

Mr Michael Lennon,  
Chair, State Planning Commission,  
GPO Box 1815,  
Adelaide, 5001.

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

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13<sup>th</sup> March 2019.

**Re: Draft Development Assessment Regulations and Practice Directions**

Dear Sir,

Before commenting on the draft regulations, we provide some background information about our Association and Kensington. This information was included in our recent submission in response to the draft State Planning Policies and we consider it is also relevant to our comments on the regulations.

Our Association was founded in 1977 because there was a feeling amongst some residents that Kensington was run down and neglected and, amongst other issues, residents wanted both the recognition and preservation of its historical features.

Kensington Village was surveyed in 1838 and settled in 1839 and is possibly the first village established to the East of Adelaide. 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.

Since 1977 our 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 a former mayor.

The Historic Conservation Zone has served our community well for 25 years. The result is that Kensington retains some aspects of early colonial, late 19<sup>th</sup> century and early 20<sup>th</sup> 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 what already exists.

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 Contributory Items, as without them the Historic Conservation Zone has no integrity.

We are aware that the City of Norwood, Payneham & St Peters (NPSP) has made a very detailed study of all aspects of the draft Regulations and Practice Directions expending a very considerable amount of resources and in turn has prepared a very detailed response. Our Association endorses the NPSP submission.

As a member of the Community Alliance South Australia Inc, we also endorse the Alliance's submission.

We acknowledge the two week extension granted for submissions at the instigation of the Community Alliance but consider that the consultation period was insufficient. The limited timeframes for consultation on all aspects of the planning reform process preclude genuine engagement with the community and are not within the spirit of the Community Engagement Charter.

We offer the following comments and suggestions on the draft Regulations and Practice Directions:

### **Regulated and Significant Trees (Regulation 3F)**

The removal of 30% of a tree may result in significant damage to a tree, ultimately resulting in the death of the tree and subsequently complete removal. The 30% threshold for pruning regulated and significant trees should be reduced. The regulations do not define the maximum number of times a tree can be pruned. The risk is that someone may keep pruning 30% of a tree with the obvious end result.

### **Relevant Authorities (Regulation 22)**

We oppose developments over three storeys and exceeding \$5 million being referred to the State Planning Commission for assessment instead of the Council Assessment Panel. We do not support this as it is very arbitrary. We would like to see decision-making stay at a local level by those who understand the issues, local infrastructure and community needs. Within NPSP we have many unfortunate examples of the Commission's approval of inappropriate developments that significantly exceed the height and other design parameters set out in the NPSP Development Plan. In its submission, our Council drew attention to a number of examples within NPSP.

A particular example was the approval of the Peregrine Office Tower, a building over 35m high, the equivalent of 10 storeys, on a site that was zoned for two. During the 2018 State election campaign, the then Leader of the Opposition Steven Marshall undertook that, if elected, his Government would ensure that developers "***strictly adhere to height limits prescribed in Council Development Plans for new developments***". Unfortunately, to date, no action has been taken to honour this promise. Our Association expects that this promise will be honoured in the new Regulations. It appears at times that ordinary citizens are expected to comply with the provisions of Development Plans but large companies and organisations are able to challenge those same rules and gain approval for developments that would otherwise be refused.

### **Private surveyors and land divisions (Regulation 22)**

The "*What We Have Heard*" report of June 2018 described overwhelming support for removing approval of land divisions by accredited professionals due to there being too many complex issues to take into consideration. The draft Accredited Professionals Scheme released in August 2018 did not make reference to accredited professionals or surveyors doing land division approvals and therefore we consider the current draft to be misleading. We do not believe that it is appropriate for land surveyors who undertake land divisions to be approving land divisions, in fact there may even be an inherent conflict of interest. The decision making in this area should remain with councils.

### **Timeframes for Assessment (Regulation 56)**

We support the NPSP opposition to the proposed reduced timeframe for assessment in respect to Performance Assessed applications determined by the Assessment Manager. We agree that such applications may still involve a complex and time consuming assessment process, particularly if there are "internal" referrals to traffic engineers, arborists or heritage advisors. It is recommended

that the proposed twenty (20) business days is amended to thirty (30) business days to allow for more complex assessments.

