

30 January 2020

REF No.: 000478-010

Planning Reform
Department of Planning Transport & Infrastructure
Level 5, 50 Flinders Street,
ADELAIDE SA 5000

Dear Sir / Madam,

**RE: SUBMISSION ON BEHALF OF SCOTCH COLLEGE ADELAIDE IN RELATION TO THE
PHASE 3 (URBAN AREAS) PLANNING & DESIGN CODE AMENDMENT**

Executive Summary - Requested Amendments to the Planning and Design Code:

Scotch College seeks:

- The adoption of the '**Community Facilities Zone**' over both the Torrens Park campus and Mitcham Campus of Scotch College and the concomitant removal of the '*Building Height Technical and Numerical Variations*' (i.e. maximum building height of 2 storeys and 9 metres) proposed to be applied to the College in association with the Draft consultation version of the Code; and
- An amendment to the Procedural Matters (PM) of the '**Community Facilities Zone**' to remove the public notification requirements for an 'educational establishment' and associated ancillary activities, even where the site of the development is adjacent to land in a different Zone.

Introduction

We act for Scotch College Adelaide and write in response to the proposed Zone and policy framework to be applied to Scotch College in association with the Phase Three (Urban Areas) Planning and Design Code Amendment.

This submission also supplements previous submissions to the City of Mitcham Council in response to the '*Draft Spatial Vision for the City of Mitcham*' released in association with the Council's '*Shape Your Place*' initiative (refer to **Appendix 1**).

The Scotch College Campus

Scotch College is an independent, Uniting Church, co-educational school that currently caters for approximately 1,000 students including more than 100 boarders in Years 7 to 12.

Scotch College comprises two campuses; the Torrens Park campus located at Carruth Road, Torrens Park and the Mitcham Campus located at Norman Walk, Mitcham. The two neighbouring campuses cover approximately 20 hectares and include a 2.5 hectare farm for agricultural education.

The Scotch College Campus is more particularly described as follows:

- Torrens Park Campus:
 1. Certificate of Title Volume 5183 Folio 973 (Allotment 122 Filed Plan 15769);
 2. Certificate of Title Volume 5183 Folio 974 (Allotment 121 Filed Plan 15769);
 3. Certificate of Title Volume 5183 Folio 973 (Allotment 123 Filed Plan 15769);
 4. Certificate of Title Volume 5183 Folio 973 (Allotment 124 Filed Plan 15769); and
 5. Certificate of Title Volume 6093 Folio 908 (Allotment 100 Filed Plan 218967).
- Mitcham Campus:
 6. Certificate of Title Volume 5841 Folio 315 (Allotment 64 Filed Plan 15753);
 7. Certificate of Title Volume 5709 Folio 907 (Allotment 101 Filed Plan 15765);
 8. Certificate of Title Volume 5709 Folio 908 (Allotment 102 Filed Plan 15765);
 9. Certificate of Title Volume 5709 Folio 908 (Allotment 103 Filed Plan 15765);
 10. Certificate of Title Volume 5709 Folio 908 (Allotment 104 Filed Plan 15765);
 11. Certificate of Title Volume 5709 Folio 908 (Allotment 105 Filed Plan 15765);
 12. Certificate of Title Volume 5869 Folio 30 (Allotment 65 Filed Plan 15753); and
 13. Certificate of Title Volume 5869 Folio 791 (Allotment 66 Filed Plan 15753).

The Scotch College Torrens Park and Mitcham campuses are located within the City of Mitcham. The College was founded in 1919 out of the earlier Kyre College (1902-1918) and was subsequently incorporated under an Act of Parliament in 1922. A copy of the *Scotch College, Adelaide, Incorporation Act. – 1922 (Private Act)* is attached in **Appendix 2**.

Existing built form comprises historic and modern contemporary institutional buildings of up to three storeys in height with the exception of Torrens Park House (Circa 1874) which incorporates a tower element of three (e) storeys in height. Torrens Park House, the former stables and the Barr Smith Theatre are all recognised as State Heritage Places on the Torrens Park Campus. The Mitcham Campus incorporates a number of local heritage places and contributory items. (refer to **Figure 1** below).

