



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

17 December 2020

DIT.planningreformsubmissions@sa.gov.au
saplanningcommission@sa.gov.au
PlanSA@sa.gov.au

only by email

Dear *Mr Lennon*

Planning and Design Code - Submission

This submission is lodged by The North Adelaide Society Inc. (TNAS). It addresses the Phase 3 implementation of the Planning and Design Code.

TNAS was established in 1970 and has a diverse membership and a long history of advocacy and support for planning that supports and contributes to individuals and families living and working in North Adelaide and the City of Adelaide; and to retention of the Park Lands as public parklands for community use. The character and impact of development applications, and the policies and rules by which decisions are made, that are the key issues; rather than development *per se* in which we all participate in its various forms.

A **planning system** of rules, assessment and decision-making that is not transparent; is devoid of sufficient clarity and local intent; and which emasculates the rights and representations of local people who live and conduct commerce within a locale, is apt to result in neighbourhoods and localities that diminish the quality of human life and commerce, and our living environment: the antithesis of development.

The administrative convenience at a macro level of an **omnibus planning and design code** ought not result at the micro-level of a diminution in the quality of residential life in neighbourhoods or of appropriate commerce and activities in appropriate locations within a built form locality.

The **proposed** planning and design **code must**:

1. **improve clarity** for assessment (i.e. avoid or define vagaries, e.g. 'substantial compliance', 'not at significant variance', 'performance assessment', 'not likely to result in substantial impacts on the amenity of adjacent dwellings');
2. **provide primacy** to the desired qualitative local character of localities, which ought to be stated no less than currently applies; to character enhancement; and to streetscape and heritage conservation; and
3. **ensure due deference** to the desired neighbourhood character and enable qualitative (incl. innovative) design that creates and supports sustainable environments for individual and community living, both locally (i.e. neighbourhood) and as a district or suburb.

Recent amendments proposed by the Commission arising from previous consultation are noted, but respectfully, are insufficient. Our consideration, as well as more detailed examinations conducted by the Corporation of the City of Adelaide and other local government and community bodies, indicate that there remain many unresolved issues with the Code. Respectfully, the current version requires further considered development and is most certainly not ready to bring into operation early in 2021.

TNAS supports relevant findings by city council planners, as included at Item 10.13 of the agenda of the Adelaide City Council meeting 15 December 2020 at pp 222–316. TNAS generally concurs with, and adopts, the observations therein except where inconsistent herewith.

TNAS submits that the following specific matters require addressing.

- Land use policy (through the Desired Outcomes and Performance Outcomes) requires additional clarity in some zones.
- Current non-complying types of development – there is insufficient policy criteria to be able to easily refuse existing non-complying development that has in some instances changed to an envisaged land-use or merit (performance assessed) development.
- Additional policies are needed in the City to ensure land uses and built form can harmoniously co-exist and reduce potential conflict, whilst building on the vibrancy of the city e.g. residential development near licensed premises.
- City Living Zone – changes are still required to ensure the long-term policy position of council to increase residential uses is not compromised.
- Heritage – heritage adjacency provisions are insufficient to achieve their desired outcomes and careful policy edits are still required to ensure that the suite of heritage policies is complete and effective.
- Policies previously agreed in the Residential and Main Streets and North Adelaide Large Institutions’ and Colleges’ DPA have not been fully carried across.
- Car Parking – car parking provision rates have been reduced to zero in the City Main Street Zone and Business (Neighbourhood) Zone, which is a significant shift in policy, and City Living Zone car parking rates for dwellings have no car parking requirements.
- Encroachments and public realm policies – additional policy is needed to streamline encroachment approvals as part of development applications, whilst some public realm policies (such as crossovers) provide “accepted” pathways which risks conflict with other uses of public spaces (e.g. on-street parking) and assets (e.g. heritage kerbing, street trees).
- Public Notification – errors in drafting need to be resolved to ensure public notification.
- Zones and subzones in the City still require the inclusion of key policies, and the completion of assessment tables to enable review and checking.
- Vacant sites – additional policies are needed to encourage continual use of land and enable reuse of properties by avoiding premature demolition that creates vacant land or blighted sites.

The concerns of TNAS are particularly focused on matters relating to the City Living Zone, the North Adelaide Low Intensity Sub-zone (which covers the extent of the North Adelaide Historic (Conservation) Zone, as well as Heritage Overlays, Public Notification Tables, and the Park Lands.

TNAS remains concerned that the full raft of the policy and assessment requirements currently applicable have not found expression and operative effect in the current draft Code.

- While the response of the Commission to previously expressed concerns is noted and acknowledged it remains insufficient. For example, TNAS remains concerned that prima facie, a 'representative building' is a lesser characterisation than 'contributory item'. It is the long experience of TNAS that this will likely result in the incremental loss of such built form absent appropriately effective and understood terminology. TNAS submits that the Commission should revisit this if it truly wishes to introduce a planning and design code that values and supports the heritage and character of neighbourhoods and localities.
- The City has developed over many years a sophisticated set of policies, descriptors and desired character statements for zones and sub zones, which if omitted would undermine and diminish the veracity of credibility of planning requirements that hitherto has been understood would be applicable within a precinct or neighbourhood. Leaving aside the issue of whether particular aspects may not be supported by TNAS, nonetheless, with respect, this carries the serious risk of a direct attack and sequestration of individual rights and community understandings.