#### **Fencing (Schedule 4)**

We suggest that planning approval should be required for combined retaining wall and fences above 2.1 metres in height.

#### **Demolition of single storey buildings (Schedule 4)**

We strongly object to the proposal that demolition of single storey buildings should be exempt from development approval unless it is a Local Heritage Place in a zone, subzone or overlay set out in the new code. This regulation will increase the risk of unlawful demolitions when Councils are removed from the approval process and also prevent Councils from imposing any necessary conditions such as those related to damage to public infrastructure.

In addition, this proposal places many buildings currently listed as having historic significant under threat of being demolished without any notice or review. We are particularly concerned that the demolition of *Contributory Items* within Historic Conservation Zones may not be controlled, as the planning policies are silent on their continuing protection and the Code has not yet been drafted for the metropolitan area. If Contributory Items are allowed to be demolished, it will undermine the entire Historic Conservation Zone framework in which dwellings can not be demolished “as of right”.

Historic Conservation Zones are the foundation for preserving what we love and appreciate. 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 is at the core of Historic Conservation Zones. The loss of Historic Conservation Zones would weaken the existing controls that protect buildings from demolition and will see inappropriate infill development within historic areas.

Critical to the success of Historic Conservation Zones and the protection of our built heritage within our council area and throughout other inner suburban areas is the existence of Contributory Items. The preservation of Contributory Items within Historic Conservation Zones enables us to keep whole blocks intact. Unless Contributory Items are to be upgraded to Local Heritage items it is critical that Contributory Items are retained and continue to receive at least the same level of protection as they currently have under the Norwood Payneham & St Peters Development Plan.

In the Kensington Historic (Conservation) Zones we have 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). To allow demolition of these Contributory Items would destroy the overall heritage character of Kensington and would call into question the value of its status as an Historic Conservation Zone.

Within Kensington there are a number of Contributory Items that are worthy of upgrading to Local Heritage status and some other buildings not listed that are worthy of protection. Accordingly, we request that demolition control be extended to currently listed Contributory Items and all properties in Historic Conservation Zones, as in future they could be listed as Local Heritage Items.

As mentioned in our recent submission, the distinction between Local Heritage and Contributory status is 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 are 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 a Contributory Item.

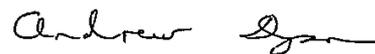
There are other examples of serious inconsistencies and also a number of buildings that should have some sort of listing but for some reason do not. These buildings demand attention so as to protect and preserve them from demolition or inappropriate development.

### **Conclusion**

In conclusion our Association requests that the Planning Commission takes notice of the concerns of the public, community organisations and the NPSP submission. We seek amendment of the draft regulations that will increase not decrease the involvement of local communities and councils and provide ongoing protection for our valued heritage.

If you require clarification of any matters, we are happy to be contacted.

Yours faithfully,



**Stewart Caldwell**  
President (██████████)

**Andrew Dyson**  
Secretary (██████████)

cc The Premier, Mr Steven Marshall  
Deputy Premier, Ms Vickie Chapman  
Minister for Planning, Mr Stephan Knoll  
Minister for Environment & Water, Mr David  
Speirs  
City of Norwood, Payneham & St Peters  
Community Alliance South Australia  
National Trust of South Australia  
History Trust of South Australia  
South Australian Heritage Council  
Australian Civic Trust

Fig Her/18 ADJOINS

THE PARADE

Fig Her/22 ADJOINS



PORTRUSH RD

SHIPSTERS RD

12.9

11.3

11.3

12.8

12.8

12.10



Fig Her/24 ADJOINS

- State Heritage Place
- Local Heritage Place
- Contributory Item

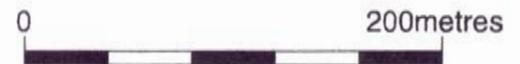
Mixed Use Historic (Conservation) Zone  
11.3 Kensington

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

**Fig Her/23**

Consolidated - 31 October 2013