Hi I am uncertain to whom to address this mail to other than DPTI Planning Reform
This correspondence has been sent to Minister Stephen Knoll and DPTI Planning Reform Submissions

I am requesting a change of the zoning of the 35 Port Road allotments between Rosetta Street and King Street West Croydon. I request these allotments to be changed from Residential 16 to Mixed Use as has been done with most of the other Port Road Allotments of similar character. The reasons for this request are best detailed in the attached correspondence between myself and the City of Charles Sturt.

I have attached a number of attachments and may be better understood if read in this prescribed order. Letter sent to Stephan Knoll, Letter sent to All Councillors & Peter Malinauskas, Reply from Peter Malinauskas. Reply from Bruce Williams General Manager City Charles Sturt

Thank you for your time, as I am not well educated in written correspondence if there is anything I have failed to provide or left improperly described please advise me.

Regards G Kim O’Connell

Sent from Mail for Windows 10
Kim O’Connell

West Lakes Shore
SA 5020

Email:

Phone:

28 February 2020

Minister Stephan Knoll

I apologise for the length of this letter and will attempt to abbreviate the description of my circumstances.

For the past 45 years my wife & I were self-employed as fencing contractors before retiring at age 65, 3 & 4 Years ago respectively.

We receive a part pension and have a little money in a Supper fund which we have to draw from whenever an everyday account such as rates, tyres, registration, medical benefits, insurances doctors & specialists ect. This money is decreasing at an alarming rate. The bulk of our assets is in the form of a property at 509 Port Road West Croydon SA 5008. With council approval we conducted our business from here for 40 years, always considering this property to be an asset and my superannuation. The commonwealth government considers it the same when accessing our pension. There is no income generated from this property. It consists of an old house which was used as an office storeroom and a 14 x 6 metre domestic garage all is only suitable for demolition. The details and circumstances of this property are best described in the attached letters recently submitted to the City of Charles Sturt Council.

The above property is 1 of 35 lots on Port Road between Rosetta Street & King Street West Croydon which is zoned R 16. There are another 12 lots between Queen Street & South Road Croydon which is zoned RC 69. These I believe are the only lots zoned Residential within the 7 Kilometres of Port Rd in the City of Charles Sturt Boundaries. All other property along this side of Port Road has either a Mixed Use zoning or other type of commercial zoning. The only explanation I have been able
to obtain for this is contained in an attached recent Council reply to my letters.

To avoid duplication the circumstances pertaining to this land are best described in the attached letters to The City of Charles Sturt

The Valuer - General has just increased my property valuation to $420,000.00 and refers to it as Commercial/Industrial Premises and has done for the past 23 years because of its use and also to justify the high charges council and other state charges placed on it.

My costs and charges on this land for the financial year 2019/20 for 509 Port Road were as follows

Pub Liability Insurance Brecknock $749.00
Council Rates $3389.90
Water Rates $820.52 (No water being used)
Emergency Service Levy $552.05
Land Tax $120.00
Fines Late Payment $57.20
Total $5688.67

These costs are ongoing and have been for the past 3 ½ years of our retirement.

For the past 3 1/2 years we have been trying to sell both my property 509 and my sons property combined 511 Port Road as a development site for units compatible with the many constructed along Port Road in the past 5 years.

Because of zoning discrepancies explained in the attached council correspondence all proposed development applications discussed and presented to council have been rejected or referred to as non-complying and given extremely little or no chance of approval.

I have no knowledge of circumstances on the 12 lots between Queen Street & South Road Croydon, nor do have interest in that zoning.

I was informed yesterday that public consultation on the re zoning closes tomorrow 28 February 2020 and have not at this time consulted with most of the land owners within the 35 lots between Rosetta Street
& King Street West Croydon, This I will do in the coming week. There are not 35 separate owners as some own several of the lots, most are rental property with only a few of them being owner occupied.

