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18 December 2020

Mr Lennon
Chair State Planning Commission
GPO Box 1815
ADELAIDE SA 5001

Via Email: DIT.planningreformsubmissions@sa.gov.au

Dear Mr Lennon,

Re: Submission on the revised Phase Three Planning and Design Code

We would like to take this opportunity to thank you for re-consulting on the revised Phase Three Planning and Design Code. It is such a complex set of policies and has changed substantially since the first round of consultation. In light of the principles of procedural fairness, we feel that re-notification was the right thing to do based on the extent of changes.

As authorised by the Town of Walkerville Council, I would like to raise the following new concerns with the revised policy suite, alongside some unresolved concerns that remain from the first round of consultation.

Urban Renewal Neighbourhood Zone and Affordable Housing Overlay

This zone is a new addition to the Walkerville Council policy suite under the Phase Three Planning and Design Code. It was intended to address our previous concerns regarding the loss of the nuanced local policy found within the “Gilberton Medium Density Policy Area” contained in the existing Walkerville Council Development Plan.

The existing Walkerville Council Development Plan indicates that several parcels of land, south of Adelaide Clinic are currently entitled to mixed use developments in the order of 10 storeys in height. The previous consultation version of the Code included the entire area within the Housing Diversity and Neighbourhood Zone, which watered the entire area down to two storeys and ignored the unique character and heights found within this area. These concerns underpinned our submission back in February 2020.

Council would like to raise concern with the application of the Urban Renewal Neighbourhood Zone, along with the associated Affordable Housing Overlay, over one lone parcel of land at 40 Park Terrace Gilberton. This policy change entitles this individual site to a minimum of 11 storeys, which consists of a minimum TNV of 10 storeys plus a minimum of one additional storey, where the proposed development includes 15% affordable housing. Specifically,

performance outcome 3.2 of the Affordable Housing Overlay could be used to justify additional bonus storeys of an unrestricted number without any control.

To be clear, Council does not oppose affordable housing being provided on this site, but instead opposes the height bonuses that are offered, over and above the 10 storeys afforded under the existing Development Plan. Council questions why our request for a subzone over the entire Gilberton Medium Density Policy Area was denied and instead replaced with this inappropriate “spot zone” solution that, if realized will have unintended consequences at the interface. We echo the same concerns expressed by other Phase Three Council’s that the loss of local policy will be detrimental to the future character and amenity of our suburbs.

Further concerns are held for the lack of policy that gives consideration to the surrounding locality and more importantly, the amenity impacts that will be created from a building of this scale. For instance, DTS/DPF 6.1 seeks side setbacks of 0.9m for a wall height less than 3m and 0.9m plus 1/3 of the wall height above 3m for walls greater than 3m in height. Based on an 11 storey development, a wall height of approximately 44m would be setback at around 13m from the southern property boundary. This setback is considered to be insufficient for a southern boundary and would result in substantial shadow impacts on the existing Mersey Street units and houses, as well as substantial visual impact. As a minimum, Council seeks that the 30 degree plane test for southern boundaries, which is currently afforded to all of the Urban Corridor Zones sites, be afforded to this site so that these impacts are appropriately managed.

In an effort to avoid poor urban design outcomes, Council also seeks more robust policies that prevent podium parking along the street frontage and that ensures that any podium development are of a human scale, enable activation and designed to take design cues from the existing streetscape.

Similarly to the concerns raised in our last submission, the restricted development classification list is considered to be insufficient and should be amended to include Industry, which is completely inappropriate for a residential area. Whilst Council appreciates that restricted development merely refers to an assessment pathway, PO 1.1 does not offer sufficient safeguards to prevent “supporting and convenient” industrial uses such as mechanics, panel beaters etc. This provision needs to be amended to give Councils greater power to refuse those types of uses that would detrimentally affect the amenity of the surrounding residential area.

