

27 February 2020

Reference: 0421-07

Attention: State Planning Commission

By Email: DPTI.PlanningReform@sa.gov.au.

DRAFT PLANNING AND DESIGN CODE – PHASE 3 (URBAN CODE) CONSULTATION SUBMISSION

This consultation submission is provided on behalf of the land owner in relation to multiple land holdings in the suburb of Everard Park including Norman Terrace, Fourth Avenue, Ross Street and Halmon Avenue (Figure 1).

Figure 1. Land holding



The land holding represents a consolidated site appropriate for infill development. We believe that the Code should distinguish between master planned infill sites and minor infill sites in its application of assessment criteria within the Planning and Design Code (the Code).

We note that small scale infill development in established suburbs, and particularly the redevelopment of individual allotments into two or more allotments has been the source of widespread concern regarding the perceived adverse impacts such as on streetscapes, reduces areas of vegetation and tree planting, increases vehicle crossovers, reduces on street parking and increases the likelihood of overlooking or overshadowing of neighbours.

The Code is introducing a Design Overlay as well as General Development Policy for Design in Urban Areas and Design in Rural Areas that seeks to address a number of these concerns.

In recognition of outdated zoning, the City of Unley commenced a rezoning process over the land in approximately 2014 (which was not completed); and again in 2019 (which is still under consideration - refer to discussion below).

2. Norman Terrace Everard Park Regeneration DPA

Some, but not all the land holding, is currently subject to the Norman Terrace Everard Park Regeneration Development Plan Amendment (the DPA) being undertaken by the City of Unley. The affected area for the DPA is shown in Figure 3.

Figure 3. DPA affected area



Source: Norman Terrace Everard Park Regeneration DPA

The DPA proposes to rezone the affected area from the existing Residential B350 Zone and Residential Streetscape (Built Form) Zone to Residential Regeneration Zone with a Policy Area. The landowner supports the proposed rezoning and transitional outcome which provides a single zone for the affected area and better reflects consolidation of the land holding and favourable locational attributes for increased density.

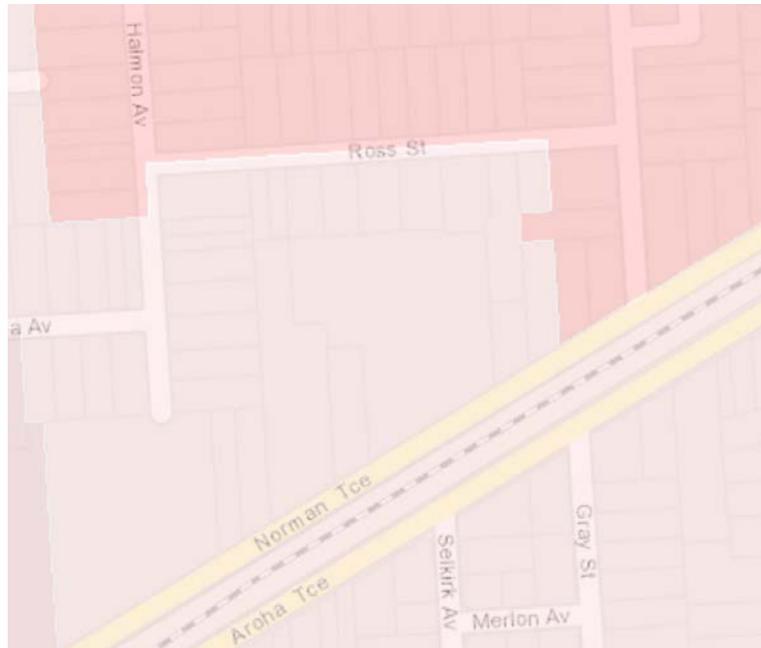
Consultation on the draft DPA concluded in January 2020 and a decision by Council on the proposed rezoning is anticipated in March 2020 (prior to consideration by the Minister).

