Mr Michael Lennon  
Chairperson, State Planning Commission  
Department of Planning, Transport and Infrastructure  
GPO Box 1815  
ADELAIDE SA 5001  

DPTI.PlanningReformSubmissions@sa.gov.au

Dear Mr Lennon

Re: Submission – SA Planning and Design Code (Urban Areas) – Phase 3

We act for Belljo Pty Ltd, Flemington Street Pty Ltd and Adelaide Hebrew Congregation (Owners) who collectively control the Adelaide Synagogue and former Massada School land at 13 Flemington Street, Glenside.

The Department of Planning, Transport and Infrastructure (DPTI) has invited submissions about the draft Planning and Design Code for South Australia – Phase 3 (urban Areas) (Draft Code) until 28 February 2020.

These submissions about the Draft Code are made on behalf of the Owners

In summary, the Owners say that:

1. the entire property should be either incorporated into the Innovation Zone or the changed to the Housing Diversity Neighbourhood Zone to enable the development of a range of dwellings at medium density.
2. If the land is not rezoned to Innovation Zone or the Housing Diversity Neighbourhood Zone, or similar appropriate zone, the Desired Outcomes and Designated Performance Outcome Criteria for the proposed Community Facilities Zone be expanded to include medium density residential development.

Summary of our client’s position

The proposed zoning under the new Planning and Design Code as Community Facilities Zone is considered inappropriate as the one of the key land uses of the land that underpinned the creation of existing Policy Area 4 i.e a school, is now obsolete, and therefore the current policy area provisions are redundant.
We submit that the land should be rezoned to allow for residential development. It should note that the change from Community Facilities Zone to either Innovation Zone or more preferable the Housing Diversity Neighbourhood Zone will not compromise or erode the existing use rights enjoyed by the synagogue.

The primary school closed over 7 years ago and the congregation sought expressions of interest to reopen the school or divide and sell the school land for its existing uses as a school with the Synagogue being retained on a separate allotment. No enquiries or submissions were received for the use of the land as a school. All enquiries were for the potential use of the land from residential use since it is within a primarily residential area. The land to the north and south of the site is residential in land use. While the land to the east is institutional/commercial, and the land to the west is part of the Glenside Mental Health precinct (SA Health), itself largely residential in nature.

Flemington Street Pty Ltd and Belljo Pty Ltd during the sale period, as did many other property investors and developers made enquiries of Council for the redevelopment of the land for residential purposes. They were advised that the time that while the Development Plan provisions for the Mixed Use (Glenside) Policy Area 4 intended development of the land to be "educational establishments, meeting halls and places of worship in an integrated development"; a residential development had merit, as a small portion of the site within the same Zone and Policy Area had already been approved and developed for dwellings. (image below).

Draft plans of division were forwarded to Council for comment and amendments were made to the road layout and allotment sizes in response to verbal comments from planning staff.

While working through the proposal division plans, the former Minister for Planning released the Glenside DPA for public consultant. Our planner discussed the DPA and the possibility of making a submission for the Minister to consider the rezoning of this site from Policy Area 4 to a Residential Zone. Both Council and Department staff acknowledged that the present
Policy Area provisions were very restrictive as they only reflected the existing uses of the land and did not consider what would happen if one or both existing uses became obsolete. They recommended that we should make a submission to the DPA seeking that the whole of the land be considered for rezoning to allow for medium density residential development as merit assessment as the best way of going forward, and that we should carry out some investigations on whether there was demand to keep the school.

The school, at that time, had been closed for nearly five years and there was no interest by any education entity to locate at this site. The former Massada College at its peak had 100 students, The College in its later years opened its doors and accepted students from all denominations. However, it closed some 7 years ago with only 30 students.

During the DPA consultation period our planner contacted the Education Department, Catholic Education South Australia, Independent Schools Association and several private schools, all of whom indicated that there was no demand or justification for either a child care centre, kindergarten or primary school in the area, as it was already well served by educational facilities both public and private. However, no-one was prepared to put this in writing, citing political reasons.

As a result of those discussions and investigations our planner lodged a submission on behalf of Flemington Street Pty Ltd and Belljo Pty Ltd that “this land is now more suited to residential development and all of the land in the existing Policy Area 4 be rezoned to Residential specifically Residential Policy Area 19 in a manner similar to that indicated on Attachment A for the north-eastern portion of the existing Policy Area 4. This would enable initially, the site of the former Massada College and later the site of the synagogue, to be developed for residential purposes to provide a wider range of housing choices in the locality”.

