

28 February 2020

REF No.: 00882-004

The Chair
State Planning Commission

Attention: Mr Michael Lennon

By Email: DPTI.PlanningReformSubmissions@sa.gov.au

Dear Mr Lennon,

Re: Submission - Draft Planning & Design Code (Phase 3 Urban Areas)

We write on behalf of our client, Adelaide Development Holdings Pty Ltd, that owns the State Heritage Listed building 'Gawler Chambers' at 188 North Terrace, Adelaide ('the site').

The site is currently located within **Central Business Policy Area 13** of the **Capital City Zone** of the Adelaide (City) Development Plan (consolidated 16 January 2020). Under the Code, the site is proposed to be located within the **Capital City Zone**. There is no proposed sub-zone.

The site is also captured within the following Overlays.

- Affordable Housing
- Airport Building Heights (Regulated) – All structures over 120 metres AHD
- Building Near Airfields
- Design
- Local Heritage Place
- Prescribed Wells Area
- Regulated Trees
- State Heritage Place

The Technical and Numeric Variations identify the site is located within an area with no prescribed building height limit (as identified with *The Planning and Design Code Consultation Map Viewer*).

Having reviewed the planning ordinance, proposed to apply under the Code, we note the following concerns:

1. There are many more situations where public notification will be required. Under the Development Plan, all development (except non-complying or prescribed activities of environmental significance) is assessed as a Category 1 development (i.e. no public notification required). However, under the Code, 'all other Code

assessed development’ requires notification (i.e. development types not listed in Table 3 of the Zone, require notification).

This means that even some ‘envisaged’ uses (i.e. those listed within DTS/DPF 1.1) require public notification, including ‘tourist accommodation’ (i.e. a ‘hotel’) which does not require notification under the Development Plan.

2. We note the Code provides for increased ‘power’ for State Agency referrals, including State Heritage, who will now have a power of ‘Direction’ (previously ‘Regard’). Individual State Agencies having a power of ‘Direction’ removes the ability for the relevant planning authority to make a balanced decision that considers all aspects of a development application.

By way of previous example, after a lengthy assessment process, approval was given by the Relevant Authority for redevelopment of this challenging site. However, through the course of the assessment, there were fundamental aspects of the development where State Heritage and the Applicant could not reach agreement. In that instance, having State Heritage provide their expert opinion as advice (‘Regard’), allowed the Relevant Authority to make a ‘balanced’ decision which considered all aspects of the proposal.

Under the new Code, the opinion of State Heritage would have been taken as a ‘Direction’ rather than ‘Regard’. Accordingly, the Applicant would have been unsuccessful in gaining approval.

The assessment pathways and negotiations associated with State Heritage listed buildings can be subjective, lengthy and costly, making it difficult to undertake any form of redevelopment (small or large). Sites without heritage listing can be redeveloped more easily and at much lower cost, making it very difficult for the economics of redevelopment of heritage listed buildings in Adelaide.

The limited resources available to State Heritage combined with a power of ‘Direction’ will likely result in longer and protracted assessment periods, as well as more onerous Agency requirements. The only mechanism available for an applicant to contest a ‘Direction’ is via a costly and lengthy appeal to the ER&D Court. While we do not seek to dilute the role of State Agencies as part of the assessment process, Agencies, in particular State Heritage, should be consulted (where directly relevant) and provide their expert assessment as ‘Advice’ as part of a balanced assessment process.

Proposed Amendments to the Planning and Design Code:

- Public notification ‘triggers’ for the Capital City Zone should be reviewed and amended. Envisaged uses should not require public notification. Only ‘restricted’ development types should require public notification within the Capital City Zone.
- The ability for State Agencies to apply the ‘power’ of ‘Direction’, in particular State Heritage, should be reviewed and should only apply where it currently applies (i.e. no change) under the *Development Regulations, 2008*, to ensure a streamlined and balanced development assessment outcome.

In addition, we note that it has been extraordinarily difficult and time consuming to navigate the draft Code for consultation. Clearly the new Code is better suited and produced for an electronic format. Not being able to access the proposed E-Planning system during the consultation process has made it difficult and inefficient to assess the proposed changes. We are concerned there may be other changes not yet known or properly understood and would appreciate the opportunity to comment on the next iteration of the Code once the E-Planning system is available.

We thank the State Planning Commission for the opportunity to make this submission. We would welcome the opportunity to meet with the Commission to discuss and further explain our position in relation to the matters identified above.

Yours Sincerely

A handwritten signature in black ink that reads 'C. Carrey'.

Chris Carrey
Planning Consultant