3. Feedback on Phase 3 of the Code

The draft Code currently proposes the following zoning outcomes (refer Figure 4):

1. Land within the Residential B350 Zone be transitioned to the General Neighbourhood Zone; and
2. Land within the Residential Streetscape (Built Form) Zone be transitioned to the Suburban Neighbourhood Zone.

Figure 4. Proposed Zones – The Code



Source: Planning and Design Code, not to scale

Note: land to the west along the South Road corridor is proposed to transition to Housing Diversity Neighbourhood

Should the land ultimately be rezoned to Residential Regeneration Zone through the DPA (refer Section 2), a high-level review of the draft Code indicates that its terms are appropriate for transition to the Code as the Urban Renewal Neighbourhood Zone. The Urban Renewal Neighbourhood Zone envisages land uses and heights generally consistent with the draft DPA and applies to other similar situations including in the Unley Council area to a site off Charles Street, Fullarton Road around Wattle Street and Fisher Street, Fisher Street near Cross Street, and the new Aged Care facility near the toll gate at the bottom of the freeway. This provides both precedent and consistency in zoning approach.

Each of the possible Code Zones are discussed below. A good proportion of the land holding is used for 'Retirement facility' and 'Supported accommodation' and the commentary below is focused on this class of development. This class of development will likely become performance assessed development as identified in Table 3 – Applicable Policies for Performance Assessed Development.

As a performance assessed development, the following over-riding comments are made about the relationship between Performance Outcomes (PO) and Deemed To Satisfy (DTS) / Designated Performance Feature (DPF) which is unclear in the draft Code.

Part 1 – Rules of Interpretation states, under the heading 'Application of Policies to Classes of Development', that (my emphasis):

The policies specified in the Applicable Policies for Performance Assessed Development Table constitute the policies applicable to the class of development within the Zone to the exclusion of all other policies within the Code library, and no other policies are applicable.

This statement indicates that DTS/DPF in the Zone Assessment Provisions (AP) do not apply to Performance Assessed Development (Table 3). However, later in Part 1

under the heading ‘Policies – Desired Outcomes and Performance Outcomes’, it states (my emphasis):

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). Without derogating from the need to assess development on its merits against all relevant policies, a DPF provides a guide to the relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not derogate from the discretion to determine that the outcome is met in another way.

Given DTS are the same as DPF, it implies that to meet a Performance Outcome a reasonable test is the DTS/DPF. However, the DTS/DPF are not included in Table 3 as ‘Applicable Policies.’ This has the potential to cause inconsistency and uncertainty for performance assessed development, particularly where the authority takes a strict view of the application of the DPF. This is further complicated by referencing DTS in Procedural Matters for performance assessed development. One possible improvement to the system could be to:

- Remove the DTS from the Assessment Provisions and insert them into Table 2 (similarly to the way Classification Criteria are used in Table 1); and
- Delete DPF from the Assessment Provisions and Procedural Matters such that performance assessed development is on its merits.

3.1 General Neighbourhood Zone

The Desired Outcome (DO) of the General Neighbourhood Zone is:

‘Low-rise, low and medium-density housing that supports a range of needs and lifestyles located within easy reach of a diversity of services and facilities. Employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.’

The Zone seeks predominantly residential development that is compatible with the pattern of development in a low-rise (up to two storeys) low density neighbourhood. This zoning outcome is inconsistent with the consolidated nature of the site and Council’s intent to rezone land for greater density and height (refer Section 2).

