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State Planning Commission
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Dear Michael

**SUBMISSION – PLANNING & DESIGN CODE (PHASE 3) ON BEHALF OF
 MCDONALD’S AUSTRALIA LTD**

INTRODUCTION

Access Planning (SA) Pty Ltd has been engaged by McDonald’s Australia Ltd (‘McDonald’s’), to prepare this submission as part of the public consultation period of Phase 3 of the Planning & Design Code.

We have been asked to review and provide a submission on the Planning & Design Code (the Code) as it relates to existing and future development of McDonald’s restaurants across South Australia.

McDonald’s seek a number of amendments to the Code to enable fast food restaurants to be assessed with improved consistency, certainty and less procedural hurdles.

BACKGROUND

In 1971, McDonald’s opened its first restaurant in Australia, with today over 990 McDonald’s restaurants found through all States and Territories employing over 100,000 people across its restaurants and management offices.

More than 80% of all McDonald’s restaurants are owned and operated by individual businessman and women and are larger employers of their respective local communities. Since opening in 1971, McDonald’s have been active supporters of employing and training young Australians:

State / Territory	Total People Employed	Total Young Aust (under 25) Employed
National	1,300,000	1,040,000
New South Wales	429,000	343,000
Victoria	342,000	273,900
Queensland	284,100	227,300
South Australia	77,700	62,200
West Australia	111,100	88,900
Tasmania	20,100	16,000
Northern Territory	10,200	8,100
Australia Capital Territory	25,200	20,200

Each McDonald's restaurant provides employment opportunities for more than 100 people on a full and part time basis. . Where possible, employees are obtained from the local community in which the store is located.

Employing local residents ensures that wages are retained in the local economy and the use of local resources for services, maintenance and repair required by each restaurant filter back to the local community. Estimates for wages local services, maintenance & repair can be expected to exceed one million dollars annually for a typical store.

McDonald's Australia is a nationally accredited Registered Training Organisation (RTO). The organisation offers accredited courses to crew including Certificate II in Retail Operations and Certificate III in Retail Supervision. Restaurant managers, through course work, on the job skills and experience can complete Certificate IV in Retail Management, Advanced Diploma in Business. The provision of employment and training initiatives by McDonald's is delivered at both the local, state and national level has a positive economic and social impact on the locality.

Socially, McDonald's stores provide sponsorship of local initiatives and community groups. Each store is committed to contributing to the community in which it operates, and this often takes the form of local sponsorships and charitable donations. Many McDonald's licensees are also involved in educational programs providing mentorship to local high-school students on the principles of running a business.

On a broader basis Ronald McDonald House Charities (RMHC) provide a 'home away from home' for the families of children with serious illness. Since 1981, RMHC has provided over 35,000 Australian families with more than 750,000 nights of accommodation. McDonald's pays all administration & management costs for RMHC, with many employees volunteering their own time. Each restaurant plays a vital role in fundraising on behalf of the charity within the local community and donations through McDonald's marketing cooperative.

McDonald's is currently in the process of coordinating the roll out of at least five new restaurants in South Australia yearly over the next five years. This will provide significant investment, in terms of both construction and job opportunities within local community and McDonald's seeks to ensure that the Code policies provide greater consistency, certainty and less procedural hurdles than currently afforded in existing Development Plans.

CODE-WIDE AMENDMENTS

It is the very nature of fast food restaurants that high-profile sites on main arterial roads are sought as a preferred location. In the increasing changing market, drive through services are becoming a larger component of sales with more than 60% of all clientele now use drive through services rather than entering the chosen store. The introduction of food delivery systems is likely to increase this aspect of sales.

At present, each Development Plan throughout the State contains policies that significantly vary from each other. The complex and excessive variations in planning policies results in a planning system that causes a great deal of confusion, excessive delays, high levels of uncertainty and decreased community confidence.

In the case of McDonald stores, they are defined in the *Development Regulations 2008* as a 'shop'. In many zones across the State, and especially those located on main arterial roads or 'commercial based' zones, a shop that exceeds 250m² or 450m² is assessed as a non-complying form of development.

