

26 February 2020

Mr Michael Lennon
Chair, State Planning Commission
Department of Planning, Transport and Infrastructure
Via email: DPTI.PlanningReformSubmissions@sa.gov.au



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Dear Michael,

RE: PLANNING AND DESIGN CODE – 330 - 338, SEAVIEW ROAD, HENLEY BEACH

This firm acts for Bayspring Pty Ltd, the registered proprietor of 330-338, Seaview Road, Henley Beach ('the Land').

We are instructed to submit the following submission in respect of Phase 3 of the State's Planning and Design Code ('the Code').

The Land is comprised in Certificates of Title 6088/241, 6088/242, 6088/243, 6088/244, 6088/245, 6088/246 and 6128/214 and is in excess of 3000 square metres in area. The Land adjoins the "Baju" apartments fronting Henley Square and is surrounded on three of its sides by public roads, namely Seaview Road, Military Road and Main Road. The image below is provided for context.

Figure 1 *Aerial image of the Land*



The Land is shown in the Code's online mapping system as within the new Suburban Activity Zone, transitioning from the current Neighbourhood Centre Zone – Policy Area 12 in the City of Charles Sturt Development Plan.

Our client is generally supportive of the intentions of the Code to provide greater certainty and a single source of truth for development applications, however, for the reasons set out below, has concerns about the application of it to the Land.

In the first instance, there appears to be a glaring omission in the Code around maximum building heights.

The Code's online mapping system does not provide any indication of maximum building heights for the Land. Further, the Zone policies within the Code provide the following guidance in respect of building heights:

Building height and setbacks

PO 3.1

A range of low to medium rise buildings, with the highest intensity of built form at the centre of the zone and lower scale at the peripheral zone interface.

DTS/DPF 3.1

Building height is not greater than any maximum, or less than any minimum, specified in the *Maximum Building Height Levels Technical and Numeric Variation Overlay*, the *Maximum Building Height Metres Technical and Numeric Variation Overlay*, or the *Minimum Building Height Levels Technical and Numeric Variation Overlay*.

As you would be aware, the "Technical and Numeric Variation Overlay" has no detail that can be attributable to any land. Therefore, the Land is either unencumbered by building height (which we assume is an incorrect assumption) or, alternatively, maximum building heights within the Suburban Activity Zone have been overlooked.

It is not known whether this is by design or innocent omission however, in the absence of any guidance this is most concerning to our client, as maximum building heights have a significant impact on the development potential of the Land.

We submit the building heights for the Land should receive careful consideration as it is the last site available to develop in Henley Square following the development of the adjacent Baju/H20 apartments. The Land effectively represents the last opportunity to frame Henley Square and to act as a catalyst for economic development and activation of the Square generally.

To this end, we submit the Land should be able to be developed for tourist accommodation, or the like, which will further invigorate the associated businesses in the Square by bringing people and activation outside of the peak summer period. The Code envisages tourist accommodation, however, in order for that form of development to be economically feasible, multi-storey built form is necessary to accommodate enough rooms for this purpose.

It is submitted that built-form on this site should be regulated by the 45 degree plane measured from a height of 3 metres above natural ground level at the allotment boundary with no upper building height limit necessary. This technique effectively manages the off-site impacts to any adjoining residential uses, whilst ensuring the economic feasibility of development on the Land and facilitating activation driving and supporting the surrounding retail in Henley Square.

Given this is the last opportunity to develop the surrounding land at Henley Square, it is a once in a generation opportunity to ensure the vibrancy of this iconic South Australian site will continue.

We would be pleased to meet with DPTI staff to further discuss this submission and to work through solutions which ensure the Code enables delivery of the excellent development outcomes in the manner anticipated by the State Government.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Duncan', is written over a thin horizontal line.

Marc Duncan
Principal