



Domain Project  
Developments  
BURKE+WICKS

26 February 2020

Department of Planning Transport and Infrastructure  
Level 5, 50 Flinders Street  
ADELAIDESA 5001

By Email: [DPTI.PlanningReform@sa.gov.au](mailto:DPTI.PlanningReform@sa.gov.au)

Dear Sir/Madam

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COMMENTS ON THE DRAFT PLANNING AND DESIGN CODE - COMMUNITY FACILITIES ZONE

as it affects

## **ALEXANDRA LODGE STUDENT ACCOMMODATION**

Located within the Community Zone of the Burnside Development Plan

at

Alexandra Lodge, 46 Watson Avenue, Rose Park,

by proprietor

Domain Project Developments Pty Ltd and P&J Hurley Pty Ltd

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### Alexandra Lodge

Alexandra Lodge occupies a rectangular parcel of land of 3,101 square metres on which is constructed an 8-level accommodation building fronting Watson Avenue and a 2-level accommodation building, fronting, and on the corner with Victoria Avenue, together housing 109 students.

The subject property has recently been subject to a resident's appeal against the approval of the City of Burnside for replacement of the student accommodation building with a lesser height residential apartment building(s).

In accordance with the existing Community Zone the property is in transition to residential use.



## Code Issue

The draft Planning Code (Code) replaces the Burnside City local variation which permits residential development, with the standardised provisions of a new Community Facilities Zone which restricts residential use. Residential use is vital to the redevelopment of the subject property and essential in recognising 7 new dwellings recently established on adjacent land fronting Alexandra Avenue within the Community Zone.

## The Community Zone

The existing Burnside component of its Development Plan includes the subject property within a Community Zone.

The land is shown in the Development Plan on Burnside (City) Zones Map Bur/3, within a Community Use Zone surrounded by a Historic (Conservation) Zone. It is not in a Policy Area.

The Objectives for the existing Community Zone are as follows;

*Objective 1: A zone to accommodate community, educational and health care facilities.*

*Objective 2: Provision for the current and identifiable future needs of such institutions in a manner that does not adversely affect the use and enjoyment of adjoining land.*

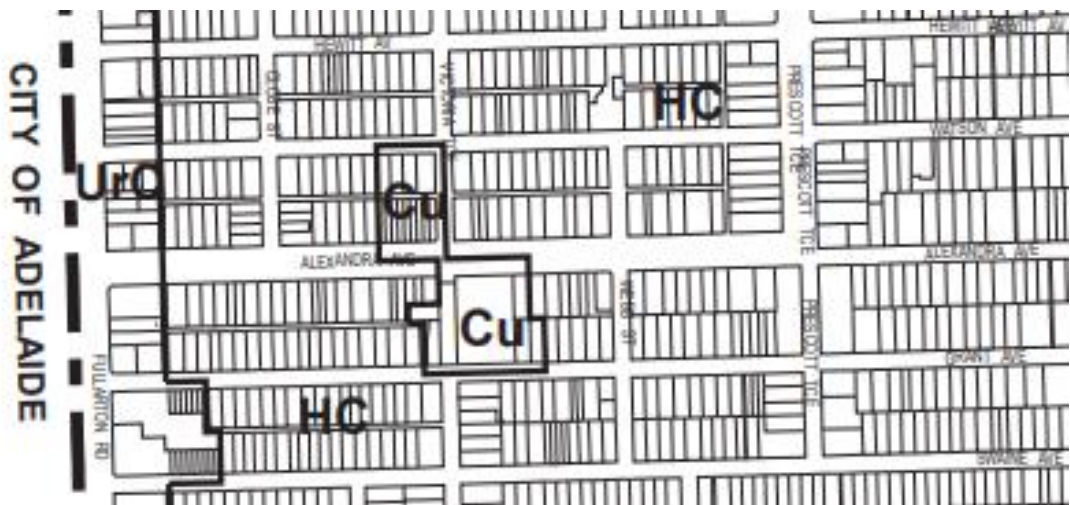
***Objective 3: Residential development as an alternative land use within the zone.***

Existing Community Zone in Objective 3 provides for residential development in equal weighting to community forms of development. Further to objective 3 the zone also incorporates PDC 8, providing principles of development control for residential development comprising dwellings in various configurations.

## Heritage

There is no local or state heritage item or place located on the subject property. Burnside TABLE Bur/2 Schedule of Local Heritage Places includes the following place(s) which are one building and part of the site of the former land ownership.