As such it is suggested that PO 1.1 be reworded so as to read: *“Residential development and supporting uses that contribute to creating a convenient urban environment for residents without compromising the residential amenity of the surrounding area.”*

Housing Diversity Neighbourhood Zone

The Housing Diversity Neighbourhood Zone is the zone replacing the larger remaining section of the Gilberton Medium Density Policy Area and the North East Road Corridor Policy Area.

The Gilberton Medium Density Policy Area portion of this zone contains a Technical Numeric Variation of four (4) storeys whilst the North East Road Corridor Policy Area contains a TNV of three (3) storeys. Council is concerned that these sites have been afforded such heights without any consideration given to the site width and without any firm policy that seeks the amalgamation of allotments, which is found within the existing Development Plan. For example, 152 – 156 North East Road include a series of undeveloped sites, each with approximately 700m² with a road frontage in the vicinity of 17m. Whilst together they may have a large enough site area to accommodate a three (3) storey development, individually they do not. For the north-east road corridor policy area, Council requests that a TNV of two (2) storeys be introduced within this zone with the opportunity for a height bonus of one (1) storey for amalgamated sites.

Similarly to the previous comments, it is suggested that PO 1.1 be reworded so as to read: *“Residential development and supporting uses that contribute to creating a convenient urban environment for residents without compromising residential amenity of the surrounding area.”*

Local Activity Centre Zone

The Local Activity Centre Zone will become the replacement zone for the existing Local Centre Zone as contained with the existing Walkerville Council Development Plan. This zone is located at the intersection of Walkerville, Robe Terrace and Northcote Terrace.

We would like to thank you for listening to our objection on the loss of this policy expressed in our submission made earlier this year. It is evident that the loss of this policy was echoed strongly by other Phase Three Councils.

Whilst the return of this policy is appreciated, it is found to be lacking somewhat in clear policy around mixed use developments. In particular, DTS/DPF 1.1 identifies a dwelling as an envisaged form of development but does not make the connection/association with non-residential development. Furthermore, PO 1.1 limits desired uses to retail, office, health and community services and other business that provide a range of services to the local community. This is considered to restrict mixed use development opportunities that currently exist on these sites within the Walkerville Council area.

In an effort to re-activate this gateway area, Council would like to see a maximum of five (5) storeys achieved on amalgamated sites and as such would like to see PO 3.1 amended to allow some minor flexibility with height. We suggest that this PO could be amended so as to read:

“Building height is generally consistent with the form expressed in any relevant Maximum Building Height Levels Technical and Numeric Variation and Maximum Building Height Metres Technical and Numeric Variation, and otherwise generally of a low rise that complements the established streetscape and local character.”

More broadly, the Desired Outcomes are lacking in detail and need to be more robust, setting a clear and concise vision that does not just deal with the mixture of uses envisaged within a zone but with the bulk, scale, setting and public realm. We draw your attention to the Desired Outcome 2 set for the Suburban Business Zone, which seeks “A Zone characterised by low-rise buildings with additional height in well serviced and accessible locations.” We ask that you consider augmenting the DO for the Local Activity Centre Zone that allows the same level of flexibility for amalgamated sites. In general, we ask that all of the DO’s for all of the zones are augmented to provide guidance for planning practitioners to navigate the nuanced gaps in the policies and to ensure that trade-offs can be achieved that are balanced within the public interest.

With respect to the Procedural Matters section, it is reasonable that a shop with a high floor area that interfaces with a Neighbourhood Zone would be subject to public notification. As the triggers stand, a supermarket (i.e. an ALDI, Coles, and Woolworths with an unlimited floor area) would not require any form of public notification, which is not in line with the public’s expectations. Neighbouring residents have the right to be notified of developments that due to hours of operation, deliveries, plant, overlooking and traffic impacts may negatively affect the amenity of the area. This is an existing feature of Schedule 9 of the Development Regulations 2008 and it would be within the public’s expectation that this be retained for all types of developments under the new planning system. We respectfully request that these triggers be amended to ensure that any new developments on the border of the zone with a Neighbourhood Zone is subject to public notification in a fair and reasonable manner.