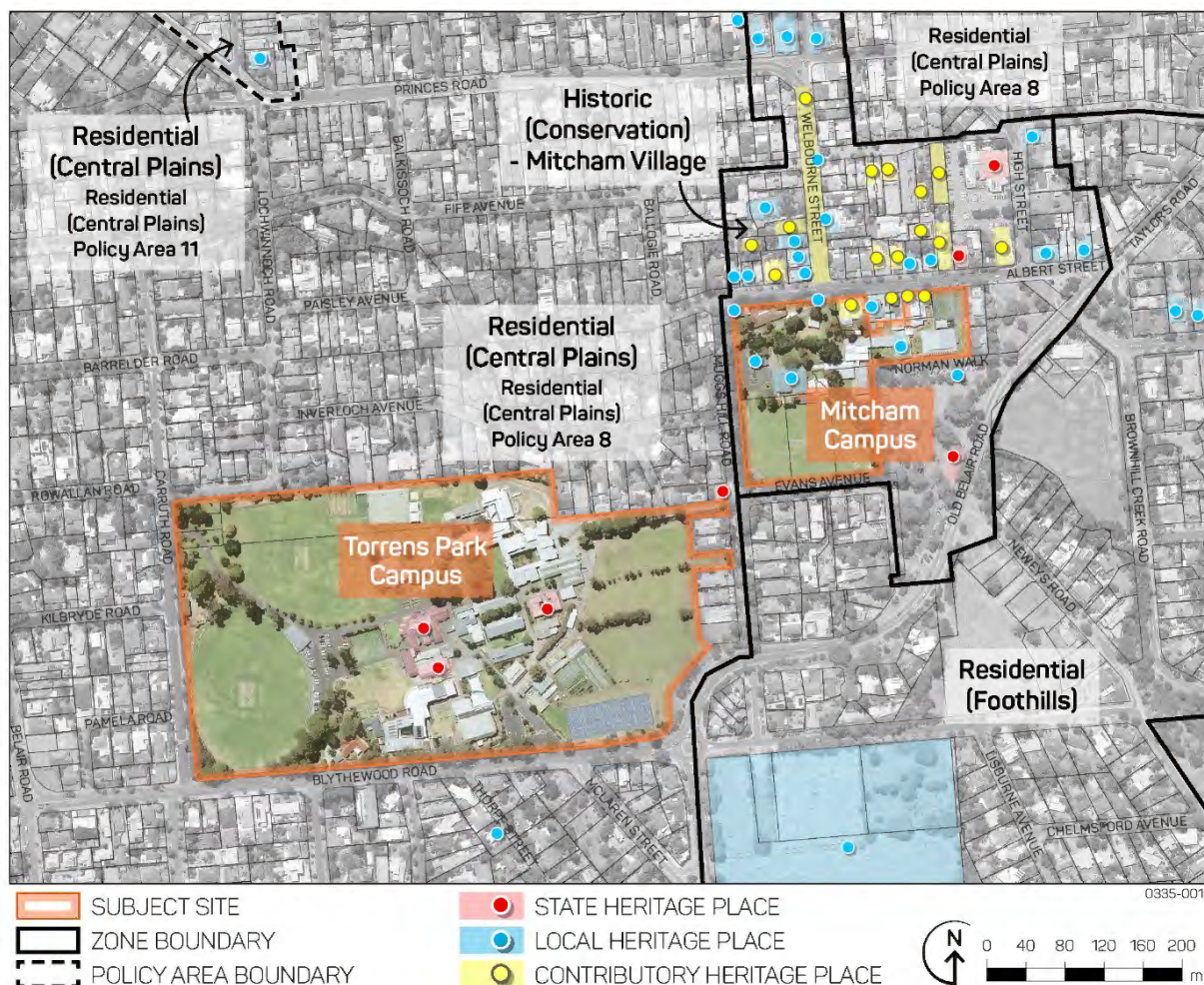
Current Zone and Policy Framework

The College was founded and established well before planning legislation was introduced in South Australia under the *Town Planning Act, 1929*. Notwithstanding, both the Mitcham and Torrens Park campus are located in a Zone, as outlined in the Mitcham (City) Development Plan, that does not envisage, contemplate nor encourage a school or educational land uses.

The Mitcham Campus (junior school) is currently located within the ‘*Historic (Conservation) – Mitcham Village Zone*’ whereas the Torrens Park Campus (senior school) is located within the ‘*Residential (Central Plains) Policy Area 8*’ of the ‘*Residential (Central Plains) Zone*’.

The Zoning of each campus is represented spatially in *Figure 1* below.

Figure 1 Scotch College Zoning Plan



Notwithstanding the existing long-standing use of the campus for an educational establishment it is noted that within the ‘*Residential (Central Plains) Zone*’, the development of an ‘*educational establishment*’ and ‘*boarding house*’ are listed as non-complying forms of development. Within the *Historic (Conservation) – Mitcham Village*

Zone a 'boarding house' is also listed as a non-complying form of development. This significantly restricts and limits the opportunity for the college to improve, replace or expand facilities on the campus.

The current absence of appropriate policy to guide development on each campus results in a lack of certainty to the College and adjoining residents and the community. Further, the existing limitations of the prevailing Zoning framework also limits the opportunity for the College to confidently plan for and implement necessary campus improvements and initiatives to maintain a contemporary campus and learning environment necessary for modern pedagogy.

Proposed Planning & Design Code Amendment

Under the new Planning and Design Code (Draft Consultation version) both the Mitcham and Torrens Park Campus of Scotch College is proposed to be located within the '*Suburban Neighbourhood Zone*'. Within the Zone, an educational establishment is a form of 'Performance Assessed Development'. The College is not proposed to be located within a 'Sub-Zone'.