Most, if not all stand alone McDonald's stores exceed the 450m² threshold for being assigned as a non-complying development.

In the mid 1980's, the State Government introduced policy changes across all Development Plans to make shops generally non-complying where located outside of centre/shopping/commercial zones. Since this time, many McDonald's stores have opened throughout Greater Adelaide and the wider State, outside of established retail 'centres'. The vast majority of these have been required to undertake the non-complying process.

The fact that both Council Assessment Panels and the State Commission Assessment Panel (formerly Development Assessment Commission), and in some cases, the Environment Resources and Development Court have approved these stores as non-complying forms of development is a clear indication that the policies applying to such developments are well out of date.

The justification and overall support for McDonald's stores to be established outside of established Centres and along main arterial roads include the following:

- Fast food restaurants such as McDonald's are a destination in their own right and do not form part of the day to day shopping needs of the community that necessitate a Centre Zone location;
- Fast food restaurants are traditionally sited on arterial roads, from which they draw a large percentage of their custom. On average some 60% of custom is generated by the drive-thru facility, whilst the vast majority of customers attend the stores by car rather than public transport.
- Sites with arterial frontages are hard to obtain within existing shopping developments/zones;
- The area required accommodating the drive-thru lanes and service access limits their ability to be sited in local centre zones and limited access to arterial roads from larger centres mitigates against their location in larger, established Centres;
- The hours of operation of the proposed store differ significantly from normal retail outlets (24 hours), with peak evening trade occurring at times when other retail outlets are often shut, such that any benefits to other shops in a Centre zone deriving from the customers to the restaurant are minimal;
- Given that the customer base of, and reason to visit a fast food restaurant differs from the day to day shopping trip normally associated with the reason to visit a shopping centre, it is not considered that its location outside of a designated Centre will detract from the function or viability; or result in the deterioration of nearby Centre zones;
- Interface issues with adjoining developments are the same whether or not the land is located in a Centre zone.

McDonald's supports the State Planning Commission in its endeavours to introduce State wide reforms to the South Australian Planning System. The proposed Code and its single, consistent approach to zoning and policy development are actively supported.

A review of the draft Code reveals an increased range of deemed-to-satisfy development and decreased reliance on restricted forms of development. The decreased listing of land uses as a restricted form of development is seen as a positive step towards creating a planning system that places greater emphasis on performance based planning rather than relying on the overlying stringent, time consuming and expensive non-complying process.

McDonald's also supports the Planning Reforms changes to the public notification requirements that have been tempered to better reflect the changing needs of the wider

community along with the State Planning Commission's desire for the communities greater involvement in planning policy rather than the development assessment process.

The removal of third party notifications and appeal rights provides McDonald's with a stronger desire to invest with a greater degree of certainty and trust in the approval process.

McDonald's supports the listing of 'shop' or 'restaurant' in the envisaged lists (Performance Outcome 1.1) of various Zones throughout the draft Code that are found along main arterials roads.

We are encouraged by many of the 'Neighbourhood' based Zones that include the following Performance Outcome (PO 1.6 – General Neighbourhood Zone, PO 1.6 - Housing Diversity Neighbourhood Zone, PO 1.4 Suburban Neighbourhood Zone):

“Larger scale shops, offices and consulting rooms established on higher order roads and adjacent existing commercial and retail precincts”

There is however concern that the Designated Performance Outcome (DPF) does not provide enough site area for 'large scale shops, offices and consulting rooms' to be established on sites with frontage to a main arterial road:

“Shop, consulting room and office:

- (a) floor area does not exceed 200m²; and*
- (b) are located on sites with a frontage to an arterial road or collector road or adjacent a Main Street or Activity Centre Zone.”*

To facilitate 'larger' shops without resulting in excessive floor plate sizes, it is considered appropriate to increase the maximum size from 200m² to 500m².

This will enable opportunities for development in appropriate locations, with the existing suite of other provisions in the zones providing the necessary tools to retain residential character and amenity. This also includes the existing interface provisions found within the general modules.