Suburban Activity Centre Zone

The changes that have occurred to this zone do not go far enough to address the concerns raised in our submission made back in February 2020.

The 45 degree plane test still applies for all boundaries, other than a southern boundary, that interfaces with a neighbourhood zone. Whilst Council appreciates that the existing Development Plan contains a 45 degree plane test, it is fair to say that built form outcomes that have resulted since its inception in the Urban Corridor Zone (contained in the SAPPL) have been less than desirable, particularly in those areas along Churchill Road, within the City of Prospect Council.

Echoing the concerns raised back in February 2020, we respectfully request that the 30 degree plane test (as measured from 3m on the boundary) be introduced for all boundaries shared with a Neighbourhood Zone. The design bar needs to be set higher in the DTS/DPF so that any negotiation through a performance assessment will not undermine the visual amenity of the locality.

Similar to the Local Activity Centres Zone, we respectfully request that the Procedural Matters are amended to ensure that any development on the border of the zone with a Neighbourhood Zone is subject to public notification.

Suburban Business Zone

This zone replaces the existing Mixed Use Zone in the Walkerville Council Development Plan and was formally known as the Suburban Business and Innovation Zone, during round one consultation. Given the evolution of this zone since the previous round of consultation, we question whether the Suburban Business Zone was the best fit for the Mixed Use Zone as a whole or whether one of the Urban Corridor Zones might have been a better fit. It is fair to say that the car yards on Main North Road are no longer sought by the market and this zone is ready for a transition.

Notwithstanding the above, Council welcomes the removal of the reference to Medium Rise developments in the form of three to six storeys, which was one of our concerns raised about the Suburban Business and Innovation Zone back in February. However, it can be argued that by virtue of DO 2 and PO 3.1 that taller buildings could still be constructed towards the centre of the zone. This flexibility is not necessarily opposed, but should be controlled relative to site area. Smaller sites should not be permitted to push the height limits in an uncontrolled manner but instead should be encouraged to amalgamate with other adjoining sites through the introduction of limited height bonuses.

Scotty's Corner is an example of an amalgamated site that has an opportunity to accommodate taller buildings in a mixed use format.

In light of the above points, we respectfully request that the 30 degree plane test (as measured from 3m on the boundary) be introduced for all boundaries shared with a Neighbourhood Zone.

In an effort to avoid poor urban design outcomes, Council further seeks more robust policies that prevent podium parking along the street frontage and that ensures that any podium developments are of a human scale, contain active uses and designed to take design cues from the existing streetscape.

Similar to the Local Activity Centre Zone and the Suburban Activity Centre Zone, we respectfully request that the procedural matters be amended to ensure that any new developments on the border of the zone with a Neighbourhood Zone is subject to public notification in a fair and reasonable manner.

Established Neighbourhood Zone and Historic Conservation Overlay

This is a new residential zone that replaces the Suburban Neighbourhood Zone, previously applied over Medindie, Gilberton and Walkerville where the Historic Conservation Overlay applies.

Whilst we appreciate some of nuanced setback TNVs, we would like to advise that they have not fully transitioned over. For example, the grand mansion sites located along Edwin Terrace, Stephen Terrace, Northcote Terrace, Frederick Street and James Street (north of Edwin Terrace) should be setback 4m from the side boundaries not 2m as shown in the mapping. From a character point of view, this reflects the established pattern of development within the area and allowing the 2m setback, will have unintended impacts on the character of these more historic areas.