Following a review of the Planning and Design Code Consultation 'Map Viewer', we understand that the following '**Overlays**' are also proposed to apply to each campus of the College:

- Torrens Park Campus:
 - » State Heritage Places Overlay;
 - » Airports Building Height (Regulated) Overlay;
 - » Traffic Generating Development Overlay;
 - » Urban Transport Routes Overlay;
 - » Future Road Widening Overlay;
 - » Prescribed Wells Area Overlay;
 - » Regulated Trees Overlay;
 - » Hazards (Bushfire Protection Area) Overlay;
 - » Advertising Near Signalised Intersections Overlay; and
 - » Sloping Land Overlay.
- Mitcham Campus:
 - » Historic Area Overlay;
 - '*Mitcham Historic Area Statement (Mit 4)*'
 - » Local Heritage Place Overlay;
 - » State Heritage Place Overlay;
 - » Airport Building Heights (Regulated) Overlay;
 - » Traffic Generating Development Overlay;

- » Urban Transport Routes Overlay;
- » Hazards (Bushfire – Urban Interface) Overlay;
- » Prescribed Wells area Overlay;
- » Regulated Trees Overlay; and
- » Water Resources Overlay.

Notwithstanding, given the difficulty in using and applying the Planning & Design Code Consultation ‘Map Viewer’ tool it may possible that other Overlays are proposed to be applied to each campus (to be confirmed).

The ‘Suburban Neighbourhood Zone’ seeks residential development and supporting uses that provide housing and supporting services and facilities that preserve a low-density residential character.

The Zone is proposed to be applied in very low-density areas and heritage and character areas as well as foothill locations with larger allotments on sloping land.

Pursuant to PO 4.1 *‘Buildings contribute to a low-rise suburban character and complement the height of nearby buildings’*. Further, pursuant to DTS / DPF 4.1 building height (excluding garages, carports and outbuildings) should be no greater than that specified in the *‘Building Height Technical and Numerical Variations’* for this Zone. For each campus the maximum building height is specified as 9.0 metres and 2 storeys. Notwithstanding, the *‘Mitcham Village Historic Area Statement- Mit 4’* applies to the Mitcham Campus via the ‘Historic Area Overlay’ and identifies a ‘single storey’ built form character for this area.

Within the ‘Suburban Neighbourhood Zone’, DTS 1.1 identifies that *‘Development Comprises one or more of the following land uses:’*

- *Community facility*
- *Dwelling*
- ***Educational establishment***
- *Office*
- *Pre-school*
- *Recreation area*
- *Shop.*

Whilst an ‘educational establishment’ is nominated, there is limited policy ordinance directly guiding and facilitating the development of this form of development in the zone. It is noted that PO 1.5 identifies that non-residential development, including educational establishments, should be located and designed to improve community accessibility to services. PO 1.6 identifies that non-residential development should be *‘compatible with the low-density suburban character and amenity’*.

Pursuant to the Procedural Matters’ (PM) section of this Zone we understand that any development application for an ‘educational establishment’ would be recognised as *‘All other code assessed development’* within Table 3

of the Zone and would therefore require public notification. Notwithstanding, the ‘Procedural Matters’ (PM) section of this Zone refers to the ‘Suburban Neighbourhood (Low Density) Zone Table 3’ which appears to be an error given this Zone does not actually exist?

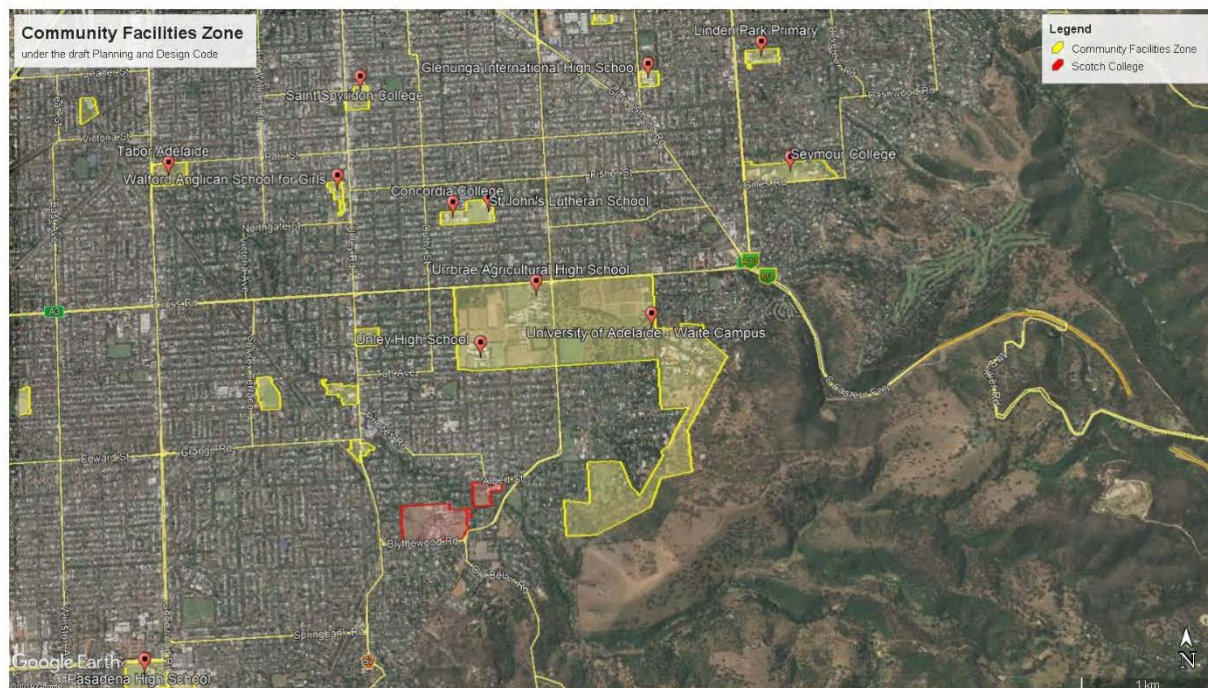
Further, any development exceeding 9 metres and 2 storeys in height would also require public notification pursuant to the ‘Procedural Matters’ (PM) section of this Zone.

