

MINISTER FOR URBAN DEVELOPMENT AND PLANNING

PUBLIC CONSULTATION REPORT OF THE DEVELOPMENT POLICY ADVISORY COMMITTEE (DPAC) - PRIMARY INDUSTRY 2 ZONE PLAN AMENDMENT REPORT BY THE MINISTER

1.0 INTRODUCTION

The draft Primary Industry 2 Zone Plan Amendment Report (PAR) has been prepared in accordance with Sections 24(1)(a)(ii) (at the request of the Wattle Range Council) and 26 of the *Development Act 1993*.

The draft PAR was placed on public exhibition from 18 May 2006 to 18 July 2006. A Public Hearing was convened at the Chardonnay Lodge, Riddoch Highway, Coonawarra, on 1 August 2006. The DPAC Sub-Committee that conducted the Public Hearing comprised Mario Barone (Presiding Member), Steven Hooper and Angela Veitch.

The DPAC considered the written submissions on the draft PAR and the matters raised at the Public Hearing at its meeting held on 20 September 2006 and requested that a number of issues relating to the concerns raised in the submissions' made at the Public Hearing be investigated.

This Public Consultation Report is submitted to you in accordance with section 26(7) of the *Development Act 1993*, being the advice of the DPAC on matters raised as a result of public consultation and on any proposed alterations to the draft PAR.

2.0 DISCUSSION

2.1 Policy Changes

The draft PAR proposes to rezone a portion of the Primary Industry 2 (Pln 2) Zone, located about 8 km to the south of the Penola township and include it within a Primary Industry 3 (Pln 3) Zone. The Pln 3 Zone already applies to other parts of the Wattle Range Local Government Area.

The Pln 2 and Pln 3 Zones generally encourage a range of primary production activities and the policies for these zones, seek to retain a pleasant rural landscape. However, the approach to "value adding" rural based industry, differs between the two zones in that the Pln 2 Zone generally seeks to limit the scale of industrial buildings. In this regard, the following policies apply in the Pln 2 Zone:

- buildings should be of a low profile, single storey construction and of a scale which does not detract from the natural character of the locality; and
- industrial activity associated with "on-farm" processing of goods, should not exceed 500 square metres in total floor area.

The above policies will therefore not apply in the area proposed to be rezoned by the draft PAR.

The DPAC understands that the extent of the area proposed to be rezoned, was based on advice from the Wattle Range Council, that generally recognises the area to be well located in terms of providing opportunities for value adding primary industries. Contributing factors highlighted in the draft PAR in this regard include:

- the availability of road and rail transport infrastructure;
- proximity to a power supply (Ladbroke Power Station) and the Katnook Gas Fields;
- access to commercial (blue gum) forestry plantations; and

- scale of existing development in the area including the Ladbrooke Power Station and Safries potato processing factory located in the eastern portion of the affected area on Riddoch Highway.

The draft PAR also amends the categories of development for the purposes of public notification for the whole of the PIn 3 Zone, by introducing "General or Special Industry for wood processing works or pulp or paper works" as Category 2 development.

The DPAC notes that the draft PAR was given immediate effect in accordance with Section 28 of the Development Act 1993, on the same day it was released for public consultation.

2.2 Submissions

A total of thirty five (35) written public submissions and a further thirteen (13) Government Agency submissions, have been received in relation to the draft PAR. Documents containing a summary of public and Government agency submissions, are attached for your information (Attachment A). The tables contained in Attachment A, also detail the DPAC's response to the issues which have been raised and whether amendments to the draft PAR are considered appropriate.

2.2.1 Public Submissions

Of the thirty five (35) written public submissions, nine (9) were received by the DPAC Sub-committee at the Public Hearing and essentially provide a transcript of verbal presentations made during the Public Hearing. These nine (9) submissions, have been included in the 'Summary of Public Submissions' table as *late submissions*, however, it should be noted that six (6) of the late submissions are from persons who had already provided a written submission on the draft PAR.

Of the public submissions which have been received, the Wattle Range Council and the Member for Mount Gambier have given their full support to the draft PAR.

The remaining public submissions set out various concerns with the draft PAR, or to a development proposal for a pulp mill on land being rezoned by the draft PAR, or both. Most of the concerns have been raised by landowners within the area proposed to be included in the PIn 3 Zone or adjacent to the site of a proposed pulp mill.

Generally, the DPAC has been impressed by the level of detail and range of matters covered by the public submissions.