Council still holds concerns with the 'out of centre development policies' that exist within this zone, as well as the other Neighbourhood Zones. These concerns are two-fold:

1. Public notification is not required for a Shop, Office or Consulting room with a floor area less than 200m², where the site has direct frontage to a State Maintained Road or adjoins an existing centre, or 100m² where the site does not front a State Maintained Road.
2. Furthermore, the suite of policy is missing some core tests that prevent de-facto centres from being created. Whilst one isolated change of use of a dwelling to a small café or shop on the corner might be a welcomed addition to a walkable neighbourhood, the sequential and systematic change of use of several sites next to one another can and will slowly erode the amenity of the area and introduces non-local traffic into previously quiet road networks.

The restricted development classification list is considered to be insufficient and should be amended to include Industry, which is completely inappropriate for a residential area. Whilst Council appreciates that restricted development merely refers to an assessment pathway, PO 1.1 does not offer sufficient safeguards to prevent supporting industrial uses such as mechanics. This provision needs to be amended to give Council's greater power to refuse those types of uses that would detrimentally affect the amenity of the surrounding residential area.

It is suggested that PO 1.1 be reworded so as to read: "*Residential development and supporting uses that contribute to creating a convenient urban environment for residents without compromising the residential amenity of the surrounding area*". This change should be made to the same provision contained within the entire range of Neighbourhood Zones.

General Neighbourhood Zone

This is a residential zone that covers most of Vale Park and experiences the greatest amount of infill development within Walkerville.

It is clear that our concerns raised back in February 2020, with respect to the re-introduction of row dwellings within this Council area, have been ignored. Due to the poor streetscape outcomes, access issues and restricted landscaping Council continues to oppose this form of development. Furthermore, serious concerns are held for the introduction of a deemed-to-satisfy pathway for this form of development. At the very least, this form of development should be subject to a performance assessed pathway.

Whilst Council has a number of concerns about the assessment provisions contained within this zone, the below comments have been limited to those around a deemed-to-satisfy dwelling, which reflects the most prevalent form of development within this Council area.

DTS 2.2

This provision needs to be amended to ensure that where a land division is being carried out that retains an existing dwelling, that the minimum setbacks are achieved from the house to the new boundary.

DTS 7.2 and 8.1

This provision seeks a setback of 0.9m to an external boundaries for semi-detached, row and terrace dwellings, which conflicts with DTS 8.1 and would be inappropriate for a two (2) storey dwelling. There is a strong possibility that these two provisions will be confused by a planning certifier. If DTS 7.2 intends that external boundaries remain clear of boundary construction, then just say this.

DTS 9.1

In an effort to set the benchmark higher, Council seeks that the existing Residential Code rear setbacks of 4m for a single storey component and 6m for a two (2) storey component be included in this test. It is our opinion that a rear setback of 5m is insufficient as a starting point and will increase the sense of enclosure experienced by much of the Vale Park area.

DTS 20.1

Council requests that (d) be removed as this would encourage triple garages on new houses within Vale Park that have on average a 19 to 20m frontage. Whilst there may be limited instances where triple garage may be acceptable, this should be worked through a performance solution and should be afforded as part of a deemed-to-satisfy pathway. It will further place pressure on Council's street trees and increase the extent of hard stand located in the front yard, thereby reducing the amenity of residential areas.

DTS 21.1 and 22.1

In line with other Councils, we strongly oppose the 24m² of private open space permitted as part of a deemed-to-satisfy pathway. Whilst we understand that this needs to be balanced with soft landscaping in DTS 22.1, it does not go far enough to raise the minimum benchmark. We respectfully request that these two provisions be replaced with one table that seeks a higher amount of private open space and soft landscaping. Private open space serves many functions and we do not agree that these provisions should be pulled apart as it will result in perverse outcomes on the ground.

DTS 23.1

Due to such a high site coverage of many dwellings within these areas, there is a lack of on-site storage and as a result, garages are being used for storage instead of parking cars. Council requests that either the internal dimensions of garages are increased to allow for integrated storage or that an additional provision be introduced that seeks that the applicant demonstrate at least 10m² of on-site domestic storage be provided somewhere else on the site, not to be included within the site coverage.

