to manage the roadside plantings within sub-divisions after a few years, it would be advantageous for all involved if this was better planned.
 - The Board suggests that low water use, non-weedy plantings with biodiversity value should be more strongly prescribed as appropriate road-side plantings, making sure that the results satisfy the biodiversity objectives in the Regional Plans. This also links to the use of the existing fact sheets mentioned earlier in the GI/ BSUD section of Theme 1.
 - The Board also suggests that this would be another example of where better partnerships between the Board and Councils would provide better outcomes, for example through keeping Council planners skilled in biodiversity matters in their region.
- Roadsides are often very important habitat for remnant populations of threatened plants. These can be under threat from impacts of neighbouring landuse as well as Council and landholder management of roadside 'hazards'.
 - In an ideal world if we are aiming to restore our threatened plant populations rather than just protect what we have left, it would be advantageous to have a buffer along road-sides projecting into neighbouring properties in which incompatible development could not proceed, to allow the plants to expand their range.

3.4 Theme 5 Natural Hazards

5A/C:

There are currently interface issues in this space with regards to development, bushfire risk and impacts on biodiversity. For example, the forcing of clearing or A zone burning on next door properties or parks to reduce bushfire risk, and a lack of sufficient buffers being enforced on the development property.

- The boards believes a better result would be only allowing development if the clearing can be done on their own property to reduce risk sufficiently, and creates no further impact on neighbouring properties. (See Theme 3 for more detail on this.)
- It would be good for Bushfire officers at Councils to not view all vegetation as a hazard that needs to be controlled, but to take risks into account.

|

5B:

Bushfire

- Bushfire mapping currently determines; How to build, not where to build, whereas this is available in flood mapping.
 - The Board suggests that some areas be mapped as development 'no-go' zones – so that we don't have to just rely on CFS to make the call each time.
- Biodiversity assets have been mapped recently for bushfire mapping through DEW and should be included in overlay.

Flooding/ Acid Sulphate Soils

- This mapping referred to in this section relates to flooding generally. The Board suggests that a risk management framework (similar to the bushfire risk mapping available) and a flooding overlay would be useful in the future.
- Mapping of the areas at risk of other irrigation impacts e.g. perched water tables and dryland salinity, and acid sulphate soils is available or being done, and it would be good to add this to the overlay.
- Changes to increased water use crops are having an impact on water tables and salinity and there is a lack of control over this now the salinity zoning policy is no longer useful and is relying on the salt interception scheme. The Board suggests that it would be good to be able to include this in the DA process.
- There can be issues with development approvals for irrigation downstream if upstream takes the water or you can't physically get it to that location, and this needs to be taken into account. For example, River Murray water use in different states, but this is also an issue in smaller rivers.