Community Facilities Zone

A suitable and alternative Zone in the Planning and Design Code that would be more appropriately applied to the Scotch College campus is the ‘Community Facilities Zone’. Within this Zone, an educational establishment is a ‘Performance Assessed’ development. The desired outcome for this Zone is to provide for a range of public and private community, educational, recreational and health care facilities and includes development associated with (or ancillary to) the provision of community, educational, recreational and / or health care services.

An examination of the spatial application of the Planning and Design Code reveals that there are a number of existing ‘educational establishments’ that are proposed to be located within the new ‘Community Facilities’ Zone. This is demonstrated spatially within **Figure 2** below which identifies several local schools, Colleges and Universities that are proposed to be located within the ‘Community Facilities Zone’ including Urrbrae College, Concordia College, Seymour College, Pasadena High School and the University of Adelaide (Wait Institute Campus).

Figure 2 Educational Establishments within the Community Facilities Zone



Performance Outcome (PO) 1.3 of the 'Community Facilities Zone' specifically identifies that development should avoid inhibiting or prejudicing future delivery of educational services.

Given the primary purpose of the Zone is to accommodate community facilities including 'educational establishments', the zone and policy framework provides an appropriate suite of policies to specifically guide and facilitate a land use of this nature including:

- Encouragement of a range of low to medium rise buildings (1-6 building levels), with the highest intensity of built form at the centre of the Zone and lower scale at the peripheral zone interface;
- Buildings that mitigate visual impacts of building massing on residential development within a Neighbourhood Zone; and
- Buildings designed to mitigate overshadowing of residential development within a Neighbourhood Zone.

Importantly, the policy framework for the 'Community Facilities Zone' seeks to specifically facilitate and accommodate educational land uses whilst protecting adjoining sensitive residential development within adjoining Neighbourhood Zones. This Zone would provide greater certainty and guidance to both the College and adjoining residents and the community and would provide a more appropriate platform for the assessment of future development applications to improve and expand existing buildings and facilities on campus.

In particular, the accommodation of low to medium rise development (1- 6 building levels) is more realistic for Scotch College which is an established and long-standing educational establishment that already accommodates large historic and institutional buildings on spacious campus grounds. In contrast, the adoption of the Suburban Neighbourhood Zone, which contemplates only low-rise buildings (a maximum of 2 building levels), is not aligned with:

- The existing composition of built form on campus; or
- Future development that would be expected on campus to improve, replace and expand existing built form and provide a more modern and contemporary learning environment (such as vertically integrated education buildings etc.).

Further, we note that pursuant to the 'Procedural Matters' (PM) section of the 'Community Facilities Zone', any development application for an 'educational establishment' would be recognised as '*All other code assessed development*' within Table 3 of the Zone and therefore would require public notification. In addition, where a development is on a site that is 'adjacent land' to land in a different zone, an application for an 'educational establishment' within the 'Community Facilities Zone' would also require public notification. Accordingly, whilst we support the adoption of the Community Facilities Zone across the Scotch College Campus, we would however support and recommend an amendment to this Zone so that an 'educational establishment' (that is specifically contemplated in the Zone) would not require public consultation where it is aligned with the 'Desired Outcomes' (DO) and key policy framework of the Zone.

Requested Amendment to the Planning and Design Code

In response to the public consultation of the new Planning and Design Code, Scotch College therefore seeks the adoption of the 'Community Facilities Zone' over both the Torrens Park Campus and Mitcham Campus of the College and the concomitant removal of the '*Building Height Technical and Numerical Variations*' (i.e. maximum building height of 2 storeys and 9 metres) proposed to be applied to the both campuses. . This proposed policy amendment is requested to ensure that the new Zone and policy framework better reflects the existing long-standing and ongoing use of the land as an 'educational establishment'. This request is also made in the context that the College was actually founded and established well before planning legislation was even introduced to South Australia.

The adoption of a more suitable and appropriate Zone and policy framework which recognises the existing, long-standing use of the site as an 'educational establishment' will significantly benefit the College, Council, neighbours and broader community by providing greater guidance and certainty to all stakeholders when assessing future development applications on the campus.