DTS 23.3

It should be Council's decision whether a double crossover is appropriate or not and we respectfully request that this provision be amended to limit the crossover width to a single width 3.2m only, thereby requiring a performance assessment for anything greater. Allowing an as of right 5m crossovers for two new allotments will again reduce the extent of landscaping at the front of the site and will increasingly place Council street trees under threat. Due to the rising extent of hardstand in this area, it will further restrict Council's opportunities to increase canopy cover in the public realm. As we have identified in the Walkerville Council Urban Forrest Strategy, public space is already so limited and the verges offer one of a very limited number of opportunities to increase our canopy cover within the township.

We further note the lack of policy that deals with the height of buildings on battle-axe allotments. In line with the existing Walkerville Council Development Plan, we would like to see that any house constructed on the battle-axe allotment is limited to single storey. Permitting two (2) storey dwellings will increase the sense of enclosure experienced by residents, which undermines the amenity of our residential areas.

Suburban Neighbourhood Zone

This zone replaces the existing Central Policy Area 6, which adjoins the more historic pockets of Walkerville, in and around Church Terrace. These areas traditionally adjoin the Historic Conservation Overlay and in themselves contain largely intact streetscape character formed through a combination of remaining character dwellings and new builds that take design cues from these older buildings.

Whilst Council appreciates the removal of the General Neighbourhood Zone from these areas, we are aggrieved by the allowance of row dwellings within this zone and the ability of a detached dwelling and semi-detached dwelling to follow a deemed-to-satisfy pathway without any consideration being given to the streetscape character. Following the first round of consultation, we requested a Character Area Overlay over this area but have not received this. As a minimum, Council requests that the deemed-to-satisfy pathway for a detached, semi-detached and row dwelling be removed within this area and that the following additional assessment criteria be added:

PO – Building scale, roof form, materials and design complement the surrounding built form, *streetscape and local character, building on the positive attributes of the locality.*

Council also continues to oppose the ability of educational establishments to encroach into adjoining residential land with a minimum footprint of 150% (DTS/DPF 1.6). This is an excessive starting point and seems to be disingenuous when viewed against the 'low design bars' set by the Code.

It is concerning that public notification is not required for a Shop, Office or Consulting room where it has a compliant floor area. This is not acceptable, a resident should have the right to comment on a non-residential use that adjoins their place of residence – it is a reasonable expectation.

Home-based Business in Neighbourhood Zones

The home-based business policy that is relatively consistent across the Neighbourhood Zones, is considered to be missing some key performance assessment tests including ensuring that it is subordinate in scale to the residential use on the site. Implementing this test will ensure that home activities do not outgrow the residential use on the site in an uncontrolled manner and to a scale that can negatively affect the surrounding residential amenity. Traditionally, floor area creep of a home activity has led to the early creation of most centres, particularly along arterial roads. Council requests that these Performance Outcomes are re-drafted so as to read:

Home-based businesses are subordinate in scale to the residential use on the site, whilst maintaining the amenity of nearby residents.

Out of Centre Development in Neighbourhood Zones

Council is not opposed to the reinstatement of a shop, office or consulting room within an existing abandoned corner shop or for the lone change of use on an arterial road. However the 'out of centre' policies, which allow shops, offices and consulting rooms to percolate on mass into quiet neighbourhood streets is not a policy direction supported by this Council.

