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Mr Michael Lennon
Chairman
State Planning Commission

Via email: DPTI.planningreformsubmissions@sa.gov.au

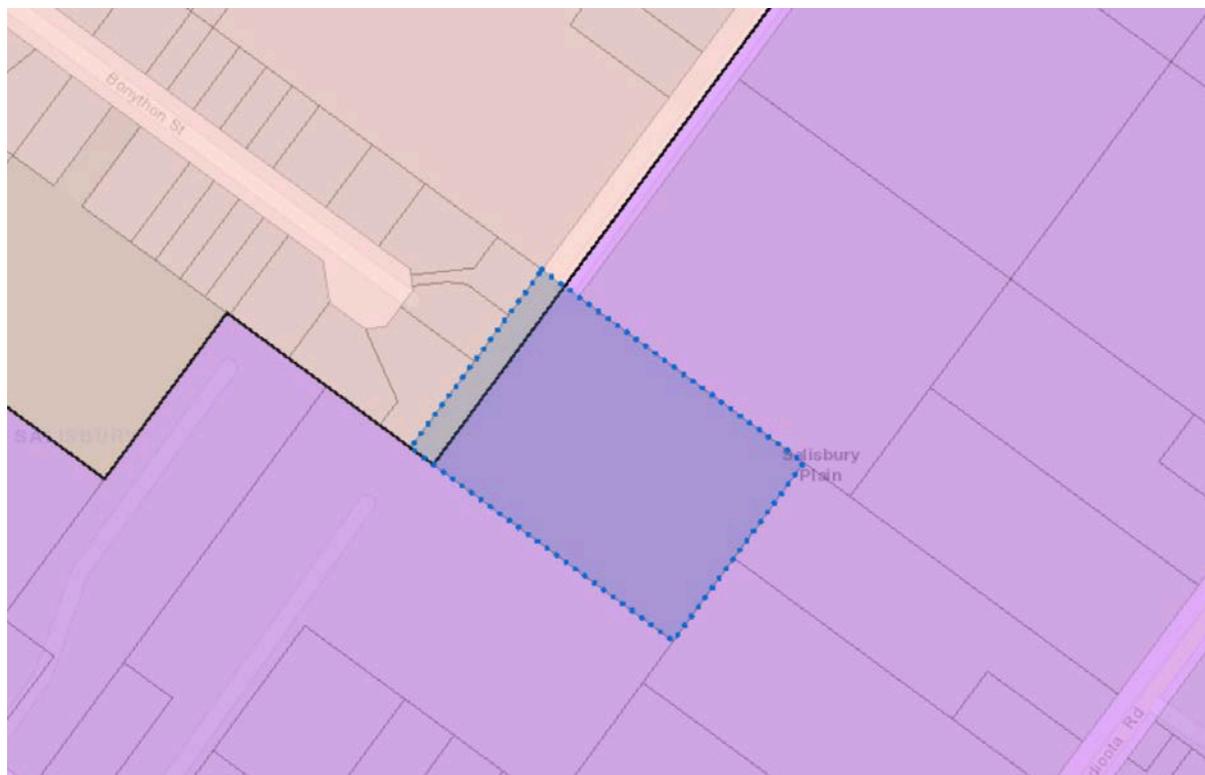
Dear Mr Lennon,

Planning and Design Code Submission – 26 Willochra Road, Salisbury Plain

This firm acts for Chris Shopov on behalf of his mother, Mrs Yanka Shopov to make this submission about the application of the proposed Planning and Design Code ('the Code').

Our client is the owner of land located at 26 Willochra Road, Salisbury Plain, formally described as Certificate of Title Volume 5065/642 ('the Land'). Set out below, is the spatial depiction of the Land and applicable zone boundaries under the City of Salisbury Development Plan ('the Development Plan').

Figure 1 *Subject land*



As can be seen in the figure above, the subject land straddles two zones, namely the Residential Zone and the Industry Zone within the Development Plan.

From our review of the Code and associated mapping software available online, it appears this anomaly has been transposed into the proposed Code, where the land will again straddle two zone boundaries, namely the General Neighbourhood and Employment Zones. This is an entirely unsatisfactory proposition.

The problems caused by the zoning are almost insuperable following the authority of *Hagger v DAC* [2006] SAERDC 56 in which it was held that where land to be developed straddles the common boundary of two zones, the Development Plan provisions of both zones must be considered in deciding whether the development would be non-complying. If the provisions of either zone categorised the development as non-complying, that is the way the proposal must be treated.

Complicating this particular case is the two zones in question are vastly disparate, and therefore, achieving compliance with both sets of zone requirements is difficult. Indeed, development that is envisaged in one zone, is either discouraged or even considered non-complying in the other. In order to achieve development approval on the Land requires the Homeric task of navigating between Scylla and Charybdis producing an application that avoids the competing aims of each zone policy.

Therefore, in order to provide policy certainty to enable orderly and economic development upon the Land, we submit the whole of the Land should fall within either the Employment Zone or the General Neighbourhood Zone but not in both.

My client's preference is to have the Land zoned entirely for residential purposes and subsumed into the neighbouring General Neighbourhood Zone.

It is noted that Willochra Road terminates at the single entrance providing the only frontage to the Land. Consequently, any large truck vehicle movements one normally associates with industrial uses, will need to be wholly facilitated within the boundaries of the Land through that single narrow frontage. Concomitant turning circles to enable large trucks to enter, exit and undertake all necessary manoeuvres within the Land in a forward direction would then need to be wholly provided within the Land reducing the productive use of it.

If the land were zoned for residential uses, interface issues with the Employment Zone could be appropriately managed through proposed Code policy dealing with such matters and proper master planning of the Land.

Whilst not as attractive to our client, if the Department is not of a mind to include the Land entirely within the General Neighbourhood Zone, the next best outcome is for it to exist entirely within the Employment Zone. Notwithstanding this alternative is less appealing, the hybrid zone reality that presently exists is highly prejudicial to giving confidence to expend significant financial resources on development applications that may be unsupportable due to the poor planning policies of the past.

Under this eventuality, our client would at least have certainty about the types of development that could be achieved without fear of infringing the alternative planning policies that apply.

We would be most grateful if this matter could be dealt with at as part of the commencement of the Code.

I would be pleased to discuss this submission in person if that would assist.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Marc Duncan', written over a light blue horizontal line.

Marc Duncan
Principal