- *7 Victoria Terrace, Former Congregational Church Hall External form and original fabric to 1883-4 single and two storeyed Hall. Key features include face bluestone walls, lancet windows, and cast iron finial. 5805/330*
- *9 Victoria Terrace School Room, Former St Theodore's Church, External form and materials of 1905 church. Key features include hall form and masonry walls. 5740/957*



There appears to be an error on the State Government's [Location.sa.gov.au/viewer](http://Location.sa.gov.au/viewer) (regularly used for such location work) as it shows that 7-9 Victoria Terrace (a Local Heritage Place) on the Subject Site.

Site inspection and City of Burnside awareness reveals that this place is located on the southern side of Aviator Lane, and indeed is now substantially altered and absorbed into 3 residential dwellings fronting Alexandra Avenue. The place is accurately located on The Historic Conservation Zone Historic Conservation Policy Area 1 - Rose Park Fig Bur HCPA/1 as below;





It should also be noted with respect to later code submissions as to the extent of the map overlay, that *Alexandra Avenue, Alexandra Avenue Plantation, including Trees and War Memorial Sec: 262 Road Reserve Hd: Adelaide*, is listed as a State Heritage Place.

The subject property is NOT in a policy area according to Map Bur/12.

#### Planning Code (Code) - COMMUNITY FACILITIES ZONE

The Code proposes to include the subject property in a Community Facilities Zone.

In the new format of the Code the following applications with some major omissions are revealed.

#### ***Table 1 – Accepted Development Classification***

Advertisement is the only accepted development

There are presently no complying developments.

#### ***Table 2 – Deemed-to-Satisfy Development Classification***

Advertisement is the only accepted development.

There are presently no conditionally complying developments.

#### ***Table 3 – Applicable Policies for Performance Assessed Development***

All general development policies and relevant overlays apply in the Community Facilities Zone.

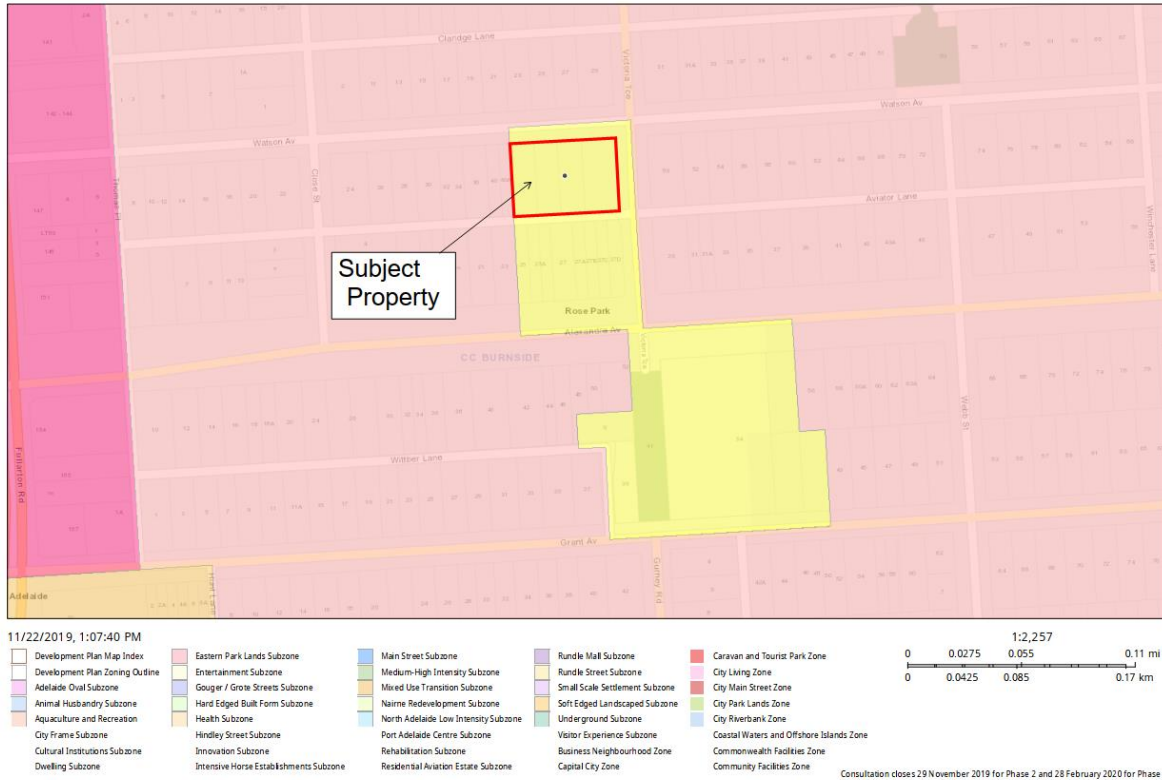
This is consistent with the approach of the existing development plan where general Objectives and principles of development control also apply.

