

28 February 2020

REF No.: 00882-003

The Chair  
State Planning Commission

**Attention:** Mr Michael Lennon

By Email: [DPTI.PlanningReformSubmissions@sa.gov.au](mailto: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, Moore Pty Ltd, that owns the State Heritage Listed building at 150 – 154 Rundle Mall, Adelaide ('the site').

The site is presently located within **Main Street Policy Area 14** of the **Capital City Zone** of the Adelaide (City) Development Plan (consolidated 16 January 2020).

Under the Planning and Design Code ('the Code'), the site is proposed to be located within the **Rundle Mall Sub-Zone** of the **City Main Street Zone**. The site is also captured within the following Overlays:

- Affordable Housing;
- Airport Building Heights (Regulated) – All structures over 130 metres AHD;
- Building Near Airfields;
- Design;
- Prescribed Wells Area;
- Regulated Trees;
- Sloping Land; and
- State Heritage Place.

The Technical and Numeric Variations identify the site is located within an area with no prescribed height limit (as identified within 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 potentially 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. This would extend to 'supported accommodation' and 'tourist accommodation' (i.e. a 'hotel') which does not require notification under the Development Plan.

2. We also note that a shop, office and consulting room exceeding 2,000m<sup>2</sup> GLFA require public notification. This appears to be entirely inappropriate and unreasonable, particularly as these development types are specifically encouraged and envisaged within the City Main Street Zone, which is an important economic focus of the State.
3. The subject site has been captured within the Sloping Land Overlay. We understand that this Overlay is proposed to be removed from the Code and replaced with General Policy provisions for sloping land greater than 1 in 8. We support this amendment and support the removal of the Overlay from this 'flat' city centre site.
4. 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 take a more balanced decision that considers all aspects of a development application.

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', for consideration and inclusion by the Relevant Authority as part of a 'balanced' decision making process.

**Proposed Amendments to the Planning and Design Code**

- Public notification ‘triggers’ for the City Main Street Zone should be reviewed and amended. Envisaged uses should not require public notification. Only ‘restricted’ development types should require public notification within the Zone.
- The Sloping Land Overlay should be removed from 150-154 Rundle Mall.
- 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



**Chris Carrey**  
Planning Consultant