TNAS supports the concerns identified by the Corporation of the City of Adelaide, highlighted below, which indicate that the Code remains problematical in relation to the City of Adelaide and is most certainly not ready for implementation. Themes still requiring discussion and satisfactory resolution among the residential communities of North Adelaide include:

- Significant and effective policies from the current Adelaide (City) Development Plan still need to be translated into the Code to enable well-managed and streamlined city growth.
- As applied to the City of Adelaide, the Code adds unnecessary onus, cost, and time to the assessment of some developments.
- It remains incomplete as a development assessment tool – some policies have been applied inaccurately and/or require significant updating.
- Until key concerns are resolved, the Code has the potential to compromise good planning practice.
- Process and quality assurance improvements are needed to achieve a standard of quality development outcomes that ought to exceed, and certainly not be less than, that which occurs under the current policy and planning system.

While there have been welcome improvements, with respect, the Commission ought not introduce an omnibus Code that detracts in any manner from supporting the historical and conservation values and character of built forms within neighbourhoods and localities. This is the more so in current historic, character areas where there is little if any instructive policy concerning new development therein, even allowing for innovative or ecologically sound design. There is much further work that the Commission should engage in; it must do better to support the human quality of life requirements of planning and design before the Code is brought into operation.

The absence of transferring current policy content and leaving considerable gaps puts at avoidable risk future outcomes that will detract from rather than contribute to elements that contribute to the unique built and cultural heritage and natural park lands of North Adelaide, which is what contributes to the character and liveability of Adelaide.

The City Riverbank Zone is within the city's unique Adelaide Park Lands.

- The policy should reflect the importance of community access and use, landscaping and pathways within this zone as a key feature of this part of the Park Lands providing a natural transition from and between built form zones. It needs to ensure the primacy of a unique natural and highly valued vista. This similarly applies to the sub-zones.
- TNAS does not support the continual erosion of these parts of the Park Lands by inconsistent and incompatible land uses that further alienate the Park Lands and full public and community use.
- Public notification should be a requirement and substantive rights afforded to representors.

The Adelaide Park Lands Zone is a signature zone for the City of Adelaide. That the area dedicated to park lands community uses continues to be diminished is a travesty to the Park Lands, to the City and the National Heritage Listing. This Zone stands apart from the usual considerations that apply within zones in which built form development can be expected to be an ordinary activity within the development zone.

- At the very least, all applications within this Zone ought not be 'performance assessed'; to be the subject of public notification, representations and substantive appeal rights for representors and community interests; and to be assessed against criteria based on Park Lands value, community and cultural value, non-alienation of Park Lands, ecological and environmental impacts, open space, no expansion of existing footprints and similar such criteria.
- Unlike other zones in which built forms is an expected feature, the opposite should be the general rule and approach within this Zone, in which landscape and compatible low scale/impact public and community uses therein should be the primary (perhaps only) objective and consideration.
- To the extent that built form is to be permitted, it should be the subject of design requirements (not just guidelines) conducive to the park lands natural context and to it being in National Heritage listed Park Lands. The policy statements should be reconsidered and significantly strengthened to that effect.
- Public notification should be a requirement and substantive rights afforded to representors.

The City Living Zone includes sub zones within North Adelaide of key concern to TNAS. It is noted that the North Adelaide Low Intensity Sub Zone is now to the full extent of the North Adelaide Historic (Conservation) Zone and there is no sub zone for the Historic Conservation Zone. This is a regrettable omission and one which diminishes the unique historic conservation values within North Adelaide.

- TNAS seeks that the North Adelaide Low Intensity Sub Zone be renamed as the North Adelaide Historic (Conservation) [Sub] Zone.
- Alternatively, there should be included a sub zone for the North Adelaide Historic (Conservation) Zone.
- In any event, all current applicable policies should be included therein.
- City Living Zone policies inconsistent with the current North Adelaide Historic (Conservation) Zone should be precluded or be expressly sub-servient to those applicable to the historic conservation zone. For example, the proposed land use strategy disperses non-residential land uses throughout the City Living Zone. This is anathema and a recipe for disaster, with much disputation and division; that is patently obvious having regard to the last 50 years. There should instead be included the clearly delineated residential and mixed use

areas that have been well known and largely respected and have served to support increasing numbers of residents. To do otherwise is to learn nothing from the last 50 years. That would be a giant leap backwards for making North Adelaide and the City a 'liveable city' with character and diverse communities.