#### ***Table 4 – Restricted Development Classification***

Table 4 does not identify any restricted development, whereas presently there are 37 land uses identified as non-complying in the Community Zone, enabling the consideration of many new uses. This is supported but there is no allowance for residential development currently allowed within the Zone.



### Planning and Design Code Consultation Map



The plan presently omits a coloured box legend. Zones can only be determined by individual property clicks in multiple layer dialogue boxes.

### Assessment Provisions

### Desired Outcomes (DO)

#### **DO 1**

***Provision of a range of public and private community, educational, recreational and health care facilities.***

The Desired Outcomes of the Draft Code Community Zone above do not reflect the objectives of the current zone, particularly Objective 3 which permits residential development in equal weight with the other objectives.

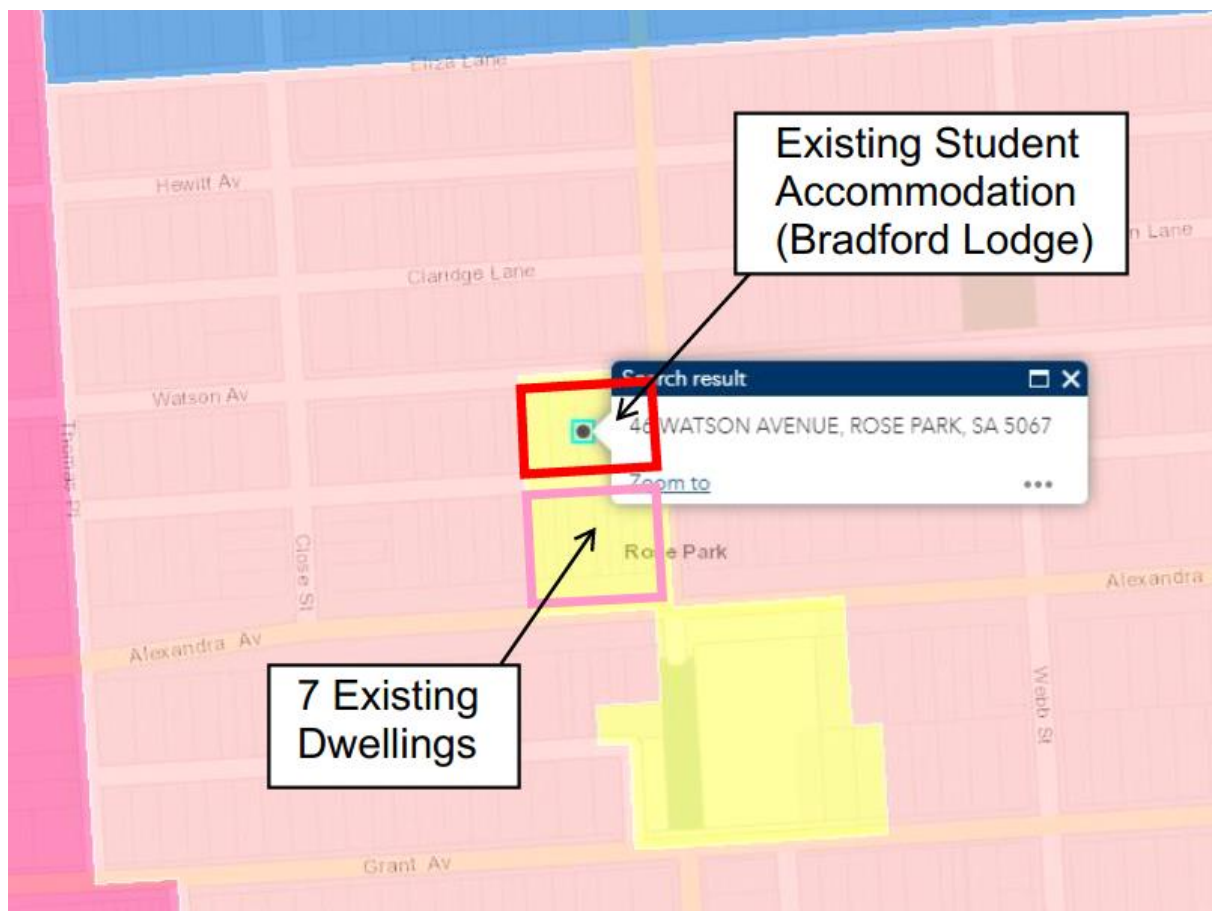


**Objective 1:** A zone to accommodate community, educational and health care facilities.

**Objective 2:** Provision for the current and identifiable future needs of such institutions in a manner that does not adversely affect the use and enjoyment of adjoining land.

**Objective 3: Residential development as an alternative land use within the zone.**

This is a major issue for the proprietors who are transitioning to residential uses and for those adjoining residential dwellings approved pursuant to the allowable residential use in the existing Community Zone.







Performance Outcomes and Deemed to Satisfy / Designated Performance Outcome Criteria

Land Use and Intensity

**PO 1.1**

***Development is associated with or ancillary to the provision of community, educational, recreational and / or health care services.***

Residential development is omitted.

***DTS/DPF 1.1***

***Development comprises one or more of the following land uses:***

***Consulting room  
Educational establishment  
Indoor recreation facility  
Office  
Place of worship  
Pre-school  
Recreation area  
Shop***

All kinds of residential development are omitted from this deemed to satisfy list. There is also no acknowledgement of the existing 8 level building nor (for clarity) any reference to existing residential use entitlements.

An office and a shop are presently listed as non-complying in the Community Zone, however the owner is supportive of this change as it offers desirable flexibility in end use planning and implementation.

**PO 1.3**

***Development avoids inhibiting or prejudicing future delivery of community, educational, recreational or health care services.***

***DTS/DPF 1.3***

There is no such “avoidance” policy in the current zone, and together with a “prejudice” principle, alternative residential land use in the new zone is severely restricted.

***DTS/DPF 1.3***

None are applicable.



Built Form and Character

