

18 December 2020

The Chair
State Planning Commission
GPO Box 1815
Adelaide SA 5001

By Email: dit.planningreformsubmissions@sa.gov.au

Attention: Mr Michael Lennon

Dear Mr Lennon,

Re: Submission – Revised Planning & Design Code (Phase 3)

We write on behalf of Chero 2 Pty Ltd (part of the Adelaide Development Company (ADC) group of companies), that is developing the 'Blackwood Park' residential estate at Craighburn Farm, which has been subject of a staged development over the past two (2) decades.

While a large portion of the site has already been developed, the land development is not yet fully complete, and we anticipate there will be ongoing residential development, both in terms of land division and dwelling construction in the short-medium term.

The site is the whole of the suburb of Craighburn Farm. The site is currently located within the **Residential (Craighburn) Zone** of the Mitcham (City) Development Plan (consolidated 20 February 2018). Portions of the site are also captured within several Policy Areas of the Zone, namely Policy Area 1 (Residential), Policy Area 2 (Residential Deferred) and Policy Area E (Minda Core Activity Enclave).

Under the Planning and Design Code ('the Code'), the site is proposed to be zoned within the **General Neighbourhood Zone**. The site is not captured within a specific sub-zone. The site is also captured within the following Overlays:

- Airport Building Heights (Regulated) (All structures over 30 metres);
- Hazards (Bushfire – Medium Risk) (Medium);
- Heritage Adjacency;
- Hazards (Flooding General);
- Local Heritage Place;
- Native Vegetation;
- Prescribed Wells Area;
- Regulated Trees;

- Stormwater Management;
- Urban Tree Canopy; and
- Water Resources.

Having reviewed the planning ordinance, proposed to apply under the Code, we note the following concerns:

- 1) 'Typical forms' of residential development are excluded from Accepted Development/Deemed to Satisfy Criteria due to Overlays which have been applied across the site.
- 2) Minimum lot sizes have increased for Group Dwellings (240m² to 300m²) and Residential Flat Buildings (200m² to 300m²) when compared to the existing policy framework.
- 3) We are also concerned about any confusion whereby existing forms of residential development within the Estate are unable to be replicated under the new Code.
- 4) The presence of a Bushfire – Medium Risk Overlay means that a Deemed-to-Satisfy pathway of assessment for residential dwellings is no longer available. This would cause all new residential developments to be unnecessarily subject to a Performance Assessment pathway, despite the requirements for residential dwellings for medium bushfire risk areas being well defined and documented in the Ministers Code and no referrals required to the Country Fire Service (CFS).
- 5) The new Code undermining existing development Encumbrances/Covenants and/or causing confusion in this regard.

We are concerned the above policy framework will result in more onerous procedural requirements for occupants (and future occupants) seeking to undertake residential development in the Estate, even in situations where there will be minimal (if any) external impacts associated with the development and there will be frustration/confusion for new residential dwelling applicants that are unable to gain approval for a dwelling that is similar to others previously approved in the Estate.

Developer Encumbrances / Covenants

This Estate is subject to detailed urban design guidelines, produced by the Chero 2 Pty Ltd, resulting in high quality housing. All purchasers are aware of these requirements and the resulting standard of housing for them and their neighbours.

Many developers (particularly in larger greenfield/infill projects) and Renewal SA will often use Urban Design Guidelines in conjunction with covenants/encumbrances registered on titles to ensure the character and vision for a development is maintained, as well as giving greater confidence to homeowners about the quality of housing and how it interacts with

neighbouring homes and surrounds. Unlike a Development Plan (or the Code) that needs to be flexible to cover a broad range of planning policies and issues across South Australia, developer Urban Design Guidelines/Encumbrances are often at a much higher level of detail as the developer is willing to invest in the management and oversight of the process to ensure a specific/unique vision is obtained for the specific location/project.

Encumbrances/Urban Design Guidelines may cover a range of items, subject to the vision and characteristics of each individual development, including:

- Building time limits;
- Sustainability measures (above and beyond statutory requirements);
- Building envelopes/setbacks/heights;
- Retaining walls/landscaping/fencing;
- Building Form, materials and colours; and
- Other specific items of importance to the overall vision and delivery of the development.

Sometimes there are issues whereby a homeowner is in breach of the Encumbrance, requiring cessation of work or rectification due to:

- Undertaking works that do not require development approval (e.g. fencing/retaining walls/outbuildings) but are in breach of the requirements.
- Granting of Development Approval by the Relevant Authority, yet Encumbrance Approval has not been given (and possibly would not be given).
- Developers bypassing the Encumbrance Approval process (intentional or ignorant), forcing land developers to take legal action (at the cost of the homeowner).

With the introduction of the new E-planning portal, there is potential for these breaches to occur more often. To help prevent this, the State Planning Commission may consider a mechanism to highlight those areas that are covered by an Encumbrance / Urban Design Guidelines (or similar) to ensure the Encumbrance Manager is notified and Encumbrance Approval is granted prior to issue of Development Approval.

Proposed Amendments to the Planning and Design Code

- Minimum lots sizes for Group Dwellings and Residential Flat Buildings should be reduced to 240m² and 200m² respectively, to reflect the existing policy framework which applies to the site.
- Deemed to Satisfy (DTS) pathways for residential development, listed within the General Neighbourhood Zone should be reviewed and amended to ensure they are not diluted by the imposition of onerous Overlay restrictions (e.g., Bushfire – Medium Risk), which would unreasonably restrict simple and expected classes of development from following the DTS assessment pathway.
- Consideration be given to highlight the presence of developer-imposed Encumbrances / Covenants in master-planned residential estates on the E-planning Portal.

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 faithfully,



Tom Simpson
Project Manager