As explained in previous Council Correspondence of the 35 lots currently zoned R 16 between 12 & 15 of these have had their Land Use Described & Valued as Commercial for the past 24 years and as such have been charged all government & council charges accordingly. The numbers of Commercial have varied over the years as development and uses have changed. Examples are what is now 521 to 527A Port Road is now town houses but was until a few years ago a BP Service Station before becoming a Windscreen Obrien Fitting Outlet, 551 is and has been a block of units for as long as I can remember, 557/59 are a recent development of townhouses, and 561 is now a council approved Krispy Kreams Dohnut Factory, whilst 503 was once a builders office and is now back to rental as housing. Some of the use has changed over the past 24 years however there are still better than 30 % of the buildings which are still used as commercial, most have been with council approval for the past 40 years and charged accordingly for the past 24 years.

It is my opinion that Council had a Duty of Care to change the zoning on these 35 lots fronting Port Road from Residential 16 to Mixed Use 24 years ago when they liaised with the then State Government to classify 30% or more of these properties as Commercial and impose Commercial Rates & Charges on these Properties.

I respectably ask those responsible for the revision of State Zoning and the laws pertaining to development examine and give consideration to changing the zoning of the 35 lots which front onto Port Road West Croydon between Rosetta Street & King Street to Mixed Use as has been done with similar areas fronting Port Road in the past.

All existing commercial use premises have existed and operated for at least 20 years or more, some as long as 50 years.

The owners of existing adjoining residential properties have been aware of the commercial use for the time that it has been there or have bought property aware of the existence of commercial use.

Failure to have this land zoned Mixed Use has rendered my land useless. No one wishes to buy a 557 m2 block of land on a main road that boasts 40,000 cars a day. Nor do they wish to pay a commercial land valuation for land that is only zoned for a single residential house on such a road.
Any other form of development is and can be manipulated to the whims of council under a non-Complying development as we have experienced for the past 3½ years.

I have attached recent correspondence sent to each Councillor of The City of Charles Sturt and the Local Member of State Parliament. Also attached is their reply. The replies are glossed over and fail to recognise any commercial use on this land or within the zone. They fail to recognize Council had a Duty of Care to have the Port Road lots of this Zone changed to Mixed Use when it recognized the land as Commercial and began charging Commercial rates on my land and at least 30% of the other Port Road Lots. Council prefers to access any application or discussion on this land as non-complying and developers refuse to accept these terms. They have agreed to consider under a Non-Complying application a development that was presented to them 3 years ago and refused by council. On application council instructed the developer to make changes which were not consistent with already approved and constructed developments half a kilometre away on Port Road on Land Zoned Mixed Use. The Developer after spending $20,000 refused to discuss any further with council and withdrew the application and purchase contract which was subject to council approval.

All efforts to resolve the situation I am in seem to result in referral back to those I consider responsible for it, being council development staff.

These people would appear to be untouchable and would rather bully their way through their bungles than look for an acceptable solution.

I am hoping this land can be zoned Mixed Use and realize development is still required to go through council and comply with any laws pertaining to the zoning. As a mixed use zone these laws would seem to be more appropriate to the road. At this time I cannot even advertise my land for sale with an appropriate title as it is not a development opportunity, it is Non-Complying land. I will endeavour to deliver opinions from the landholders of the other 34 lots over the next 2 weeks.

Thank you for your time, I have attached my recent correspondence to council and their reply Please take the time to read it as it better explains the situation.

I am available for discussion or contactable on any of the listing at the head of this letter

Regards G. Kim O’Connell
Kim O`Connell

West Lakes Shore
S A 5020

13 November 2019

To City of Charles Sturt

Council & all Councillors Other State & federal Representatives

Due to Paul Alexandrides illness a requested meeting to discuss my grievances had to be postponed, it would seem indefinably as he never got back to me. With consideration it is possibly better under the circumstances that I state my situation in writing rather than verbally.

My wife and I are retirees and have been for 3 & 4 years respectfully.

We owned & operated Budget Fencing from 509 Port Road with Council approval for 40 years. The property represents 557 M2 in area and Council and other Government agencies have referred to these premises as Commercial / Industrial for the past 23 years and as such have charged Rates & Taxes accordingly. The premises has an old, council declared un-liveable house with a 14.00 x 6.00 metre domestic shed which is still used to store some Building / Fencing materials.