While, the proposed zoning in this location could result in underutilisation of the affected area (particularly where there is no application of provisions for Significant Development Sites), the following broad comments and future considerations in relation to the General Neighbourhood Zone and the ‘Retirement facility Supported accommodation’ class of development are made (particularly as they relate to that part of the land holding not currently subject to DPA):

- It is unclear why Land Use and Intensity PO 1.2 does not apply to ‘Retirement facility Supported accommodation’ in Table 3 – Applicable Policies for Performance Assessed Development (Table 3), given these land uses are contemplated in DTS/DPF 1.2 (f) and (g).
- Site Dimensions and Land Division PO 2.1 is generally acceptable for this class of development. However, given uncertainty about the relationship to DTS/DPF 2.1 which specifies allotment sizes for various dwelling types, it becomes questionable as to whether PO 2.1 should apply to ‘Retirement facility Supported accommodation’. The site areas/allotments sizes in DTS/DPF 2.1 give no real consideration to this class of development and should not be applicable.

- It is unclear how the Technical and Numerical Variations Overlay (TNVs) applies to the land holding. If it applies only to DTS development this can be supported. PO 9.1 (Concept Plans) appears to call up the TNVs for performance assessed development (PO 9.1 does not and should not apply to the 'Retirement facility and Supported accommodation' class of development). Use of TNVs as part of performance assessed development is generally not supported.
- Given the specificity in the Zone AP (DTS/DPF) regarding allotment sizes, wall heights, setbacks, building height and building storeys, etc it is unclear what value the Technical and Numeric Variation Overlay provides. The Overlay could be removed to simplify the policy suite, reduce duplication, and reduce the potential for inconsistency in application.
- Land Use and Intensity PO 1.3 contemplates non-residential development that provides a range of services to the local community including in part (c) 'services and facilities ancillary to the function or operation of supported accommodation or retirement housing.' This provision is generally supported.
- Classes of performance assessed development are notified where the site is adjacent land in a different zone (as per the land holding). The procedural matters (in part (d) and (e)) refer to development that either do not satisfy DTS/DPF or exceeds the height specified in DTS/DPF 4.1). There is confusion in the Code as to whether DTS/DPF are applicable to performance assessed development that needs to be urgently resolved to provide certainty about policy application (and notification)

3.2 Suburban Neighbourhood Zone

The Desired Outcome (DO1) of the Suburban Neighbourhood Zone is:

Low or very low-density housing that is consistent with the existing local context and development pattern. Services and community facilities will contribute to making the neighbourhood a convenient place to live without compromising residential amenity and character.

The Zone seeks predominantly residential development that is compatible with the pattern of development in a low-rise (up to two storeys) low density neighbourhood. This zoning outcome is inconsistent with the consolidated nature of the site and Council's intent to rezone land for greater density and height (refer Section 2).

While, the overall zoning in this location could result in underutilisation of the affected area (particularly where there is no application of provisions for Significant Development Sites), the following broad comments and future considerations in relation to the General Neighbourhood Zone and the 'Retirement facility Supported accommodation' class of development are made:

- Land Use and Intensity PO 1.2 and Site Dimensions and Land Division PO 2.1 seek to reinforce the low-density or "very-low density" character of the neighbourhood; and allotments that are "compatible" with the housing pattern "consistent" to the locality'. Building Height PO 1.4 reinforces low-rise character and height. The POs provide very little opportunity for merit-based assessment of larger-scale developments on consolidated sites. Again, provisions for Significant Development Sites could assist and are strongly recommended.
- Land Use and Intensity PO 1.5 contemplates non-residential development that provides a range of services to the local community including in part (c) 'services and facilities ancillary to the function or operation of supported accommodation or retirement housing.' This provision is generally supported.

