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27 February 2019

The Secretary
State Planning Commission
Level 5
50 Flinders Street
Adelaide SA 5000

RECEIVED

28 FEB 2020

Dear Sir,

Submission in relation to the Draft Planning and Design Code

This submission is made by the undersigned both on behalf of themselves and on behalf of 39 others who were financial supporters of the third parties, Messrs RJ Whittington and R Miller, to the appeal in the Environment Resources and Development Court in *Domain Project Developments Pty Ltd v City of Burnside* (2019) SAERDC 45. In that appeal the third parties succeeded in preventing a grant of development approval to erect a seven storey residential flat building.

First, we are opposed to the provisions of the proposed Community Facilities Zone.

The provisions of the existing Community Zone for the City of Burnside allow for residential development as an alternative land use within the zone: see Objective 3. That is a very logical step as all of the Community Zones in Burnside are surrounded by residential development. This same situation occurs in other parts of the metropolitan area.

It is obviously quite logical for land that is surrounded by residential land and that is not intended to be used for community purposes could be used for residential purposes.

However, if this submission is adopted, it should strictly and only be on the basis that any proposal for residential development in a Community Facilities Zone should be subject to at least the same checks and constraints that currently exist in Principle of Development Control 8 in the existing Community Zone for the City of Burnside. The checks and constraints in PDC 8 are necessary to ensure that any residential development proposed in the Community Zone should be sympathetic with existing residential development and maintain the residential character and amenity of the locality. We submit that no provision for residential development in the zone should be permitted unless these checks and constraints are also included.

Secondly, we submit that part of the proposed Community Facilities Zone in Rose Park should be rezoned.

The only current community use in the existing Community Zone in Rose Park is the Rose Park Primary School. The rest of the Community Zone is used for residential purposes. The whole of the area bounded by Alexandra Avenue, Victoria Terrace and Aviator Lane has since 2010 been developed for new single storey and two storey residences. That part of the Community Zone bounded by Watson Avenue, Victoria Terrace and Aviator Lane has been used for residential purposes for more than 50 years. From 1968 until 2002 it was used as an elderly citizens home. From 2003 it has been a hostel for university students.

It is logical, therefore, that that part of the Community Zone bounded by Watson Avenue, Victoria Terrace and Alexandra Avenue should now be added to the surrounding Historic Conservation Zone which entirely consists of dwellings. Furthermore, as all of the uses of land proposed for Community Facilities Zone are wholly inconsistent with the residential nature of the neighbourhood, it accords with both commonsense and planning principle to rezone that land and include it in the Historic Conservation Zone.

The site of the Rose Park Primary School should continue as a Community Zone or Community Facilities Zone.

The Planning and Design Code seeks to incorporate the policies in the existing zones, into the Code. In doing so, as in this case, it makes no provision in the proposed Community Facilities Zone for residential land use in the same way as does the existing Community Zone.

No planning investigations or studies have been provided to support or justify the changes. This is contrary to the current law, see sec 25(3)(a) of the ... and inconsistent with the new section 73(6) of the Planning Development and Infrastructure Act 2016..

The current consultation does not meet the requirements of the Planning Development and Infrastructure Act as it must comply with the Community Engagement Charter for the purposes of consultation in relation to the changes.

This lends further weight to the matters of policy referred to in this submission and we trust you will acknowledge and accord this submission serious consideration and implement its suggestions.

Yours faithfully



RJ Whittington QC



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