This property makes up the biggest part of our superannuation. We are penalised in our aged pension because the valuation of the property puts us over the means test and it is deemed that we earn money from that valuation, although not correct we are also penalised for this non-existent income.

In order to be able to retire with a liveable income it becomes essential to derive income from this property or sell it. I have investigated and tried both with continual opposition from Council Development representation.

My son is the owner of the adjoining property 511 Port Road. Marketing suggested that we approach the market with both properties as a townhouse development site. It was also explained that to achieve the price needed and valued by the State Value General, it would be best to seek approval of a Townhouse concept plan, not unlike those approved and being constructed along Port Road.

An architect friend Mr Ned Rittan began discussion with Rebecca Gosling, City Charles Sturt Development Officer (Senior Planner) in May 2017, to achieve approval of a development plan which would comply with both council and the valuation of the land.

After several plan presentations and discussions in February 2018 a plan for 8 townhouse was presented and discussed. We were given the belief that with a few
minor adjustments which were suggested by council, this plan would meet council approval.

The 2 properties were then officially placed on the market, soon after a developer entered into a purchase contract, subject to council approval for the development of 8 townhouses of his design.

The developer proceeded to draft and discuss with council plans for the development of this land. He had the required EPA soil testing carried out and approved (Only applicable on commercial Land) and submitted a Development application plan for development of this land. The building application was refused with suggestions that he make changes to the plan. The alterations requested did not appear to be consistent with other recent, similar developments on Port Road. This resulted in his refusal to spend further time or money negotiating with council and terminated the contract.

Explanation from council representation for the rejection of the development application was that the approved developments on Port Road have been within areas zoned Mixed Use, and my land is zoned Residential 16.

The marketing agent’s contract expired before another acceptable offer could be found and all advertising was removed.

Consideration and consultation with new marketing resulted in a decision to draft and seek Council DAU approval for 2 shops / offices with apartments above. This was considered consistent with the existing Commercial 50 year existing use on 509 Port Road. It also ticks the number of occupancies required to satisfy the market value of the land.

I had a concept plan drafted for 2 shops and 8 x 2 bedroom apartments and submitted this to Council’s Development Assessment Unit for consideration on the 31 May 2019. Each time the plan was presented the DAU requested or recommended alterations to the plan. All recommended changes suggested were made until finally we were unable to comply with their requests and still maintain the structure and purpose of the building. I suspect this was the purpose of some of what would appear to be unnecessary and poorly thought out demands from council’s DAU. This plan was a good plan in all aspects, it is as centrally located on the block so as to reduce any impact on any existing residents, It has a fresh and different appearance to any of the recent developments on Port Road. It has 27 car parks. All building setbacks from boundaries exceeded or equalled that of previous developments on Port Road.

I believe it is 1.00 metre above the normal height allowable and requires a separate entry & exit point. These would replace the 3 x 50 years + existing driveways.

It is clear that the Development Assessment Unit is there to assess and recommend in accordance with the regulations permitted in each zoning.

It is also realised that I have the right to proceed with a development application without the approval of the Development Assessment Unit.
The DAU would seem to have little purpose if approvals were given to developments which did not meet their approval. For this reason it is not considered an option to proceed without their approval.

I apologise for the length of this letter it is an abbreviated account of the past 3 years which I believe covers all the main happenings. I believe it necessary to detail as much as possible as it is intended to address this letter to others in an effort to find a solution. My understanding is that the Residential Zoning which exists on the above properties is the excuse for the DAU shuffle that I have been subject to over the past few years. I am also told that these properties are eligible for dispensations because of the main arterial road frontage and the fact that 509 Port Road has operated commercially for the past 50 years and has been charged Commercial rates & taxes by all government agencies for the past 23 years.

There are 7 Kilometres of Port Road from Alberton to Park Terrace Bowden within Charles Sturt boundaries.