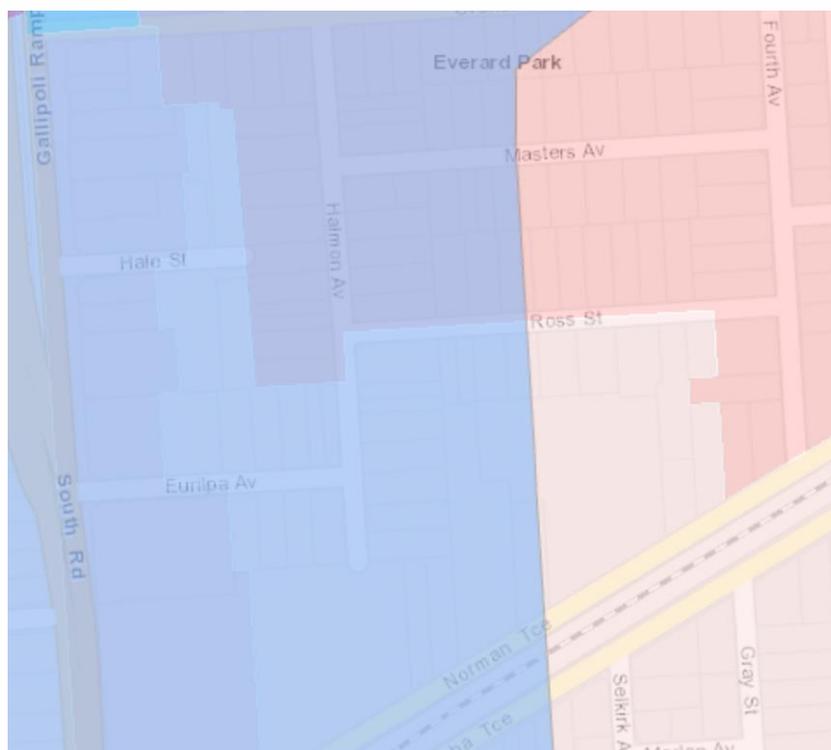
- Classes of performance assessed development are notified where the site is adjacent land in a different zone (as per the land holding). The procedural matters (in part (d)) refer to development that exceeds the height specified in DTS/DPF 4.1 – which calls up the TNVs). There is confusion in the Code as to whether DTS/DPF are applicable to performance assessed development that needs to be urgently resolved to provide certainty about policy application (and notification).

3.3 Overlays

The following Overlays in the draft Code are currently proposed to apply to the land holding:

- Historic Overlay (discussed below in Section 3.3)
- Character Area Overlay (discussed below in Section 3.3)
- Airport Building Heights (Regulated) Overlay
- Building Near Airfields Overlay
- Prescribed Wells Area Overlay
- Regulated Trees Overlay
- The Traffic Generating Development Overlay is proposed to apply to part of the land holding (Figure 5). The Overlay talks to safe and efficient operation of major transport routes. It is presumed the Overlay has been applied spatially based on distance from Main South Road. The land holding has no direct access or relationship to South Road and this Overlay could be removed.
- The City-to-Glenelg tram corridor is subject to the Major Urban Transport Routes Overlay. The Overlay does not appear to have policy implications for adjoining land.

Figure 5. Draft Code - Traffic Generating Development Overlay



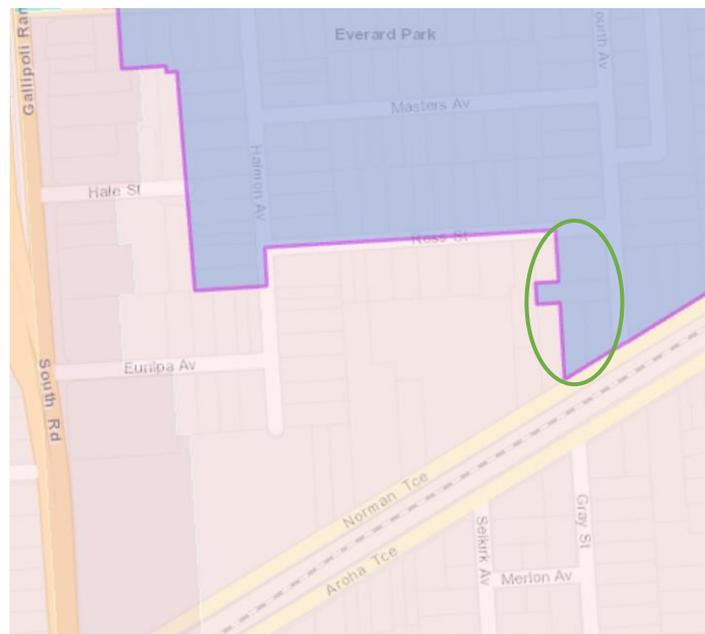
3.4 Historic Areas Overlay (and Character Areas Overlay)