In addition, Scotch College also seek an amendment to the Procedural Matters (PM) of the 'Community Facilities Zone' to remove the requirement for an 'educational establishment' and associated ancillary activities to require public consultation, even where the site of the development is adjacent to land in a different Zone.

In making this request, we note that the Planning and Design Code is a new designated instrument under the *Planning, Development and Infrastructure Act, 2016*. It does not need to incorporate all of the same policy as contained in current Council Development Plans (and in many cases cannot due to the different format of this new planning instrument).

We thank you for the opportunity to provide this submission in response to the Planning and Design Code and thank you in anticipation of your favourable consideration of this request. Please do not hesitate to contact the undersigned on [REDACTED] or direct on [REDACTED] should you require any further information, or should you require further clarification of any of the matters raised and discussed within this submission.

Yours Sincerely



Richard Dwyer

Managing Director

*Appendix 1: Submission to Mitcham Council
'Shape Your Place' Initiative*

10 September 2018

REF No.: 000478-004

City of Mitcham
131 Belair Road
TORRENS PARK SA 5062

Attention: Ben Hignett,

Dear Mr Hignett,

RE: 'SHAPE YOUR PLACE' – REQUEST TO RE-ZONE LAND AT SCOTCH COLLEGE

We act for Scotch College and write in response to the *Draft Spatial Vision for the City of Mitcham* in association with the '*Shape Your Place*' community engagement initiative of the City of Mitcham.

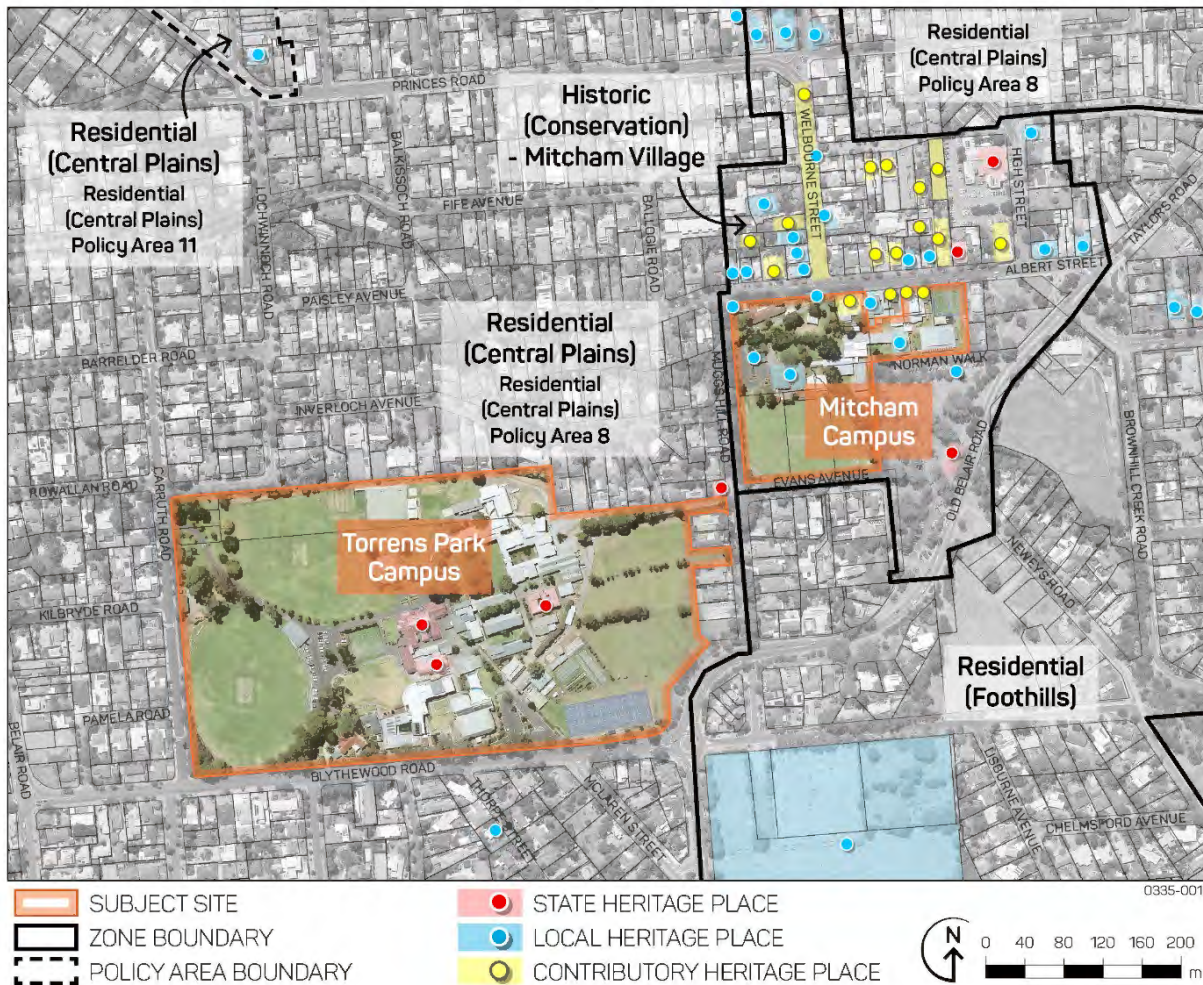
Scotch College comprises two campuses; the Torrens Park campus located at Carruth Road, Torrens Park and the Mitcham Campus located at Norman Walk, Mitcham. Specifically, we write to request that the Council initiates and/or facilitates a re-zoning of each site to a more suitable and appropriate Zone that reflects the existing long-standing use of each campus as an 'educational establishment'. This submission formalises our participation at the '*Shape Your Place*' Public Meeting held on the 4th of September 2018.

