

Expert Panel,
Planning Review,
GPO Box 1815,
Adelaide, 5001.
DTI.PlanningReview@sa.gov.au

The Secretary,
Kensington Residents' Association Inc.,
Mr A Dyson,

████████████████████
████████████████████

16th December 2020.

Re: Review of PDI Act & Planning and Design Code

Dear Sir/Madam,

Kensington Residents' Association appreciates the opportunity to make a submission to the Planning Review.

Introduction

Kensington Village was surveyed in 1838 and settled in 1839. Kensington was intersected by Second Creek which gave rise to its unusual diagonal street layout. This minimized the number of creek crossings and provided a maximum number of blocks with creek frontage.

Our Association was founded in 1977 because there was a feeling amongst some residents that Kensington was run down and neglected. There was an alarming loss of heritage housing and replacement with blocks of flats and units. Amongst other issues, residents wanted both the recognition and preservation of its historical features.

Over the last 45 years the Association has fought for the recognition and preservation of Kensington's heritage. In 1994, we achieved the designation of Kensington as an Historic Conservation Zone in recognition of the built heritage and history of the former colonial village. The designation was fully supported by Council and was championed by the then mayor.

The Historic Conservation Zone served our community well for nearly 30 years. The result is that Kensington retains some aspects of early colonial, late 19th century and early 20th century built heritage. Otherwise many of these houses and other buildings would have been demolished given the propensity for developers to look to the inner suburbs for development opportunities at the expense of the existing heritage fabric. Heritage is not just about landmark buildings but, more importantly, about groups of buildings that contribute to the character of an area. This grouping of buildings (Contributory Items) was at the core of Historic Conservation Zones.

Accordingly, our association maintains its position that Kensington's heritage and historic character must be protected and preserved for the benefit of both present and future generations. This means the protection and preservation of not only our State and Local Heritage Items but also all our Representative Buildings that were recognised as Contributory Items under the City of Norwood, Payneham & St Peters' Development Plan. Without them the former Historic Conservation Zone would have had no integrity. They remain a critical element of the Heritage Overlay.

Since 2013, our Association has been heavily involved in the planning reform process that resulted in the Planning, Development & Infrastructure (PDI) Act 2016 and more recently the Planning & Design Code. Representatives of our Association have attended many meetings and information sessions over the last ten years and made a number of submissions to South Australia's Expert

Panel on Planning Reform (2013), the Heritage Review of 2016, the Environment, Resources & Development Committee Heritage Inquiry of 2018 and to the Legislative Review Committee in support of Petition No 2 of 2020.

Our Association has been an active member of the Community Alliance South Australia and has been an active supporter of both the Protect Our Heritage Alliance and the National Trust in their lobbying for planning reforms and better heritage protection.

During the period leading up to the adoption of the Planning and Design Code the community was seriously misled by DPTI, the State Planning Commission and the then Chair of the State Planning Commission, Michael Lennon. It was our understanding that there would be a 'like for like' transition from the existing council Development Plans. In fact, in Edition 27 of DPTI's *Planning Ahead* e-newsletter Michael Lennon was quoted as follows:

“Earlier this month I gave an important briefing to South Australia’s Cabinet members on the draft Planning and Design Code. The main point I wanted our parliamentary representatives to take away was that this first generation of the Planning and Design Code is largely about transitioning and consolidating existing contemporary policy from individual council development plans into the Code.”

Quite clearly, the draft did not transition and consolidate the existing Norwood, Payneham & St Peters' (NP&SP) Development Plan and associated character statements, nor the development plans of other local government areas into the Planning and Design Code. Michael Lennon blatantly misled Cabinet and the community in general.

The watering down of heritage protection is causing significant and irreversible damage to the character of Adelaide's older suburbs and that of the older towns or older parts of towns throughout the state. It is resulting in the destruction of much of our heritage housing stock that is one of the few things that is unique to Adelaide and older towns and a definite attraction to interstate and overseas visitors to our state.

