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**24 February 2020**

State Planning Commission  
C/- Department of Planning, Transport and Infrastructure

By email: *DPTI.PlanningReform@sa.gov.au*

**DRAFT Planning and Development Code (DRAFT Code)  
Submission**

We refer to the consultation process concerning the DRAFT Planning and Design Code for Phase Three (Urban Areas) and the recently released Historic Overlay Statement, particularly for Norwood, Payneham & St Peters, and your invitation to make our submission.

We support the detailed submissions and efforts made by:-

1. The City of Norwood, Payneham & St Peters (**NPSP**) to the DRAFT Code, which submission identified numerous and significant errors and omissions in the DRAFT Code;
2. Mr Robert Bria, Mayor of NPSP in his presentation to the ERD Committee dated 17 February 2020 and observations therein concerning the deficiencies in the DRAFT Code;
3. The ERD Committee's Heritage Enquiry and its recommendation calling for Contributory Items to be transitioned into the first iteration of the Code;
4. Community Alliance SA Inc, dated February 2020; and
5. The Hon Member, Mark Parnell, in relation to a Bill to delay implementation of the Code (the *Planning, Development and Infrastructure (Commencement of Code) Amendment Bill 2019*).

**We therefore do not support the DRAFT Code in its current form. The DRAFT Code, in its current form, is not an appropriate nor adequate replacement of current local DPAs due to a loss of local policy intent, introduction of ill-fitting standardised policies and zones and the substantial likelihood of poor development outcomes, including permanent loss of Contributory Items that are elements of a place that contribute to the character of the area in which we live.**

We have had a significant interest in the DRAFT Code and have attended numerous public debates, community engagement forums, Parliamentary Committee hearings and State Planning Commission hearings concerning the previous government's and current government's attempts at planning reform.

There are several key areas where the DRAFT Code requires significant review and amendment:-

1. Contributory Items, Historic Overlay, Policy Intent

- We refer to and support the legal advice of Norman Waterhouse included in the NPSP Submission that Contributory Items can (and must) be given “statutory status” and protection –  
*“that there is no statutory basis to the identification of Contributory Items is not of itself reason for their abandonment”.*  
and  
*“Council’s desire (is) to simply “grandfather” existing Contributory Items and have these transitioned to the Code as a separate layer within the historic Overlay”*
- People have invested in these properties based upon a well-developed and understood set of DPAs – this requires a high degree of protection;
- It is undemocratic to set out to achieve a single and uniform DRAFT Code that should then be forced upon all residents and council areas after those councils and their duly elected members, intelligently and deliberately, crafted DPAs over a 40-year period. There are 18 local councils in the Greater Adelaide area alone with Contributory Items in their DPAs, and 140 different Historic Conservation Zones – because the *“fine grain policy detail”* is what each local council and residents want, in order to preserve character Zones which are not protected by state heritage laws;
- We fully support the NPSP Submission to reinstate policies, content and mapping concerning Contributory Items;
- We refute completely the suggestion by the Urban Design Institute to the ERD Inquiry on Heritage, and the State Planning Commission’s submission to the ERD Inquiry of the proposed Code, that Contributory Items should be removed from planning;
- We do not believe a Historic Overlay Statement is anywhere near adequate protection given the vagueness of the Code’s language and therefore propensity for multiple interpretations and therefore disputes and loss of unique character.

2. Interface, setbacks, height, privacy, urban corridors

- Similarly, to now unilaterally and autocratically allow bulky and inappropriate 6-story blocks along urban corridors does not protect immediately adjoining neighbourhoods and character areas if there is no gradual interface and adequate setbacks between residential areas and commercial or residential high rise developments;
- We have first-hand experience of a 3-storey building overshadowing our back yard, resulting in a loss of privacy and natural light and a complete lack of regard to interface to heritage and character areas – once lost they cannot be

regained and for some of our neighbours that was too distressing and they have sold and moved away;

- The Building Interface and Height Envelope must be retained at 30 degrees, not 45 degrees and Privacy (Overlooking) screening height should remain at 1.7m and not be reduced.

### 3. DRAFT Code, Legislative Council

- The DRAFT Code, released only 4-5 months ago, is indecipherable at 3,000+ pages, leading to potential for dispute, delay, increased cost and litigation. Further, your own portal is not fully operational and yet you are trying to stymie and truncate debate;
- Your attempt to push through the code is disrespectful both to the process and to the debate currently still in progress before the Legislative Council's ERD Committee.

### 4. Council, loss of local policy

- We note the Consultation Challenges highlighted in the NPSP Submission which again highlights the lack of true consultation, engagement and listening by DPTI;
- It has taken our local council over 40 years to design and articulate a set of DPAs that has shaped our neighbourhoods and strategically distributes and facilitates development in appropriate locations and to an appropriate scale, particularly the July 2015 Residential Zones and Policy Areas DPA, and conservation of character areas;
- The DRAFT code does not allow a degree of diversity through discretionary local specific policies and the reflection of local places and context. Therefore, the Code does not protect the historic and embodied character desire and intent of local councils if development assessment is not managed and assessed by local council policy, including introduction of subzones. Local councils are best placed to determine the most appropriate areas and ways to deliver these outcomes for all concerned;
- Residents have established their homes and therefore their families and their major investment based on existing local council rules and zones, and therefore we support the NPSP's Submissions and Recommendations on the *"Required Changes to Zone Allocation to preserve Policy Intent"*.

### 5. Appeal

- The ability of any interested party to firstly be notified of a proposed development but secondly be able to have and exercise a right of appeal must be applied to all development categories in residential areas – that is a right of a mature and democratic society, but seems to be an irrational and undemocratic view of DPTI.

6. Listening, more time

- The debate about the process and content of the Code is not recent and the adherence to a timetable in the face of such public angst smacks of belligerence and a government refusing to listen. There is clearly a need to engage further with local councils and community groups to redraft the Code;
- We understand the effect of the Greens Bill in the Upper House is to defer implementation previously scheduled for July 2020, which we now understand has been extended – there is clear and consistent messaging from local councils that the Code requires further amendment and therefore the public needs more time to comment too.

In summary, in our view, and consistent with all residents we have had discussions with in our neighbourhood, and the unanimous views of elected members of our local council, the DRAFT Code is not fit for purpose given the numerous errors and omissions and without further opportunity for the public to review amendments once submissions have been addressed. It cannot be an objective of this government or any government, to railroad a significant piece of flawed legislation in such an undemocratic and rushed fashion in the face of such huge dissenting public and local government opinion.

Regards



Cc:

*Mr S Marshall MP (Member for Dunstan)*

*Ms Vicki Chapman MP (Member for Bragg)*

*Chair, of the Environment, Resources and Development Committee of Parliament*

*Mark Parnell MLC*

*Tom Matthews, Secretary Community Alliance SA Inc*

*Mr Robert Bria, Mayor, The City of Norwood, Payneham & St Peters*