The Scotch College Torrens Park and Mitcham campuses are located within the City of Mitcham. The College was founded in 1919 out of the earlier Kyre College (1902-1918) and was subsequently incorporated under an Act of Parliament in 1922. A copy of the *Scotch College, Adelaide, Incorporation Act. – 1922 (Private Act)* is attached in **Appendix 1**. Importantly, the college was therefore founded and established well before planning legislation was introduced in South Australia under the *Town Planning Act, 1929*. Notwithstanding, each campuses of the College is located in a Zone, as outlined in the Mitcham (City) Development Plan, that does not envisage, contemplate nor encourage a school nor educational land uses.

The Mitcham Campus (junior school) is located within the *Historic (Conservation) – Mitcham Village Zone* whereas the Torrens Park Campus (senior school) is located within the *Residential (Central Plains) Policy Area 8* of the *Residential (Central Plains) Zone*. The Zoning of each campus is represented spatially in **Figure 1** below.

It is noted that within the *Residential (Central Plains) Zone*, the development of an 'educational establishment' and 'boarding house' are listed as non-complying forms of development. This significantly restricts and limits the opportunity for the college to improve, replace or expand facilities on the campus and it is necessary to rely on 'case law' for a development to be assessed as a 'consent use' application on its merits.

Figure 1 Scotch College Zoning Plan



In particular, to enable even a minor development on the Torrens Park campus it is necessary to apply the existing non-complying development principle – also known as the ‘Mercedes College Principle’. This principle holds that in the absence of an express provision to the contrary in a Development Plan, development which seek to continue an existing non-complying use (e.g. by improving, replacing or adding to a building or better adapting conditions of that use to address contemporary conditions) will be treated as a consent use or on merit application rather than being classed non-complying.

Applying the Mercedes College Principle often requires the application to be processed as a Category 3 form of development requiring formal public notification with associated third-party appeal rights (unless the proposed development is determined to be of a ‘minor’ nature by the Relevant Authority). This process provides little certainty and is resource intensive; frequently being lengthy, expensive, and time-consuming.

In relation to the Mitcham Campus, we note that the Council’s *Draft Spatial Vision for the City* identifies this land as ‘No change – Off Limits’. We understand that this position has been adopted to retain and preserve the important heritage fabric of this precinct which is currently located within the *Historic (Conservation) – Mitcham*

Village Zone. Whilst the College supports the retention and preservation of existing Local Heritage Places and contributory buildings on the Mitcham campus (refer to *Figure 1*), we question the suitability of this existing Zone moving forward. The existing Local Heritage Places and contributory buildings can still be afforded appropriate protection without necessarily being located in a Historic Conservation Zone. For example, consideration could be given to rezoning the land to a more suitable and appropriate zone that reflects its existing long-standing use as an 'educational establishment' with perhaps the adoption of a 'heritage overlay' (or equivalent) to ensure the preservation and appropriate management of the existing heritage fabric on campus. This would result in a policy framework that contemplates, envisages and supports the ongoing use of the campus as an 'educational establishment' whilst also preserving and managing the important existing heritage fabric both on campus and within the broader Mitcham Village precinct.

The current absence of appropriate policy to guide development on each campus results in a lack of certainty to the College and adjoining residents and the community. Further, the existing limitations of the prevailing Zoning framework also limits the opportunity for the College to confidently plan for and implement necessary campus improvements and initiatives to maintain a contemporary campus and learning environment necessary for modern pedagogy.

Accordingly, Scotch College seeks the re-zoning of each campuses to a more appropriate Zone that better reflects the existing long-standing and ongoing use of the land as an 'educational establishment'. The rezoning could be initiated as either a Development Plan Amendment (DPA) under the *Development Act, 1993* or possibly via the transition to the *Planning and Design Code* under the *Planning, Development and Infrastructure Act, 2016*. The adoption of a more suitable and appropriate Zone and policy framework which recognises the existing, long-standing use of the site as an 'educational establishment' will significantly benefit the College, Council, neighbours and broader community by providing greater guidance and certainty to all stakeholders when assessing future development applications on the campus.

We thank you for the opportunity to provide feedback on the *Draft Spatial Vision for the City of Mitcham* and thank you in anticipation of your favourable consideration of this request. Please do not hesitate to contact the undersigned on [REDACTED] or direct on [REDACTED] should you require any further information, or should you require further clarification of any of the matters raised and discussed within this submission.

