

28 February 2020

REF No.: 00882-009

The Chair
State Planning Commission

Attention: Mr Michael Lennon

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

Dear Mr Lennon,

Re: Submission - Draft Planning & Design Code (Phase 3 Urban Areas)

We write on behalf of our client that owns several vacant parcels presently located within two (2) different zones in Flagstaff Hill (north-west of the Flagstaff Road / Black Road roundabout).

1.0 'Residential' Sites

Those land parcels presently zoned for 'residential' purposes are identified in **Figure 1** below.



Figure 1 – Flagstaff Hill – Scotch Avenue and Coulter Street (Residential) (Source: SAPP)

These land parcels are located adjacent to existing developed residential areas, an arterial road (Flagstaff Road), and, a yet undeveloped 'Neighbourhood Centre'.

The sites are presently located within the **Residential Zone** of the Onkaparinga Council Development Plan (Consolidated 20 December 2018).

Under the Planning and Design Code ('the Code'), the sites are proposed to be located within the **General Neighbourhood Zone**. The sites are not located within a specific sub-zone.

The following Overlays apply to the site (or portions of the site):

- Airport Building Heights (Regulated) – all structures over 30m
- Hazards (Bushfire - High Risk) Overlay
- Native Vegetation
- Prescribed Wells Area
- Regulated Trees
- Traffic Generating Development
- Urban Transport Routes
- Water Resources (a small portion of allotment at 11-25 Scotch Avenue)

The Technical and Numeric Variations identify that the maximum building height is 9 metres/2 building levels; minimum lot size in the order of 300m² (detached dwelling) and 200m² (row-dwelling); and minimum frontages in the order of 9 metres (detached dwelling) and 7 metres (row-dwelling) (as identified within *the Planning and Design Code Consultation Map Viewer*).

Having reviewed the planning ordinance, proposed to apply under the Code, we note the following concerns:

1. More land use types are captured for referral to the SA Country Fire Service (CFS) given the imposition of the Hazards (Bushfire – High Risk) Overlay. This is of particular concern and likely to result in more onerous and protracted assessment processes. Further, we are of the view that the Bushfire 'grading' should be reduced, given the context of adjoining development which has been extensively developed for 'urban' purposes (i.e. this locality does not represent a 'high' bushfire risk).
2. The presence of a Bushfire Risk Overlay means that a Deemed-to-Satisfy pathway of assessment for residential dwellings is no longer available. This would cause all new residential developments to be unnecessarily performance assessed, despite the requirements for residential dwellings for bushfire risk areas being well defined and documented in the Ministers Code.
3. The proposed General Neighbourhood Zone contains more onerous public notification triggers for residential development (when compared to the existing policy framework). Specifically, public notification is required where:
 - The site of the development is adjacent to land in a different zone. Given these sites are adjacent a 'Neighbourhood Centre Zone' (future 'Suburban Activity Centre Zone'), public

notification would be required. This is unnecessary and onerous, given the adjacent zone does not represent a 'sensitive' receptor interface.

- Dwellings which fail to achieve specified design-based criteria (site area, building height, setbacks, wall on boundary, design features).
 - Outbuildings (other than a garage) trigger public notification where the performance assessment pathway applies.
4. 'Typical forms' of residential development are excluded from Accepted Development/Deemed to Satisfy Criteria due to Overlays which have been applied across the site.

Proposed Amendments to the Planning and Design Code

- The level of 'Bushfire Risk' should be 'downgraded' from 'High Risk' to 'Medium' or 'Low Risk', given the context of the locality which has been extensively developed for residential/urban purposes.
- Public notification 'triggers' associated with 'residential development' in the General Neighbourhood Zone should be reviewed and amended, and notification should only be required where there is likelihood of an external amenity impact beyond the boundaries of the subject site.
- Deemed to Satisfy (DTS) pathways for residential development, listed within the General Neighbourhood Zone should be reviewed and amended to ensure they are not diluted by the imposition of onerous Overlay restrictions, which would unreasonably restrict simple and expected classes of development from following the DTS assessment pathway.

2.0 ‘Neighbourhood Centre’

Two (2) adjacent land parcels which are presently zoned for ‘neighbourhood centre’ purposes are identified in *Figure 2* below.



Figure 2 – Flagstaff Hill Road (Neighbourhood Centre) (Source: SAPP)

The sites are presently located within the **Neighbourhood Centre Zone** of the Onkaparinga Council Development Plan (consolidated 20 December 2018).

Under the Code, the sites are proposed to be located within the **Suburban Activity Centre Zone**. The sites are not captured within a specific sub-zone.

The following Overlays apply to the site, or portions of the site:

- Airport Building Heights (Regulated) – all structures over 30m
- Hazards (Bushfire - High Risk) Overlay
- Native Vegetation
- Prescribed Wells Area
- Regulated Trees
- Traffic Generating Development
- Urban Transport Routes
- Water Resources (applicable to a portion of the site)

The *Planning and Design Code Consultation Map Viewer* indicates there are no listed Technical and Numeric Variations applicable to the site.

Having reviewed the planning ordinance, proposed to apply under the Code, we note the following concerns:

1. More land use types are captured for referral to the SA Country Fire Service (CFS) given the imposition of the Hazards (Bushfire – High Risk) Overlay. This is of particular concern and likely to result in more onerous and protracted assessment processes. Further, we are of the view that the Bushfire ‘grading’ should be reduced, given the context of adjoining development which has been extensively developed for ‘urban’ purposes (i.e. this locality does not represent a ‘high’ bushfire risk).
2. There are more State Agency Referral Triggers, in particular, there is a proposed Commissioner of Highways Referral (via DPTI) where retail floor area exceeds 2,000m² due to the imposition of the Traffic Generating Development Overlay. We note that DPTI would have the power of ‘Direction’ for such a referral.

This inclusion is unreasonable and unnecessary. Retail development is an envisaged use, to be encouraged within this Zone, and State Agency Referrals should not be required for envisaged forms of development. However, we recognise and acknowledge the need for a Commissioner of Highways referral, as exists under the existing policy and legislative framework, where referral is required in instances where there is proposed new or changed access to arterial roads.

Proposed Amendments to the Planning and Design Code

- **The level of ‘Bushfire Risk’ should be ‘downgraded’ from ‘High Risk’ to ‘Medium’ or ‘Low Risk’, given the context of the locality which has been extensively developed for residential/urban purposes.**
- **The Traffic Generating Development Overlay should be amended to remove the Commissioner of Highways Referral, for retail development which exceeds 2,000m².**

In addition, we note that it has been extraordinarily difficult and time consuming to navigate the draft Code for consultation. Clearly the new Code is better suited and produced for an electronic format. Not being able to access the proposed E-Planning system during the consultation process has made it difficult and inefficient to assess the proposed changes. We are concerned there may be other changes not yet known or properly understood and would appreciate the opportunity to comment on the next iteration of the Code once the E-Planning system is available.

We thank the State Planning Commission for the opportunity to make this submission. We would welcome the opportunity to meet with the Commission to discuss and further explain our position in relation to the matters identified above.

Yours Sincerely



Chris Carrey
Planning Consultant