2.2.2 Government Agency Submissions

Most of the State Government agency responses had either no specific comment to make on the draft PAR, or generally supported its overall intent. The only notable matters raised were raised by the Department for Environment and Heritage and the Development Assessment Branch of Planning SA and relate to a general lack of commentary in the PAR investigations about environmental and landscape values. Such commentary could have provided a more balanced perspective to the rezoning of the land to accommodate larger scale industrial activity than anticipated under the PIn 2 Zone and possibly used to inform the extent of the rezoning or associated policy framework.

2.3 Public Hearing

Approximately forty (40) persons attended the Public Hearing held at the Chardonnay Lodge. A total of seventeen (17) verbal representations were made at the Public Hearing, including one from the Wattle Range Council. A summary of the verbal comments is provided in the 'Addendum to Public Submissions' table contained in Attachment B. A number of the people who made submissions at the Hearing also provided a written submission on the draft PAR.

No new matters relevant to the draft PAR, were raised in the verbal presentations which were not already mentioned in one or more, of the written submissions.

2.4 Response to consultation

I have set out below a summary of the key issues raised in relation to the draft PAR.

2.4.1 Development Proposal

Almost all of the public submissions have mentioned the proposal to develop a pulp mill, which was lodged with the Wattle Range Council the day after the draft PAR was released for public consultation.

The concerns about the development proposal are wide ranging and include:

- uncertainties about the capabilities of the Council to properly assess the development;
- the inadequacy of the supporting information with which to conduct an assessment of the proposal, with a number of submissions suggesting a need for an Environmental Impact Statement (EIS) or for the proposal to be declared a Major Project;
- compatibility with and risks to, adjacent land uses;
- water supply, particularly the use of groundwater and the potential impact of this on other uses; and
- reduced public notification requirements and loss of appeal rights as a result of the introduction of the Category 2 status for various land uses including a pulp mill.

The DPAC acknowledges that following a request from the Wattle Range Council, you agreed to make the Development Assessment Commission (DAC), the relevant planning authority for this particular development. Planning SA has advised that the Development Application has been subsequently approved.

Despite the obvious concerns of a number of nearby residents and property owners to the development, matters relating directly to the proposal are beyond the scope of a PAR process to address. The Development Act clearly sets out separate processes for decisions on PARs and development proposals.

Nevertheless, a number of the submissions have sought to establish a nexus between the draft PAR and the development proposal given the timing of these events and the nature of the changes introduced by the draft PAR. In this context, the DPAC appreciates how some individuals have been unable or unwilling to separate the PAR process from the pulp mill proposal and that this may have influenced some views expressed in relation to the draft PAR.

2.4.2 Need for Rezoning

Several submissions have questioned the need for the rezoning based on the capacity of the area to sustain further industrial development (particularly if a pulp mill is approved). Availability of ground water, power supply and the potential for adverse impacts on adjoining rural land users, amongst other issues, have been cited as reasons behind requests to reconsider the rezoning, or to limit the rezoning to the existing non-conforming industrial uses (i.e. the Safries plant and Origin Power Station).

The investigations contained in the draft PAR, provide commentary about the attributes of the land proposed to be included in the Pin 3 Zone for rural based industries, supportive of broader strategic objectives. The DPAC acknowledges these attributes.

The DPAC also recognises that the Wattle Range Council Development Plan, contains a policy framework which gives the relevant planning authority, scope to

address the range of issues and concerns which have been identified in the written submissions. In addition, there are other requirements under the Development Act pertaining to development in the State, such as State agency referrals (in certain circumstances), or approval requirements under other State (e.g. EPA license, water licenses etc) and Commonwealth legislation (e.g. EPBC Act) which seek to ensure issues relating to the use of land will be properly considered during the development assessment stage.

However, little information on these aspects is provided in the draft PAR. The provision of such information would have assisted a reader to establish a better understanding of the proposed Development Plan amendments in terms of the role of the Development Plan and associated development assessment process. That is, the draft PAR appears to have been drafted based on an assumption of knowledge and familiarity with the State's development system and other related requirements.

By providing this information, the Statement of Investigations would have also provided a more balanced argument of the issues before recommending a particular course of action.

If such information and documentation was provided in the draft PAR it may have allayed some of the concerns or provided a basis for a more considered response to the proposed amendments. In this regard, the DPAC considers that the draft PAR should have provided a more detailed argument for the proposed rezoning.