To prevent such destruction of our heritage, the heritage provisions of the existing NP&SP Development Plan must be incorporated into the Planning and Design Code (PDC) as promised.

Petition No 2 of 2020

In April 2020, a 14,000 signature petition was presented to the Legislative Council by Hon Mark Parnell MLC, on behalf of the Protect Our Heritage Alliance. The petition raised concerns about the content and implementation of the PDI Act, and the PDC, and requested independent reviews of their impacts.

In November 2021, the Legislative Review Committee (LRC) of State Parliament released its long-awaited report examining the many flaws and undesirable impacts of the new planning "reforms". They made 14 strong recommendations for regulatory and legislative change.

The major recommendations were:

- Improved public engagement processes in proposed revisions and changes in the PDC.
- Amendments to the PDI Act to require an annual independent risk assessment to be monitored by the Environment, Resources and Development Committee (ERDC) and reported to both Houses of Parliament.
- An independent review by an Expert Panel or the ERDC of the impacts on planning policies, community rights, sustainability and the environment of the PDI Act and the PDC, with the resulting report to be tabled in both Houses of Parliament in 2022.

- A parliamentary committee to enquire into the anomalous use of the Planning and Development (Open Space) Fund to support the implementation of the PDC and its ePlanning system.
- Further, that the PDI Act be amended to restrict the use of the Planning and Development Fund and the Urban Tree Canopy Off-set Fund to creating and developing open and green space.
- Prioritised implementation of each of the recommendations of the ERDC Inquiry into Heritage Reform (2019).
- That the current Heritage Reform Advisory Panel: increase local Council input; review and advise on the impact of the PDC on demolition controls for heritage assets; and examine whether the PDC affords adequate protection for ‘Representative Buildings’ and neighbourhood character.
- That the Statutory Authorities Review Committee enquire into the governance of the State Planning Commission and the State Commission Assessment Panel.

We support the call from the National Trust and Protect Our Heritage Alliance for the government to fully implement the findings and recommendations of the LRC, to correct the many damaging and undemocratic impacts of the new planning system.

National Trust Plan to Protect Heritage

The National Trust developed a five point plan to protect our heritage as follows:

1. *A single Heritage Act covering all aspects of heritage management that strengthens and simplifies protections.*

The first recommendation of the 2014 Expert Panel on Planning Reform was that heritage laws “be consolidated into one integrated statute”. The Parliamentary Inquiry recommended the same thing in its report. These recommendations have been ignored and accordingly the administration of heritage protection across two Acts and two state government agencies is totally unsatisfactory. There has been a failure to create a reliable, comprehensive and efficient heritage protection system. The current split system is cumbersome and bureaucratic, creating unnecessary complexity and confusion.

We urge you to recommend the adoption of an integrated heritage statute, with real teeth, and the amalgamation of the agencies concerned with heritage protection.

2. *An independent heritage commission to manage listings and development approvals for heritage places.*

An independent statutory body would improve efficiency and increase consistency, applying objective criteria for listing and ensuring genuinely independent decision making on development applications affecting heritage places. Currently listed places comprise less than 3% of the total building stock of the state. Managing decisions that affect listed places should be far more simple and streamlined than the current overly complex system.

3. *An integrated heritage listing process, with strong local government and community participation.*

The process for listing local heritage places is needlessly complex with both state and local government involved. As more than 90% of listed places are designated because of their local significance and contribution, logically local government should play the leading role. In addition community participation should be encouraged and made easier.

The same applies for the designation of Representative Buildings (Contributory Items).

It is a serious anomaly that any individual or organisation may nominate an item for State Heritage listing but the public is unable to nominate an item for either Local Heritage or Representative Building listing. We need a simple nomination process that any member of the public or organisation can use.

4. *Strict demolition controls for all heritage places and areas.*

Protecting all listed places, whether State Heritage, Local Heritage or Representative Buildings, from demolition is one of the key components of any heritage protection system. All places over 100 years old in designated heritage areas should, by default, be protected from demolition. We suggest that consideration should be given to extended demolition control to all buildings over 100 years old. All demolition proposals must be independently assessed.