**PO 2.1**

***A range of low to medium rise buildings, with the highest intensity of built form at the centre of the zone and lower scale at the peripheral zone interface.***

Part 8, Administrative definitions of the Draft Code proposes;

Low rise	In relation to development, means up to and including 2 building levels.
Medium-rise	In relation to development, means 3 to 6 building levels.
High-rise	In relation to development, means 7 building levels and above.

The subject property already contains an 8-level student accommodation building. Proposed Performance Outcome 2.1 conflicts with this long-standing existing development. It is noted that the properties existing “rises” closely, but not absolutely, conform to DTS/DPF’s 3.1 and 3.2 building envelope requirements below.







### ***DTS/DPF 2.1***

***Building height does not exceed a maximum height specified in the Building Height Technical and Numeric Variations Overlay.***

There is no maximum height identified in the building overlay. The subject property is either excluded or not affected?

### **Interface Height**

#### ***PO 3.1***

***Buildings mitigate visual impacts of building massing on residential development within a neighbourhood zone.***

#### ***DTS/DPF 3.1***

***Buildings constructed within a building envelope provided by a 45 degree plane measured from a height of 3 metres above natural ground level at the allotment boundary of a residential allotment within a neighbourhood zone as shown in the following diagram (except where this boundary is a southern boundary in which case DTS/DPF 3.2 will apply, or where this boundary is the primary street boundary):***

#### ***Diagram***

#### ***PO 3.2***

***Buildings mitigate overshadowing of residential development within a neighbourhood zone.***

#### ***DTS/DPF 3.2***

***Buildings on sites with a southern boundary adjoining a residential allotment within a neighbourhood zone are constructed within a building envelope provided by a 30 degree plane grading north measured from a height of 3m above natural ground level at the southern boundary, as shown in the following diagram:***

The new DTS policies appear to simplify and hopefully provide more certainty (by stipulating built form envelopes for development) than the existing much broader qualitative development plan provisions. It is questioned whether the Code may apply to residential built form in the Community Facilities Zone and if so is applied with reference to the detailed measurement of DPF's 3.1 and 3.2. We support clarification and inclusion of residential use and height consistent with the other proposed uses.



### Procedural Matters (PM)

#### ***Notification of Performance assessed development***

***All classes of development are excluded from notification except where it involves any of the following:***

***(a) the site of the development is adjacent land to land in a different zone***

***(b) development identified as “all other code assessed development” in Community Facilities Zone Table 3***

Procedurally the status quo remains.