2.4.3 General Comments

The draft PAR does not contain any details relating to environmental, tourism or related issues which were used in establishing the extent of the area proposed to be included in the Pln3 Zone – an area which comprises some 2,700 hectares of land. The DPAC understands that the boundaries of the Pln 3 Zone, were determined by the Wattle Range Council and generally follow the boundaries of the extended Coonawarra Wine Region inclusive of the Katnook gas fields.

In respect to the area generally, the following observations have been made by the DPAC:

- There are a number of stands of native remnant vegetation present;

During a site visit which was undertaken by the DPAC Public Hearing Panel, it was observed that the area is studded throughout with mature trees, which complement the more significant stands of vegetation
- The area is relatively flat and appears to be the subject to possible inundation

Notwithstanding this, the DPAC understands that there are no recorded wetland habitats within the affected area.

However, the DPAC has been advised, that the Atlas of South Australia, details that the area is subject to seasonal freshwater flooding, as are other parts of the Pln 3 Zone, located to the west of the affected area.

Notwithstanding this, the existing Development Plan and the policies contained therein, will provide the basis to address flood risk issues which may be associated or relevant to any proposed development within the affected area.

In respect to the concerns regarding the ability of the relevant planning authority to assess any proposed developments within the affected area, the DPAC have been advised that there are sufficient policies within the current Development Plan for this purpose.

In this regard, it has been argued in some submissions that the investigations which were undertaken as part of the preparation of the draft PAR, should have identified specific industrial sites which could have accommodated specific land uses, such as a pulp mill.

Whilst such exercises may be possible and indeed yield a more definitive response to the selection of a site, the DPAC understands that such an approach would be extremely resource intensive. The general approach taken through the preparation of a draft PAR, as is the case in this instance, should produce a similar result, providing the policies which the current Development Plan and those within the draft PAR, are able to address the issues which are likely to arise.

The DPAC has been advised that this is the case.

In particular, in respect the many concerns relating to environmental impacts which have been raised in the submissions, the DPAC understands that the issues relating to water, noise, air pollution will be referred to the Environment Protection Authority. In addition, various approvals and licenses will be required in respect to water, removal of native vegetation and so on.

2.4.4 PAR Process and Use of Interim Operation

Submissions have expressed disappointment over the consultation process associated with the draft PAR. In some cases, submissions have confused the consultation process associated with the draft PAR with the process involving the assessment of a proposed pulp mill.

Of more significance to the DPAC, are public concerns about the immediate change in the public notification category brought about by the draft PAR and the effect this has ultimately had on the statutory requirements surrounding the development proposal which was subsequently lodged. Bringing a draft PAR which lessens statutory consultation and appeal rights for third parties into immediate effect, without providing detailed reasons within the Statement of Investigation, should be avoided.

2.4.5 Proposed Pulp Mill

Many of the public submissions expressed concerns with the proposal for a pulp mill on land within the area affected by the draft PAR.

In this regard, the lodgment of the Development Application for the pulp mill the day after the PAR was brought into interim effect, has given rise to significant concerns within the community.

Notwithstanding this, the DPAC understands – as do many members of the community – that the process for assessment of a Development Application for a pulp mill is an entirely separate process, albeit that the Development Application was able to be assessed on the basis that it was able to be processed as a Category 2 development as a result of the draft PAR being brought into interim effect.

In addition, many residents and property owner's submissions, expressed concerns about the perceived bias of the Wattle Range Council in respect to its involvement in the process – including acting as the relevant planning authority to assess and determine the Development Application for a pulp mill.

This matter has been attended to through the Minister appointing the Development Assessment Commission as the relevant planning authority.

3. **RECOMMENDATIONS**

1. The DPAC considers the draft Primary Industry 2 Zone PAR to be in a form suitable for APPROVAL, pursuant to Section 26(8) of the *Development Act 1993*.
2. Notwithstanding this, the DPAC wishes to make the following comments and observations:
 - a. The investigations which were conducted and which form part of the draft PAR, would have benefited from the inclusion of information about the role of the Development Plan and the development assessment processes, as well as other related requirements affecting development in South Australia. This would have provided a more 'balanced' explanation of the amendments which are being proposed to the Wattle Range Development Plan;
 - b. If this information was provided within the Statement of Investigations then concerns with the draft PAR being brought into interim operation may have been allayed.



Mario Barone FPIA
PRESIDING MEMBER
DEVELOPMENT POLICY ADVISORY COMMITTEE

Date:

- Attachment: (a) Summary of Public Submissions & Summary of Government Agency Submissions
(b) Addendum to Public Submissions