5. *Incentives and investment to support property owners and stimulate the restoration economy.*

To sustain our heritage places and preserve their economic and cultural value a range of incentives and rewards for owners of heritage properties are required. In addition, there should be a program for government owned heritage places, particularly in regional areas. Such initiatives will support the expansion of the restoration economy, create skilled jobs and promote private investment.

Renovations generate more jobs than new builds

The renovation market makes up a larger proportion of the state's GDP than the new home market. The renovation sector is comprised of multiple small to medium enterprise. These small businesses, each often comprising just a small number of employees, collectively employ many South Australians, more than the new home market. But they don't have a big lobby group like the UDIA to write submissions or host overseas trips. The British study, *'Power of Place'* examined the relative amount of labour/employment to materials between renovation work and new construction. It found that for renovation of existing buildings, 60-70% of the cost was labour and only 30-40% materials. Whereas for new construction 60-70% of the cost was materials and the labour comprised only 30-40% of the cost. For heritage restoration the labour component was 80% or more. **For every historic home that is demolished, the likely employment generated is roughly halved.**

Contributory Items/Representative Buildings

The existence of Contributory Items within Historic Conservation Zones enabled us to keep whole blocks intact. The designation of Contributory Items as Representative Buildings under the PDC was a matter of concern as there have been the suggestions that not all Representative Buildings need to be retained and protected from demolition. We urge a return to the Contributory Item nomenclature and that they continue to receive the same level of protection as existed under the Norwood, Payneham & St Peters (NP&SP) Development Plan.

In the Kensington Historic Conservation Zones we had 7 buildings, a bridge and a drinking fountain listed as State Heritage Items (highlighted in blue on the attached map), approximately 80 Local Heritage Items (highlighted in pink) and approximately 210 Contributory Items (highlighted in green).

Sometimes, the distinction between Local Heritage and Contributory status was difficult to understand and at times somewhat arbitrary. If a building contributes to the character of the streetscape, it should be preserved, for to allow its destruction reduces that character. There were

some very significant inconsistencies in the classification of items as Local Heritage or Contributory within Kensington. By way of example:

- one of the few remaining 1850s settlers' cottages is only classified as a Contributory Item;
- two identical adjacent 1870s dwellings built by the same builder: one is a Local Heritage Item, the other was a Contributory Item.
- McKellar Stewart Kindergarten was built in 1940 and is believed to be the first purpose-built kindergarten in Australia, yet it has no heritage protection.

There are other examples of serious inconsistencies and also a number of buildings that should have some sort of listing but for some reason do not. These buildings demand attention so as to protect and preserve them from demolition or inappropriate development.

Historic Area Statements

The Historic Area Statements in the PDC are hopelessly inadequate. They are supposedly the key to the effective protection of the heritage character of areas and precincts under the proposed Code. The Historic Area Statements contain only broad statements of the character and characteristics of the area with little detail. The former NP&SP Development Plan had Desired Character Statements for the various Policy Areas and these have gone from about 1000 words to only 250 or so.

The Historic Area Statements should be updated to include important matters like minimum allotment sizes, minimum street frontages, the historical era that applies, materials to be used in new buildings or additions, the scale of built form, fencing styles, and roof pitches properly reflecting the content of the former NP&SP Development Plan.

Tree protection

Exemptions must be removed from existing regulated/significant tree protections and native vegetation regulations. The 10m and 20m rules are out of step with other states and are a major reason we are losing so many trees and associated tree canopy in the urban area. We must bring South Australia into line with Victoria and New South Wales by changing the definition of regulated trees reducing the minimum circumference, recognising height and including canopy over 9 square metres. In Kensington, the SCAP recently gave permission to Mary MacKillop College to destroy a significant tree, despite the opportunity to develop around the tree ignoring Council and community objections. We hear many reports from community members who see trees being destroyed across our community with no redress. We must learn to share our habitat with native wildlife and help our fellow humans through climate change.

