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Mr Michael Lennon
Chair – State Planning Commission
Via email – dit.planningreformsubmissions@sa.gov.au

Dear Sir,

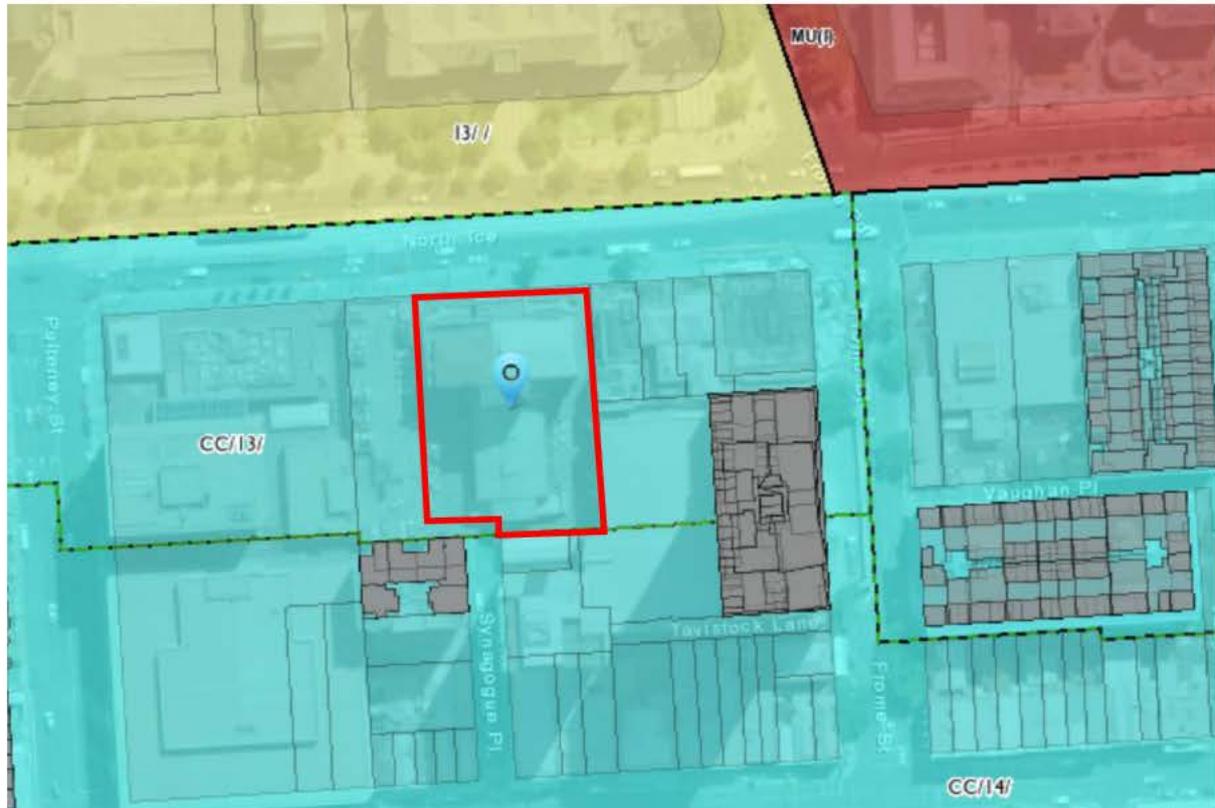
Planning and Design Code Submission – 254 North Terrace Adelaide

This firm acts for A.F. & A.M. Nominees Pty Ltd to make this submission about the application of the recently re-released proposed Planning and Design Code ('the Code').

Our client is the owner of land located at 254 North Terrace, Adelaide, formally described as Certificate of Title Volume 6062 Folio 837 ('the Land') and colloquially known as the Masonic Centre. The building on the land is listed in Table Adel/1 – State Heritage Places.

Set out below, is the spatial depiction of the Land and applicable zone boundaries under the City of Adelaide Development Plan ('the Development Plan'). The Land is currently within the Capital City Zone in the Development Plan as depicted in Figure 1 above.

Figure 1 *The Land shown with zone boundaries*



The Land will transition to the Capital City Zone in the Code.

Within the ‘Procedural Matters’ section of the Zone policies, more particularly PDC 39 which identifies various forms of “non-complying” development, the following form of development is specifically listed:

“Total demolition of a State Heritage Place (as identified in Table Adel/1”

(my emphasis)

PDC 40 then sets out the public notification categories within the Zone. Pertinently, the following public notification categories are provided:

(a) **Category 1**, public notification not required:

All forms of development other than where it is assigned Category 2.

(b) **Category 2**, public notification required. Third parties do not have any appeal rights.

Any development where the site of the development is adjacent to land in the City Living Zone or Adelaide Historic (Conservation) Zone and it exceeds 22 metres in building height.

The sum effect of these provisions ensures that only total demolition of a State Heritage listed building on the Land will be non-complying and therefore, subject to public notification in the Zone (as it does not adjoin a City Living Zone or Adelaide Historic (Conservation) Zone).

This interpretation was upheld in the recent Supreme Court decision of *Lester Land Holdings Pty Ltd & Ors v The Development Assessment Commission & Anor* [2020] SASC 170 in which partial demolition of a heritage place, the Newmarket Hotel, did not trigger a non-complying classification and Category 3 public notification requirements.

Comparing the language in the Code, we note Table 5 – Procedural Matters (PM) Notification for the Capital City Zone in which the Land will transition, provides the following classes of development are exempt from public notification, subject to any exceptions:

Class of Development	Exceptions
2. Any kind of development that is not located adjacent to a site used for residential purposes in a neighborhood type zone.	Except the demolition of a State or Local Heritage Place.

We submit the exception should be reworded to provide:

“Except the total demolition of a State or Local Heritage Place” to ensure consistency with the current Development Plan provisions.

(my emphasis)

The unintended effect of the current wording will mean that any form of demolition of part of a State or Local Heritage Place will trigger public notification and concomitant elongation of the development assessment processes. Public notification will also lead to the spectre of applications being presented to an assessment panel, rather than decisions made under delegation by staff.

For consistency between the current Development Plan regime and that under the Code, we submit the change above will avoid interpretation issues and unnecessary delays in the assessment and decision-making process.

It is important to reiterate that this change will simply maintain the status quo and will still require an application to be referred to Heritage South Australia ("HSA") where any form of demolition may be contemplated. Further, the relevant authority will continue to assess such an application against the relevant policies contained in the Code.

I would be pleased to discuss this submission should you require any further information.

Yours sincerely

A handwritten signature in black ink that reads "Chris Vounasis".

Chris Vounasis
Managing Director