Yours Sincerely



Richard Dwyer

Managing Director

*Appendix 2: Scotch College, Adelaide,
Incorporation Act. – 1922 (Private Act)*



ANNO DECIMO TERTIO

GEORGII V REGIS.

A.D. 1922.

Private Act.

An Act to Incorporate the Governors of Scotch College, Adelaide, and to Provide for and Regulate the Management and Affairs of the said College.

[*Assented to, December 13th, 1922.*]

WHEREAS in the year one thousand nine hundred and nine-
teen it was resolved by the General Assembly of the Presbyterian Church of South Australia to establish a College in the neighborhood of Adelaide in connection with the Presbyterian Church of South Australia as a memorial of the victory achieved by the Allies in the Great War: And whereas the necessary funds were contributed by Members of the Presbyterian Church of South Australia and of the South Australian Caledonian Society and of the Lothian Club, Adelaide, and by other persons interested in providing a college for boys of Scotch parentage and descent: And whereas the property known as "Torrens Park" was acquired and the Collegiate School known as "Scotch College, Adelaide," established thereat: And whereas the College is now largely attended: And whereas the real and personal property of the College is now vested in James Wigham McGregor, of North Adelaide, Woolbroker; John Gordon Balfour, of Adelaide, Confectioner; Thomas Henry Fraser, of Mitcham, Grazier; and Henry Darnley Naylor, of Adelaide, Hughes Professor of Classics in the University of Adelaide, as Trustees for the College subject to the Statutes now providing for and regulating the management and affairs of the College:

Preamble

13° GEORGII V (PRIVATE ACT).

Scotch College, Adelaide, Incorporation Act.—1922.

College: And whereas the College would acquire a degree of permanency and importance, highly desirable in an establishment of its character by being incorporated—

Be it therefore Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short title.

1. This Act may be cited as “ Scotch College, Adelaide, Incorporation Act, 1922.”

Definition.

2. In this Act “ College ” shall mean “ Scotch College, Adelaide,” at Torrens Park, Mitcham, in the State of South Australia, as incorporated by this Act.

Governors for the time being to be a body corporate.

3. The Governors for the time being of the College elected or hereafter to be elected in pursuance of the Statutes of the College as set forth in the Schedule to this Act shall be and are hereby constituted and declared to be one body corporate by the name of “ Scotch College, Adelaide,” and by that name shall have perpetual succession and a common seal and shall and may sue and be sued, implead and be impleaded, grant and receive by its corporate name and do all acts as natural persons may, and shall manage the College with the fullest power and authority to break, alter, or vary such seal, and to acquire, accept, hold, lease, mortgage, sell, exchange, and dispose of real and personal property, and to exercise all powers and functions whatsoever of an incorporated body, subject at all times and in all things to the Statutes of the College for the time being in force.

Trustees to transfer property.

4. The above-named James Wigham McGregor, John Gordon Balfour, Thomas Henry Fraser, and Henry Darnley Naylor, and all persons and any person in whom any real and personal property is vested in trust for the College, shall forthwith transfer and assign the same to the College, subject to the encumbrances affecting the same.

Statutes of College.

5. The Statutes set forth in the Schedule to this Act, with such modifications thereof as shall hereafter be made under and pursuant to the powers in that behalf in such Statutes contained, shall be the Statutes providing for and regulating the management and affairs of the College.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

TOM BRIDGES, Governor.

SCHEDULE.

SCHEDULE.

STATUTES OF SCOTCH COLLEGE, ADELAIDE.

1. In these Statutes, unless the context otherwise requires— Sec. 3.
- (a) "The College" shall mean "Scotch College, Adelaide."
 - (b) "The Assembly" shall mean the State Assembly of the Presbyterian Church of Australia in South Australia.
 - (c) "The Moderator" shall mean the Moderator of the Assembly.
 - (d) "The Council" shall mean the Council of Governors constituted by these Statutes.
2. Scotch College, Adelaide, is founded for the purpose of providing education for boys of Scotch parentage and descent in South Australia, and such other boys as shall be admitted to the College, and of providing religious instruction for its scholars according to the religious belief of the Presbyterian Church of Australia.
3. The fundamental principle of the College is that no religious instruction shall be imparted thereat which shall in any way contravene the doctrines of the Presbyterian Church of Australia.
4. The College shall be governed by a Council of Governors, consisting of the Moderator and the four Sealholders of the College for the time being (who shall be Members *ex officio*) and of seventeen other Members, of whom twelve have been appointed by the Assembly, two have been appointed by the Scotch College Old Collegians' Association, one has been appointed by the South Australian Caledonian Society Incorporated, one by the Lothian Club, and one by the subscribers to the funds of the College.
5. The Council shall be deemed to be duly constituted, and may exercise all its powers and functions notwithstanding that the full number of Members shall not have been appointed or that there shall be a vacancy in the membership of the Council, or that there shall be any defect in the appointment of any Member of the Council.
6. The Assembly may permit any other Societies or Associations to appoint one Member each to the Council.
7. Four of the Members of the Council appointed by the Assembly shall retire each year, and their places shall be filled at the Annual Meeting of the Assembly. The order of their retirement shall be determined by the Council, who shall secure as far as possible that the Members shall retire in rotation. The retiring Members shall be eligible for re-election.
8. The remaining Members of the Council shall hold office for such term as the Societies or Associations appointing them shall respectively determine: Provided that such term shall not exceed three years without re-appointment, except in the case of a representative appointed by the subscribers to the funds of the College. The Council, upon receiving notice of an appointment by any such Society or Association, shall treat the person so appointed as a Member until they shall receive notice of the appointment of a successor or until his place shall have been declared vacant in pursuance of these Statutes.
9. Where any Member of the Council is dead or remains out of the State for more than twelve months, or desires to resign his membership, or refuses or is unfit to act, or is incapable of acting in the duties of his office, or if any Member elected
by

13° GEORGII V (PRIVATE ACT).