At that time both Council assessment and policy staff, and the Department staff were sympathetic and supportive to the change to allow for residential development of the land.

We note that the DPA enabled the rezoning of a portion of the former school land, which was sold off many years ago and developed for housing, from Mixed Use (Glenside) Zone and Policy Area 4 to Residential Zone specifically Residential Area 19 Glenside (West) Policy Area but not the whole of the Policy Area 4 land. (Images Below)
Following the receipt of the decision not to rezone the land, we continued discussions with Council with a view of lodging a Development Application for land division and residential development. Our planner submitted a revised plan of division to Council for comment so that they could proceed with the drawings for the dwellings with a level of confidence.

Following the authorisation of Ministerial DPA The Council staff attitude and position to the future residential use of the land had changed from being supportive ie has merit even though residential development is clearly not intended by the specific wording of the Policy Area 4 to being opposed. based on a strict reading of the current Development Plan provisions for the Policy Area 4. The provisions for Policy Area 4 make no reference to residential use and therefore would be a significant departure from the provisions of the Plan.

The Council’s staff position not to support any residential use of the land is based on a strict interpretation of the current Development Plan provisions. We were advised that it would be necessary to rezone the land through a Development Plan Amendment process. However, since the land holding is very small its rezoning was not a priority for Council and Council staff were not convinced that Council would support a rezoning anyway.

Since that time the Planning and Design Code has been released for public consultation. The Planning and Design Code proposes to change the main portion of subject site from Mixed Use (Glenside) Zone, Mixed Use (Glenside) Policy Area 4 to Community Facilities Zone with the strip of land extending to Flemington Street designated Innovation Zone. Whereas the adjoining Policy Areas within the Mixed Use (Glenside) Zone change from:

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We note that this new Zone appears to contain several policy changes and does not merely reinforce the obsolete development provisions for the land specifically ‘place of worship’ and ‘educational establishment’. However, it still does not make any reference to residential development.

The Desired Outcomes, Performance Outcomes and the Deemed To Satisfy/Designated Performance Outcome Criteria for the new Community Facilities Zone allow for:

**DO 1**
Provision of a range of public and private community, educational, recreational and health care Facilities

**PO 1.1**
Development is associated with or ancillary to the provision of community, educational, recreational and/or health care services.

**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

The new Zone allows for the consideration of a range of new uses that were not intended or desired in Policy Area 4 such as recreation area, indoor recreation Centre, consulting room, office and shop. The Planning and Design Code does not involve a simple translation of present Development Plan provisions but also includes a significant policy shift as consulting room, office and shop are listed in Mixed Use (Glenside) Zone as ‘Non-complying Development’, and now will be subject to Designated Performance Outcomes.
While, residential development can be assessed against the Designated Performance Outcomes, there is no mentioned of residential development within the Community Facilities Zone. So, nothing has really changed in this respect.

The subject site is a 'land locked' with only a driveway frontage to Flemington Street and potentially totally surrounded by residential development. The subject site comprises two strata titles allotments with a shared common driveway to Flemington Street and each allotment is in separate ownership.

The former Massada School occupied Unit 2/13 Flemington Street and the Synagogue occupies Unit 1/13 Flemington Street. As mentioned earlier the former kindergarten/primary school ceased operating on seven (7) year ago and the former and current owners have not been able to attract any interest in reviving the kindergarten/primary school or any educational activity for the site due to its location not being visible to the street, located in a small residential street and site configuration.

While the Adelaide Hebrew Congregation have no intention of closing the Synagogue and advise that it will continue to operate for many more years into the foreseeable future, the support the rezoning of the land in its entirety to allow for the medium density residential development of the former school land in the short term, and the synagogue land in the future.

The Stage 1 project ie redevelopment of the former school site, will have a value of $20 million (land and dwelling value) and will add to the mix of housing choices available in the local area.

Therefore, we are seeking your assistance to resolve this situation to enable common sense to prevail to allow for the residential development of the former Massada School and, in the future, the Synagogue site by changing the proposed zoning of the enormity of the land to either the Innovation Zone or Housing Diversity Neighbourhood Zone. We acknowledge that change of zoning to facilitate residential development will not compromise the existing use rights current enjoyed by the Synagogue.