- All currently non-complying land uses should be included with clarity.
- Ensure policy does not support non-residential land uses that are currently non-complying.
- Include a definition for scale i.e. small scale, medium scale, and large-scale non-residential land uses. This needs to be defined so as to provide clarity and transparency and to avoid disputation, angst, and avoidable cost.
- The North Adelaide Large Institutions and Colleges DPA Design Policies need to be included.
- Building design should be compatible with the prevailing streetscape character, although that of itself should not preclude innovative, 'high design', ecological or environmental considerations being considered on merit.
- Adequate provision for site parking for residential and commercial uses, with general site parking as non-complying.
- Retention and reinstatement of bluestone water tables and kerbing.
- Appropriate lines of sight for vehicle access/egress across footpaths.
- Demolition and subdivision controls over bluestone built form residential or commercial structures and those that otherwise establish or contribute to the desired character of the locale.
- Public notification should be a requirement and substantive rights afforded to representors.

The City Main Street Zone includes O'Connell and Melbourne streets.

- TNAS generally supports the concerns and recommendations included in the submission of the Corporation of the City of Adelaide.
- In addition, TNAS submits that there should be no transition (substantive or ancillary land uses) as between this zone and the adjacent zone. To do otherwise, will be to sanction the incursion of main street policies into residential zones, which is not conducive to residential neighbourhoods or encouraging city living.
- There will increasingly be use of alternative personal or public forms of traffic to the currently ascendent motor vehicle, and increasing foot traffic, for which there should be applicable policies within main street zones.
- TNAS also submits that there should be no exemption for so-called catalyst sites from the policies and principles applicable within the main street zone, including as to height limits, density, environmental, and other technical and numeric variations (TNVs).
- Public notification should be a requirement and substantive rights afforded to representors.

The Business Neighbourhood Zone includes the Melbourne Street West Sub Zone, the western end of Melbourne Street.

- TNAS supports the concerns and recommendations of the Corporation of the City of Adelaide.
- TNAS supports the inclusion of an explicit policy statement that the view of the City from Stanley Street and Brougham Place properties should be protected, to reflect the Stanley Street West Policy Area 10.
- Public notification should be a requirement and substantive rights afforded to representors.

The Heritage Overlays include State Heritage Place Overlay, Local Heritage Place Overlay, Historic Area Overlay and Heritage Adjacency Overlay. It is the heritage within the City of Adelaide that contributes so much to its character and interest; and built form heritage once lost is never regained, thus diminishing the character and life of the City of Adelaide.

- TNAS supports and adopts the concerns and recommendations of the Corporation of the City of Adelaide.
- TNAS urges the Commission to reconsider, refine and ensure that the policies and statements will in their practical application actually fully support, encourage, and conserve the built form heritage of Adelaide.
- There will be no greater disservice to the future development of Adelaide if the policies and requirements of this omnibus Planning and Design Code were in fact be found in due course to be deleterious in affording the protection and conservation of built form heritage as an essential element of the character of the City; that would be ignominious.
- Public notification should be a requirement and substantive rights afforded to representors.

While the Noise and Air Emissions Overlay is noted, it is not clear that there is any detail about how this interacts with other overlays or zones, or with particular land uses.

- The interface between land uses and the impact of machinery or devices within or associated with a land use, is increasingly an issue of tension, dispute, and reduction in the quality of life of affected individuals. The most obvious example is the noise pollution or visual effect from air conditioning or cooling machinery. This is not an environment protection issue and is capable of being avoided through appropriate planning requirements and obligations. High and medium density living exacerbates this issue.
- TNAS urges the Commission to ensure that this issue is appropriately addressed by the inclusion of policies and requirements to minimise this increasing issue of noise pollution and visual interference with residential or other commercial land uses.

TNAS does not have the resources to address every aspect of the proposed Code. This is particularly applicable to 'design' in a visual rather than structural or quantification context.

- Matters directed to 'design' are issues about which there can be very many qualitative opinions amongst reasonable persons.
- Innovative, ecological, and environmental based design that may be the heritage of the future ought not to be precluded from reasonable consideration and are certainly preferable to the increasing use of uninspiring concrete panels.
- Non-complying development ought not be afforded consideration in other than the most exceptional circumstances and if rejected or not accepted for consideration, ought not be subject to appeal or review processes.

TNAS otherwise commends and generally supports the submissions lodged by the Corporation of the City of Adelaide and the Community Alliance South Australia.

TNAS remains tenaciously concerned that this albeit improved draft Code nonetheless appears to continue with and build upon the egregious policy agenda of the previous government to support the development industry at any cost; and to relegate to the back-stalls of silence the interests of people and individuals (be they

residents, landholders or commercial interests) so that they are kept out of planning processes and development assessment decisions, and devoid of any substantive rights.

Like other community groups that support planning, design and development that positively contributes to neighbourhoods, localities, and commercial life, TNAS urges the Commission to further revise its draft Planning and Design Code consistent with the concerns expressed in this submission.

TNAS will continue to urge the Minister to *provide individuals with substantive rights to fully participate in planning and assessment processes by which they are affected, and to put people back into planning and development in SA.*

Similarly, TNAS would welcome the Minister, the State Planning Commission and government returning Adelaide to the forefront of effective planning with foresight, and equality of participation.

Your sincerely

The North Adelaide Society Inc. (est. 1970)

(electronic signature)

cc. Minister for Planning and Local Government, Deputy Premier V Chapman MP
per email attorneygeneral@sa.gov.au
State Member for Adelaide, Hon. R Sanderson MP
per email adelaide@parliament.sa.gov.au