The increase of the maximum floor size in the Performance Outcomes supports the draft Codes 'Neighbourhood' based Zones and 'Employment' bases Zones that list 'shop' or 'restaurant' greater than 1000m² as a Restricted form of development. This ensures a logical step of floor plate sizes from smaller performance assessed applications to larger restricted applications – thereby requiring a more rigorous assessment process.

McDonald's supports the performance assessed notification requirements, whereby no third party notification (ie current Category 3 public notification) is required and the removal of potential third party appeal rights. As previously stated, this provides a significant greater degree of certainty and trust in the assessment process.

SITE SPECIFIC CODE AMENDMENTS

Sturt Highway & Belvidere Road, Nuriootpa

On 5 September 2019, the Barossa Council Development Plan was updated to reflect the Delegate for the Minister for Planning's (Hon Rob Lucas MLC) approval of the Nuriootpa (Sturt Highway Service Centre) Development Plan Amendment.

This Development Plan Amendment amended the Barossa Council Development Plan to facilitate the development of a highway service centre and associated facilities at the corner of Sturt Highway and Belvidere Road (7 Belvidere Road), Nuriootpa. A new Policy Area of the existing Primary Production (Barossa Region) Zone was created to provide a suite of policies that would facilitate the construction of a petrol station, restaurant, convenience store, car parking, playground and public amenities.



Source: SAPPA

The Nuriootpa Sturt Highway Service Centre Policy Area enables the proposed development to be undertaken as a Category 1 form of development (with no public notification), while still ensuring that the winery related activities could continue to occur (and expand) without altering its current development opportunities.

The draft Code proposes the subject land to be located within the Employment Zone. The Desired Outcomes of this Zone state:

DO1

A comprehensive range of industrial, logistical, warehousing, storage, research and training land uses together with compatible business activities generating wealth and employment for the State.

DO 2

Employment generating uses are arranged to:

- (a) support the efficient movement of goods and materials on land in the vicinity of major transport infrastructure such as ports and intermodal freight*

- facilities;*
- (b) *maintain access to water front areas for uses that benefit from direct water access including harbour facilities, port related industry and warehousing, ship building and related support industries;*
 - (c) *create new and enhance existing business clusters;*
 - (d) *support opportunities for the convenient co-location of rural related industries and allied businesses that may detract from scenic rural landscapes; and*
 - (e) *be compatible with its location and setting to manage adverse impacts on the amenity of land in adjacent zones.*

There are strong concerns that the proposed Employment Zone does not provide sufficient policy guidance for the proposed integrated highway service centre and associated restaurant development. Significant time, resources and community engagement has been undertaken as part of DPA process for this now to be removed without any consideration of the wider implications. Of particular interest:

- The Employment Zone provides minimal guidance for the intended development
- The Employment Zone provides minimal guidance for the existing winery related activities and their operations
- As the Zone adjoins a 'different zone', any form of development within the subject land will require public notification
 - This is clearly at odds with the intention of the DPA that introduced a list of Category 1 land uses relevant to the development of the land for a highway service centre
- Non-complying limits were introduced into the Policy Area to limit convenience goods retailing (ie supermarket) of 250m² to ensure that this form of retail does not impact upon the development that should be located within the District Town Centre Zone (main retail centre of the adjoining Nuriootpa township)

It is respectfully requested that the State Planning Commission consider the creation of a new Subzone within the proposed Employment Zone to reinstate the key elements of the existing Nuriootpa Sturt Highway Service Centre Policy Area.

This would ensure that a restaurant, along with all other forms of currently envisaged land uses, can be assessed with clear guidance from the planning policies and do not attract any form of public notification.

Port Wakefield Road, Bolivar

McDonald's are in active discussions with the land owners of a number of allotments located on Port Wakefield Road, Bolivar. A significant extent of investment has occurred within recent years to develop the previously vacant land into a large integrated development incorporating a service station, fast food outlets and car washing facilities. Adjoining this development is the existing White Horse Inn, a long-standing hotel, bottle shop and short-term accommodation with significant infrastructure investment occurring to the west – being the Northern Connector project.