My property is 1 of THE ONLY 35 LOTS FRONTING PORT ROAD WITHIN THE 7 KILOMETRES ZONED RESIDENTIAL.

The 35 lots are Between Rosetta Street & King Street West Croydon. These are the ONLY 35 lots fronting Port Road with residential zoning, the remainder of Port Road has various Commercial Zoning. There are 10 of the 35 lots which have been operating commercially and I presume have been paying commercial rates for the past 20 or more years.

Why has this zoning not been changed to Mixed Use when almost one third of the properties are referred to as Commercial by Council and other State Government agencies when collecting revenue?

There are 2 existing townhouse developments within the 35 lots. These have been approved & built in recent years. One of these appears the same or very similar to the contracted developer`s submission that was refused, Why?

For the past 11 months both properties have been in the hands of an agent but have not been advertised whilst we negotiate an appropriate development that can be advertised which justifies the price at a bit more than government valuation.

After 3 years of discussion with council my son and his family have become tired of placing their life on hold and are willing to withdraw their property from the market.

I do not have that luxury, but am also tired of spending money and effort trying to achieve suitable development concepts that conform to council demands.

I am considering marketing 509 Port Road as a single site with a concept plan the same or similar to the existing development on 667 Port Road.

After experiencing the events of the past 3 years and the procedures required by council to develop this land I fully understand the frustration and reasons for the contracted developer refusing to continue spending time and money trying to comply with council. I now find myself in similar circumstances and request
direction from council as to what is permissible on this land that does not have to pass a number of setup, likely unobtainable approvals and still be capable of obtaining the land valuation that rates and taxes are set at and have been for the past 23 years.

It is possible that a buyer may have no interest in a concept plan I may get approved however it would appear necessary to have consent from council as to what they would approve as past development application from a developer and all concept I have proposed has been denied or presented with unachievable requests.

When replying to my request I ask that consideration is taken to the fact that these premises have been operating commercially with council approval for the past 50 years. All adjoining or nearby premises have been aware of this, or any new residence buying into the area have been aware of the commercial presence of this before buying into the area.

To avoid any further delay seeking approvals on unobtainable development I request clear acknowledgement from council as to a suitable & allowable purpose this land may be advertised and marketed as.

Regards    G, Kim O’Connell
Mr Kim O’Connell
WEST LAKES SHORE SA 5020

Dear Mr O’Connell,

I write in regard to your email enquiries to my office about your property located at 509 Port Road, West Croydon.

I have received a response to these enquiries from Mr Bruce Williams, General Manager City Services at the Charles Sturt Council, regarding the matters raised in your email correspondence about the development approvals you have sought for this property.

Mr Williams has also included a copy of an extensive email he recently sent to you providing information and advice on this matter.

I have attached a copy of this letter for your information.

Mr Williams advises Council officers have offered to meet with you to discuss development options for your property. I strongly suggest you keep in contact with the City of Charles Sturt to assist a resolution to this matter.

I hope this information is of assistance.

Yours sincerely,

Peter Malinauskas MP
Member for Croydon

23/12/2019
Dear Kim

Thank you for your email dated 13 November 2019 to the Mayor and Elected Members, which extensively outlines the history of your difficulties with the possible re-development of the two properties at 509 to 511 Port Road, West Croydon. I apologise for the delay in this response, however the history associated with your interactions with Council did require time to research. In addition, the suggested approach to attempt to resolve this matter has also required some deliberation by Council staff.

I have taken the time to review the interactions and advice received from various Council officers over the time in your quest to resolve the financial situation on the property to enable your progression to retirement. I acknowledge the difficulties and constraints that you have experienced given the subject land is located within a Residential Zone, despite having a long term commercial land use on the property for a fencing business. This Residential Zone has made re-use of the site for alternative commercial land uses over the years difficult given these land uses are mostly non-complying development in the Residential Zone.
Your development application to construct two residential flat buildings comprising eight dwellings in total (refer Development Application 252/1245/18), was lodged and assessed by Council's officers in early 2018. Discussions with the applicant, Metro Saspy 27 Pty Ltd, with Council staff recommended amendments to the application to provide a development which dealt with proximity to boundaries and compliance with the building envelope control and orientation and articulation of the front dwellings to Port Road. The proposal was required to undergo the Category 3 notification process, formal referral to Department Planning Transport and Infrastructure (DPTI) and a decision by the Council Assessment Panel (CAP). I understand that the applicant chose not to amend the plans to increase the setbacks and subsequently the application was withdrawn. Council staff remain open to considering a new application for a similar development in this location.