### Overlays

Within the library of policies the Code, pursuant to the Planning, Development and Infrastructure Act 2016, provides;

1. the provisions of an Overlay will prevail over all other policies applying in the particular case;
2. A Subzone policy will prevail over a Zone policy or a General Development Policy;
3. A Zone policy will prevail over a General Development Policy.

An examination of the Planning and Design Code Map Viewer reveal several overlays.

The principal overlays are;



### Planning and Design Code Consultation Map



#### 1. Traffic Generating Development Overlay (Above)

The draft Code map extracted below identifies a blue area extending 4 and one half lots in from Kensington Road and two blocks from Fullarton Road.

This consultation area is excessive, particularly should DPTI Transport be granted a power of direction.



## 2. Local Heritage Place Overlay

This plan identifies the whole of the property to be a local heritage place.

This is in error in the existing Development Plan although not on the Historic Conservation Zone Historic Conservation Policy Area 1 - Rose Park Fig Bur HCPA/1 as above.

A Local heritage property is located at 7-9 Victoria Terrace on the southern side of Aviator Lane.

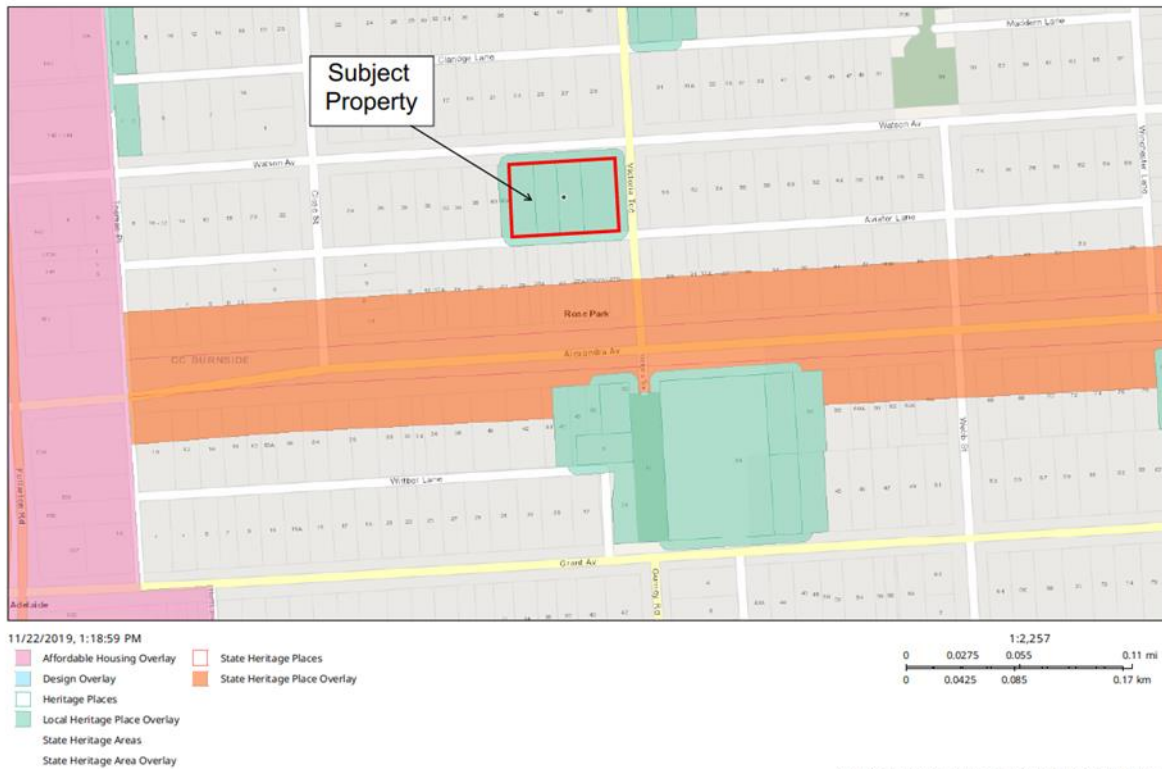
The local heritage classification, listed on page 2488 of Code Part 6, Index of Technical and Numeric Variations, should be deleted.