The proposed Rural Zone is a zone that is intended to be applied in agricultural and rural areas of the State where a diverse range of land uses are anticipated. The two Desired Outcomes of the Zone clearly articulate the intended land uses:

DO 1

A zone supporting the economic prosperity of South Australia primarily through the production, processing, storage and distribution of primary produce, forestry and the generation of energy from renewable sources.

DO 2

A zone supporting diversification of existing businesses that promote value adding, such as industry, storage and warehousing activities, the sale and consumption of primary produce, tourist development and accommodation.

All of the associated performance criteria clearly describe the intent for land use activities of a rural nature. It is considered inappropriate that a Rural Zone is applied in this urban setting where a differing set of provision should be required to assess any future applications.

It is considered that the Code contains a suite of differing Zones that could be readily applied to the subject land that better reflects the current and future desired land uses in this locality. Either of the two following Zones would provide the most appropriate fit:

- Employment Zone
 - provides a logical extension to the zone to the west
- Suburban Employment Zone
 - provides a transition between the Employment Zone to the west and the General Neighbourhood Zones to the east (separated by Port Wakefield Road)
 - contains land uses more tailored towards access to main arterial road frontages

DEFINITIONS

As previously discussed, a McDonald's store is defined as a 'shop' pursuant to the *Development Regulations 2008*:

Shop means—

(a) premises used primarily for the sale by retail, rental or display of goods, foodstuffs, merchandise or materials; or

(b) a restaurant; or

(c) a bulky goods outlet or a retail showroom; or

(d) a personal service establishment,

but does not include—

(e) a hotel; or

(f) a motor repair station; or

(g) a petrol filling station; or

(h) a plant nursery where there is no sale by retail; or

(i) a timber yard; or

(j) service trade premises; or

(k) service industry;

The draft Planning and Design Code incorporates Land Use and Administrative definitions that are used to provide clarity on the intent of terms and land uses. McDonalds supports this approach and the increased certainty in the legal interpretation of certain land uses.

It is also noted that a number of new land use definitions have been inserted into Phase 2 and 3 the Code since the implementation of Phase 1 of the Code. Whilst this is supported, it is noted that neither 'Shop' nor 'Restaurant' has undergone any significant change.

McDonald's suggests that both land uses are given a more detailed review as part of the finalisation of Phase 2 and 3 of the Code. As part of this review, it would be supported if the Commission removed 'restaurant' from the 'shop' definition to assist in removing the current level of uncertainty.

In the alternative, provision could be made to distinguish a fast food restaurant from other forms of restaurants which could be done by adopting the definition of 'convenience restaurant' as used in the Victorian Planning Code could be adopted in the new Code.

The definition of a convenience restaurant is as follows;

"Land used to prepare and sell food and drink for immediate consumption, where substantial provision is made for consumption both on and off the premises"

As per the Victorian Code, provision should be made for the development of convenience restaurants in all zones where the land has an arterial road frontage.

CONCLUSION

McDonald's supports the State Planning Commission in its endeavours to introduce wide reforms to the South Australian Planning System. The proposed Code and its single, consistent approach to zoning and policy development within the State are actively supported.

McDonald's supports the increased opportunities to facilitate fast-food outlet development along main arterials roads via its proposed performance-assessed development pathway in the Planning & Design Code. The reduced reliance on restricted development and its associated third party notification and appeal rights are also supported.

We do however respectfully ask that the Department of Planning, Transport and Infrastructure and the State Planning Commission give strong consideration to the following changes as discussed earlier in this report:

- increase the minimum floor size to 'shops' in the General Neighbourhood Zone, Suburban Neighbourhood Zone and Housing Diversity Neighbourhood Zone from 200m² to 500m²
- creation of a new Subzone in the Employment Zone to reflect the existing Nuriootpa Service Highway Service Centre Policy Area as depicted in the Barossa Council Development Plan
- change the Rural Zone at Bolivar to either the Employment or Suburban Employment Zone
- consider changes to Land Use Definitions to remove 'restaurant' from 'shop' or introduce a separate definition for fast food restaurants as a "convenience restaurant"

- make such uses appropriate in all zones where the development site has an arterial frontage

If you require any further clarification on the above matters, please do not hesitate to call me.

Yours sincerely



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