We have discussed this matter at length with Council who is now supportive of the rezoning of the entirety of the land (incorporating the former Masada College and the Adelaide Synagogue) to allow for medium density residential development. Attached is copy of Council’s letter to the Honourable Stephan Knoll MP, Minister for Planning supporting to the rezoning of the land.

**Summary**

We submit and seek your favourable consideration to the rezoning the entirety of the Adelaide Synagogue and former Massada College land to allow medium density residential development.

We advise that on behalf of the land owners, we wish to be heard in respect of these submissions at the public meeting this matter.
Please confirm that my client will be given the opportunity to appear personally or by representative to make submissions at that public meeting.

We would welcome the opportunity to discuss this submission with the Department of Planning, Transport and Infrastructure and/or the State Planning Commission.

Please do not hesitate to contact Albert Bensimon by phone or email

Yours sincerely,

Albert Bensimon OAM
President
Adelaide Hebrew Congregation

Domenic Mittiga
Director
Belljo Pty Ltd
Flemington Street Pty Ltd
27 February 2020

The Honourable Stephan Knoll MP
Minister for Planning
GPO Box 1533
ADELAIDE SA 5001

SENT VIA EMAIL – ministerknoll@sa.gov.au

Dear Minister

ADELAIDE SYNAGOGUE and FORMER MASADA COLLEGE LAND (GLENSIDE)

The City of Burnside has been in discussions with the current and previous owners of the land incorporating the Adelaide Synagogue and the former Masada College. The land is adjacent the existing Adelaide Synagogue, the home of the Adelaide Hebrew Congregation and located at 13 Flemington Street, Glenside.

Following discussions, this letter is intended to accompany the submission that will be made to the State Government by the land owners in the context of the new Planning and Design Code. That submission will follow shortly. However, a copy is attached for your reference.

The land owners are aware of this letter and are in effect, for all intents and purposes, co-signatories.

The land encompassing the Adelaide Synagogue and the former Masada College lies within the Mixed Use (Glenside) Policy Area 4 which envisions educational establishments. It is my understanding that the existing zoning was likely written to reflect the existing uses of the land as a place of worship (the synagogue) and as an educational establishment (the former Masada College).

At the time, this would have been beneficial for the synagogue and school as development applications would have been assessed against a zoning policy aimed towards the continuing use and protection of the place of worship and educational establishment uses of the land. However, the school use has been discontinued and there seems to be no demand for a replacement school; as such the zoning can be considered a hindrance to further avenues and future use.

The land to the north and south of the site is residential in land use. The land to the east is institutional/commercial, and the land to the west is part of the Glenside Mental Health precinct (SA Health), itself largely residential in nature.

The new owners of the former Masada College site wish to develop the site for medium density residential purposes. The current zoning of the land does not allow for this. Notwithstanding this, in the absence of the need for land for educational purposes, the most practical and sensitive use of the land would be for residential purposes. As it stands, unless there is a change in the zone, the land is essentially unable to be developed.
The owners of the land may seek that the Council progresses a ‘developer funded’ Development Plan Amendment to make the necessary changes to the zoning to facilitate residential development. This would likely take in excess of two years to effect changes to the Development Plan/ Planning and Design Code.

As a quicker alternative option, given the upcoming establishment and formalisation of the new Planning and Design Code, you may make the changes yourself, as the responsible Minister, as part of the Planning and Design Code introduction.

This change would be a ‘benign’ change to the planning rules and is less significant that many of the other amendments being proposed as part of the introduction of the State Planning and Design Code. This is a favoured option and the purpose of initiating this correspondence.

For the reasons outlined above, the Council would support a change to the State Planning and Design Code, allowing for the entirety of the land (incorporating the former Masada College and the Adelaide Synagogue) being rezoned for medium density residential purposes, consistent with other land in the vicinity. The graphic below shows the land in question subject to this request (bordered in red).

It would be appreciated if you could consider this request favourably in order to enable the orderly development of the land.

Thank you for taking the time to consider this matter.

Yours sincerely

Chris Cowley
Chief Executive Officer

CC: The Hon David Pisoni, Member for Unley
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Yours sincerely

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President
Adelaide Hebrew Congregation

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