The landowner received correspondence from the State Planning Commission dated 31 January 2020 advising that land in Historic Conservation Zones and similar areas are proposed to transition into a new 'Historic Area Overlay.' That correspondence identified the following properties at Everard Park as being subject to the proposal:

- 28 Fourth Avenue
- 28 Norman Terrace
- 29 Norman Terrace
- Unit 1, 24 Fourth Avenue
- Unit 2, 24 Fourth Avenue
- Unit 3, 24 Fourth Avenue.

The above properties are in the Residential Streetscape (Built Form) Zone of the Unley (City) Development Plan which is a low-density zone distinguished by common "streetscape attributes" that make up the variable, but coherent streetscape pattern(s) within the zone. The above properties form the extent of the Zone and arguably do not maintain the same characteristics as the balance of the Zone given the tram line to the south and the abutting Residential B350 Zone to the west (refer Figure 6).

Figure 6. Draft Code - Historic Areas Overlay



The DO of the Historic Areas Overlay seeks to reinforce historic themes and characteristics. Arguably, the current zoning in the Development Plan (Residential Streetscape (Built Form) Zone) only warrants the Character Areas Overlay which seeks to reinforce valued streetscape characteristics.

The DPA by Council proposes to rezone the above properties (to Residential Regeneration Zone) in which case the Historic Areas Overlay (and Character Areas Overlay) should not apply. Regardless of the outcome of the DPA, the boundary of the Historic Areas Overlay (and Character Areas Overlay) could be amended to reflect the predominant relationship of the consolidated land holding to its Norman Terrace frontage.

3.5 Urban Renewal Neighbourhood Zone

The Desired Outcome (DO1) of the Urban Renewal Neighbourhood Zone is:

Housing that no longer meets community preferences is replaced with new diverse low – medium rise housing options. Housing density increases, taking advantage of well-located urban land. Employment and community services will improve access to jobs, goods and services without compromising residential amenity.

This zoning outcome is highly consistent with the locational advantages of the land holding and Council's intent to rezone land for greater density and height and is strongly supported as it relates to the land holding (refer Section 2).

The following broad comments and future considerations in relation to the Urban Renewal Neighbourhood Zone and the 'Retirement facility Supported accommodation' class of development are made:

- It is considered appropriate that as a class of development 'Retirement village and Supported accommodation' could achieve DTS. Therefore, it may be appropriate to include this class of development in Table 2.
- The Urban Renewal Neighbourhood Zone does not appear to be a Zone where the TNVs are being applied. This is supported on the basis the zone is low-medium rise and policy flexibility is required to support good design.
- Classes of performance assessed development are notified where the site is adjacent land in a different zone (as per the land holding). The procedural matters (in part (c)) refer to development that does not satisfy DTS/DPF. There is confusion in the Code as to whether DTS/DPF are applicable to performance assessed development that needs to be urgently resolved to provide certainty about policy application.
- The Urban Renewal Neighbourhood Zone includes a Mixed Use Transition Sub Zone which is not appropriate to apply to the land holding due to its employment and industrial focus.
- All Overlays currently proposed for the land holding (excepting Historic Area and Character Area) are captured in Table 3 of the Urban Renewal Neighbourhood Zone as it relates to the 'Retirement village and Supported accommodation' class of development. No change is required in this respect (noting the Prescribed Wells Area Overlay is not relevant to the class of development).

The landowner considers that the Urban Renewal Neighbourhood Zone is a more appropriate zoning outcome for the land in the Code than those currently proposed regardless of the DPA outcome.

Should you require further information, we would be pleased to discuss this matter in more detail.

Your sincerely



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