7 Victoria Terrace ROSE PARK	Former Congregational Church Hall; External form and original fabric to 1883-4 single and two storeyed Hall. Key features include face bluestone walls, lancet windows, and cast iron finial.	a c d	8304
9 Victoria Terrace ROSE PARK	School Room, Former St Theodore's Church; External form and materials of 1905 church. Key features include hall form and masonry walls.	a c d	8305

As described earlier the land does not contain any heritage item, local or State. The opportunity should be taken to correct this mistake.



### Planning and Design Code Consultation Map



Consultation closes 29 November 2019 for Phase 2 and 28 February 2020 for Phase 3

### 3. State Heritage Place Overlay (Plan Above)

Although not directly affecting the subject property it is noted that a State Heritage place overlay affects the whole of Alexandra Avenue and half of all detached dwelling properties adjoining located within the proposed Community facilities Zone.

The overlay should be reduced to apply only to Alexandra Avenue public road in accord with Burnside Table TABLE Bur/3 Schedule of State Heritage Places described there as follows;

- Alexandra Avenue Alexandra Avenue Plantation, including Trees and War Memorial Sec: 262 Road Reserve Hd: Adelaide

The class of development table on page 103 lists the State Heritage Overlay but tabulates no applicable policy, zone, sub zone or overlay. It is then uncertain as to the purpose or applicability of its inclusion in the performance assessed development Table 3.





## Conclusions

The subject property, and adjoining land, conflicts with the restricted non-residential purposes of the Community Facilities Zone of the Draft Code, as follows;

- Alexandra Lodge is a residential use housed in an 8-level student accommodation building fronting Watson Avenue and a 2-level student accommodation building, fronting, and on the corner with Victoria Avenue, all together housing 109 students.
- The subject property has recently been subject to a resident's appeal against the approval of the City of Burnside for replacement of the out dated and unsympathetic student accommodation building with a lesser height residential apartment building(s). An ERDC determination found that it was relevant to take into account the existing use, that residential use was an envisaged and acceptable land use and that in all the circumstances a replacement 7 storey development did not go far enough towards achieving the residential and built form intent of the zone, whilst not ruling out consideration of other proposals between the 7 and 3 storey limits.
- In accordance with the existing Community Zone the property is in transition to residential use.
- It is evident that the standardised provisions of the new planning code have made no reference to the Burnside City local variations which permit residential development.
- The draft Traffic Generating Development Overlay extends 250 metres from Kensington Road and from Fullarton Road and over the subject property. This consultation area is excessive, particularly should DPTI Transport be granted a power of direction.
- The heritage overlay plan identifies the whole of the property to be a local heritage place. This is in error. This property does not contain any heritage item, local or State. heritage place is located at 7-9 Victoria Terrace on the southern side of Aviator Lane not on the subject land. The local heritage classification should be deleted.
- It is noted that a State Heritage place overlay affects the whole of Alexandra Avenue and half of all detached dwelling properties adjoining including portion of the Community Facilities Zone. The overlay should be reduced to apply only over Alexandra Avenue and be restricted to Alexandra Avenue Plantation, including Trees and War Memorial.

The reform goal of consolidating of South Australia's 72 complex development plans into one set of easy-to-understand planning rules has significant merit but has not been achieved by standardisation in the case.

A State Government introductory reform paper entitled "Blueprint for South Australia's Planning & Design Code - Working Together to Develop the Code" stated;

*We recognise that many councils and communities have a strong sense of ownership over policies that apply to their area. The State Planning Commission does not want to see*



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*positive policy discarded when drafting the Code and acknowledges the importance of policies that help implement the vision for local areas. However, we are also aware that we can streamline areas of policy conflict or constricting and duplicated policy.*

It is evident that important local policies have been lost in the streamlining process. Its conversion to the Code Community Facilities Zone will exert a major economic impact on the subject property by;

- Preventing residential redevelopment presently in transition.
- Excluding residential uses which exist in the current zone.
- Incorrectly identifying local heritage place(s) on the subject property.
- Imposing an excessive Traffic Generating Development Overlay on land that is remote from Kensington and Fullarton Roads and should not be the subject of Direction from DPTI.

Accordingly, we request that the residential land use objectives and principals of development control be adopted in the Code as it applies to Rose Park and the Alexandra Lodge property.

Should you wish to discuss the content of this letter in further detail, please do not hesitate to contact us.

On behalf the Directors of Domain Project Development, Kym Burke and Simon Wicks, thank you for your consideration of this submission.

Yours Sincerely

**Simon Wicks**  
Director