The suite of policy is missing some core tests that prevent de-facto centres from being created. Whilst one isolated change of use of a dwelling to a small café or shop on the corner of a street might be a welcomed addition to a 'walkable neighbourhood', the sequential and systematic change of use of several sites next to one another erodes the amenity of the area. It introduces non-local traffic into previously quiet road networks and changes the look and feel of the area. It also further undermines the feasibility of the existing centres hierarchy, which during such uncertain times would not be welcomed by commercial landowners. I think it is fair to say that this is an unfair outcome for any resident who enjoys the amenity of their existing residential

area and as such Council seeks tighter controls that would prevent this outcome. In light of the above, the Council seeks that the relevant DTS/DPF across all of the Neighbourhood Zones should be amended so as to read:

A shop, consulting room or office (or combination thereof):

- a) Reinstates a former shop, consulting room or office;*
- b) Is ancillary to and located on the same allotment as a dwelling and does not exceed 50m² gross leasable floor area or 30% of the floor area of the associated dwelling (excluding any garage or carport), whichever is the lesser;*
- c) Is located more than 500m from an Activity Centre or another existing or approved shop, office or consulting room and does not exceed 200m² gross leasable floor area (in an individual building or combined) where the site has a street frontage to a State Maintained Road.*
- d) Does not exceed 200m² gross leasable floor area (total combined floor area) where located adjoining an Activity Centre (including where the site would adjoin if not separated by a public road).*

The corresponding performance criteria should be amended so as to read:

Shops, consulting rooms and offices either:

- a) Reinstate commercial uses in existing non-residential buildings; or*
- b) Comprise home-based business of a nature and scale that maintain the residential character and amenity of the neighbourhood; or*
- c) Support the limited expansion of existing Activity Centres; or*
- d) Contribute to ease of walkability to services in areas without convenient access to Activity Centres while maintaining the residential character and amenity of the neighbourhood; and*
- e) Avoids the creation of de-facto centres through the proliferation of small shops, offices and consulting rooms.*

Historic Area Overlay

What value does a representative building status offers in an assessment? None of the provisions in this Overlay offer any weight to such buildings in an assessment. The recent announcement by the Commission to retain the existing Contributory Items seems disingenuous in this regard.

The amendment of PO 5.1 to include a compatible land division pattern test is appreciated.

PO 3.2 should be amended to provide a clearer test with respect to building materials - you either seek that the materials are consistent or complement, not both. In an effort to avoid pastiche developments, we suggest that the complement test be favoured over the consistent test in this instance.

This Council maintains the view that the demolition of non-representative buildings should be the only developments subject to public notification. It is too onerous on the owners of these sites and the development industry in general to undergo public notification for the demolition of every single building within this overlay. The minor test should not be used to justify poor policy.

Urban Tree Canopy Overlay

Whilst DTS/DPF 1.1 of the Urban Tree Canopy Overlay is an appreciated element of the deemed-to-satisfy pathway for a dwelling, previously missing from the Schedule 4 residential code provisions, it still does not go far enough to protect the existing established canopy cover in Walkerville. There are three fundamental issues that underpin this view:

- Firstly, the burden of information required to demonstrate the retention of a mature tree is greater (i.e. tree survey required to chart existing tree height and canopy spread) than it is just to show the location of a new offset tree. Developers will traditionally follow the path of least resistance and this will lead to the continued loss of mature trees across our neighbourhood zones.
- Secondly, the canopy cover of one lost mature tree cannot be offset by one small tree on a lot less than 450m², which is the average infill allotment size in the Vale Park Area. The urban heat load effects will continue to increase in the 5 to 10 year period for the tree to reach maturity. The offset ratio should seek to increase the canopy cover beyond the lost canopy coverage, not decrease it; and
- Lastly, planning certifiers are unlikely to condition the retention of the offset trees, which without sufficient compliance powers under the PDI Act, will prevent many of these trees from reaching maturity.

This Council seeks that DTS/DPF 1.1 of the Urban Tree Canopy Overlay be amended to seek the retention of existing mature trees on a development site, not required to be removed for the dwelling, as the first point of call. Should the site already be denude of established trees then the provision should allow for the planting of new trees.

I invite you to contact Carly Walker, Senior Planner on [REDACTED] should you have any questions.

Yours sincerely



Kiki Cristol
Chief Executive Officer