Since this formal development application, numerous discussions have taken place at a preliminary level with Council planning staff to explore an alternative proposal given your market advice and financial needs for the future. This has included a proposal for a storage facility on the land for caravans and the use of shipping containers as individual storage units. This raised concern due to the angled layout not facilitating appropriate vehicle movements on site and exit in a forward direction, a lack of landscaping and the likely need to provide on-site facilities such as toilets or office.

The most recent scheme involves over 100 square metres of shop (ground floor), and two levels of residential dwellings above (8 dwellings in total) with car parking and landscaping. Given the Residential Zone (Mid Suburban Policy Area 16), shops over 100 square metres are 'non-complying' and Council on receipt of a formal development application can choose not to proceed with the assessment of the application as it believes that it does not have any planning merits to proceed. In the numerous renditions of these preliminary plans, minor changes were made to try and overcome Council's comments, however fundamentally the proposal presented to Council results in a development over 100 square metres of commercial land use, provides for a large bulky and over height building sited close to boundaries and includes limited landscaping.

In formulating these comments, the plans were presented to Council's Development Assessment Unit (DAU) on numerous occasions to provide further preliminary advice on your plans. Council's planning staff recommended significant changes to preliminary plans to address the above issues, to enable Council staff to support progression of the application through the non-complying process. Despite this advice, you are able to formally lodge the development application and the Council Assessment Panel (CAP) will independently decide on whether the application has merit to proceed to assessment. However, as outlined above, no formal development application has been received as yet. You are welcome at any time to take this opportunity. Council staff are recommending that the suggested modifications be undertaken to the current scheme before presenting the item to the CAP for a decision on proceeding with an assessment of the application.

With regard to the zoning of the property, the property and immediate locality has maintained the Residential Zone (Mid Suburban Policy Area 16) zone, as there has been no demand from land owners or the State Government to propose to change the zone away from a residential to a mixed use or commercial zone. Over the years portions of land within the City of Charles Sturt have been re-zoned due to changing market demands and State Government
policies. However this portion of Port Road has remained in a Residential Zone despite the long term existence of the non-residential land use on the property. The property you refer to as being an example of approved commercial development on 667 Port Road, Woodville Park, is located within a different zone which is the Mixed Use Zone. As a result, a two storey office building was approved and exists on the site which reflects the Mixed Use Zone.

On review and consideration of recent residential developments along Port Road, subject to some amendments, it is considered that the original two storey residential built form over both 509 and 511 Port Road contained in application 252/1245/18, is a better arrangement with regard to residential re-development on the properties, than the most recent preliminary scheme proposed which includes commercial development. This type of two storey residential flat building configuration has been constructed along Port Road and better
reflects the existing Residential Zone (Mid Suburban Policy Area 16) principles of development control and is considered to be more compatible to the adjacent built form.

Moving forward, and trying to assist as requested with clear guidelines on a development proposal which can be considered on the site, it is recommended that you meet with Council staff to assist with the discussion on a residential application, which re-visits a scheme for two, two storey residential flat buildings with a central driveway accessing the development, with associated landscaping (comprising a maximum of eight dwellings). It is believed this approach presents the best built form and density on the site, which is consistent with recent developments within the locality. To assist, I can arrange for the Team Leader and Manager of Planning and Development to discuss re-development of the site with you and provide guidance.

When convenient, please contact John Tarasiuk on [redacted] or [redacted] to arrange a suitable time and if required Julie Vanco, Manager Planning and Development can attend this meeting as well to assist in moving forward with options for re-development on the site.

Regards

Bruce Williams
General Manager
City Services

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