Scotch College, Adelaide, Incorporation Act.—1922.

by any Society or Association shall have been a Member of the Council continuously for three years without being re-appointed, the Council shall have power to declare the place of such Member to be vacant, and thereupon—

- (a) in the case of a Member elected by the Assembly, the Council shall appoint some person to fill the vacancy, provided that such appointment shall be subject to the confirmation of the Assembly at its next meeting, and in the event of such appointment not being confirmed, the Assembly shall appoint a new Member to fill the vacancy, and the person so appointed by the Council or by the Assembly shall, as regards the order of his retiring, stand in the place of the person whom he shall succeed.
- (b) in the case of any Member appointed by any Society or Association, the Society or Association concerned shall appoint a new Member in the place of the Member whose place shall have been declared vacant.
- (c) in the case of a Member elected by the subscribers the Secretary to the Council shall forthwith call a meeting of the subscribers by advertisement in the Adelaide daily newspapers to appoint a new member to the Council.

The declaration of the Council that the place of a Member is vacant shall be final and conclusive.

10. No master of the College shall be a Member of the Council, and no master of any other primary or secondary college in South Australia shall be a Member of the Council.

11. The Council shall have full control of the affairs, both financial and otherwise, of the College, including the appointment and removal of the Headmaster, but no appointment of any other master shall be made except on the recommendation of the Headmaster, and the Headmaster shall have the power of removing any other master.

12. The curriculum of study shall be determined from time to time by the Headmaster and approved by the Council.

13. The Council may borrow money for the purposes of the College on such security as it shall deem fit, and may purchase, take on lease, or otherwise acquire such real and personal property as the Council shall deem necessary for the purposes of the College, and may sell the whole or any portion of the real or personal property of the College upon such terms and subject to such conditions as the Council shall deem fit, provided that the Council shall not sell any portion of the lands comprising the schoolhouse and the immediate grounds thereof, except in pursuance of a resolution of the Council carried unanimously at a meeting of the Council at which every member shall be present, nor until such resolution shall have been confirmed by the Assembly.

14. The Council shall appoint a Chairman, Secretary, and Treasurer, and such other officers as shall be necessary.

15. The Council shall appoint a finance committee of six persons, of whom two at least shall be appointed from the Sealholders of the College. The finance committee shall have control of the finances of the College, but shall at all times be subject to the direction of the Council.

16. The Council may appoint such other committees as shall be necessary.

17. The Council shall report annually to the Assembly, and shall submit an annual financial statement to the Assembly in such form as the Assembly shall require.

18. The Council shall meet quarterly or oftener for the transaction of business, and at such meetings five Members shall form a quorum. The Chairman shall have a deliberative and a casting vote.

19. The Moderator shall be the Visitor of the College.

20. The

Scotch College, Adelaide, Incorporation Act.—1922.

20. The Common Seal of the College shall be under the control of four Sealholders, who shall retain such office during their respective lives subject to these Statutes. The present sealholders are James Wigham McGregor, John Gordon Balfour, Thomas Henry Fraser, and Henry Darnley Naylor.

21. The Common Seal shall not be used except in pursuance of a resolution of the Council, and all documents to which the Seal is affixed shall be countersigned by the Secretary and two Sealholders.

22. Where any Sealholder is dead or remains out of the State of South Australia for more than twelve months, or desires to be discharged from his Office, or refuses or is unfit to act, or incapable of acting in the duties thereof, the Council shall have power to declare his Office to be vacant, and the Assembly shall appoint a new Sealholder in his place. The declaration of the Council that there is a vacancy in the office of a Sealholder shall be final and conclusive, but the absence of such declaration shall not affect the power of the Assembly to appoint a new Sealholder upon the happening of any of the events aforesaid. Whether there is a vacancy in the office of Sealholder or not the Council may appoint one or more of its Members to act temporarily as Sealholders for the purpose of sealing documents.

23. The Council may repeal or amend any of these Statutes, and may make and pass any new Statutes with a view to the more efficient management and conduct of the College, provided that no Statutes shall be repealed, amended, or made, except with the concurrence of two-thirds of the whole number of Members of the Council.

24. All new Statutes and the repeal and amendment of any Statutes shall be submitted to the meeting of the Assembly held next after the making thereof, and the Assembly at such meeting may, by resolution, disallow any such Statute or any such appeal or amendment.