Developer Donations to Political Parties

Why does the Makris Group choose to donate to Labor? (asked David Bevan on ABC Radio in 2007)
"Yeah, we want to make our projects happen, that's for sure, but, you know, that's a part of the way the system – you know, politics – works here" (answered John Bunt, Makris Group)

There has long been a perception and concern in the community that donations to political parties from developers result in undue influence and the adoption of policies that favour those who make these donations. Donations may be monetary or may be in the form of other gifts such as study tours and travel. For example, representatives from the UDIA travelled to the UK with the Minister and members of the Commission in 2019. Whether or not undue influence actually happens, it is important that there not be any opportunity for the community to draw this conclusion.

We are aware that both Queensland and New South Wales have legislation prohibiting developer donations and we seek similar legislation in South Australia as a matter of urgency.

Conclusion

Our Association acknowledges and supports the efforts of the City of Norwood Payneham & St Peters in its detailed submission to the Expert Panel. In addition as a member of the Community Alliance and Protect Our Heritage Alliance we support their submissions and that of the National Trust.

The watering down of heritage protection and the failure to establish any heritage protection to large areas of Norwood and other inner suburbs is causing significant and irreversible damage to the character of Adelaide's older suburbs and that of the older towns or older parts of towns throughout the state. The rate of demolition of pre-World War I housing stock is of concern to residents of these areas and other concerned residents. No street is immune from the bulldozing of heritage housing and the construction of totally inappropriate, ugly and environmentally inappropriate infill housing. Our heritage bluestone and sandstone housing stock is one of the few things that is unique to Adelaide and older towns and a definite attraction to interstate and overseas visitors to our state.

To prevent such destruction of our heritage, the heritage provisions of the former NP&SP Development Plan must be incorporated into the Planning and Design Code as promised and urgent action taken to protect all heritage housing stock that is not currently protected.

The PDI Act 2016 and the Code are overwhelmingly pro-development and anti-community. This skewed focus results in very poor planning decisions having long lasting negative impacts on the character of our communities which will in turn lead to increased negative impact on social and environmental aspects of our local areas. It is likely to significantly increase community conflict.

The increased level of urban consolidation will result in significantly smaller lot sizes and the loss of trees and vegetation. It will also markedly increase storm water runoff into our creeks and rivers and eventually the gulf, killing sea grasses. It is not sustainable.

The PDI Act 2016 and the Planning and Design Code have failed to provide proper heritage protection as part of the development process. To ensure that our built heritage is properly protected we urge adoption of the National Trust's five-point plan. In summary:

- ***A single comprehensive Heritage Act that provides for the listing and protection of State Heritage, Local Heritage and Contributory Items.***
- ***An Independent Heritage Commission.***
- ***An integrated heritage listing process enabling organisations or members of the public to nominate items for all three tiers of heritage listing.***
- ***Strict demolition controls for all heritage items, including Contributory Items.***
- ***Support for heritage owners and the heritage economy.***

If required we are willing to provide further clarification regarding this submission.

Yours faithfully,



Roger Bryson
President ([redacted])



Andrew Dyson
Secretary [redacted]

cc Mr Nick Champion, Minister for Planning
The Hon Steven Marshall, Member for Dunstan
City of Norwood, Payneham & St Peters
Protect Our Heritage Alliance
Community Alliance South Australia
National Trust of South Australia
Norwood Residents' Association
St Peters Residents' Association
Kent Town Residents' Association.

Fig Her/18 ADJOINS



Fig Her/22 ADJOINS



Fig Her/24 ADJOINS

-  State Heritage Place
-  Local Heritage Place
-  Contributory Item

- Mixed Use Historic (Conservation) Zone
 - 11.3 Kensington
- Residential Historic (Conservation) Zone
 - 12.8 Kensington 1
 - 12.9 Kensington 2
 - 12.10 Kensington 3

-  Policy Area Boundary
-  Development Plan Boundary

Scale 1:5000



NORWOOD PAYNEHAM AND ST PETERS (CITY) STATE AND LOCAL HERITAGE PLACES AND CONTRIBUTORY ITEMS