

28 February 2020

Department of Planning, Transport and Infrastructure
GPO Box 1815
ADELAIDE SA 5001

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

Dear Sir/Madam

Re: Submission – Planning and Design Code – Phase 3
[REDACTED], Norton Summit

MasterPlan provides this submission on behalf of the Giles family who own Grove Hill, located at [REDACTED], Norton Summit.

By way of background, Grove Hill was established as an orchard and exotic plant nursery by Charles Giles in 1846. The property remains owned by the Giles family to this day and continues to be operated as a commercial orchard and vineyard. This probably makes Grove Hill the oldest continually operated orchard in the entire Adelaide Hills, if not all of South Australia. The main dwelling on the land also referred to as 'Grove Hill' together with the coach house, stables, gatehouse, fruit store, cider cellar and hothouses are collectively a State Heritage Place.

On behalf of our client we respectfully request the zoning of their site and broader locality be maintained to protect the existing rural character of the area and prevent any future urban encroachment, particularly through the fragmentation of land holdings and the construction of additional dwellings in the vicinity of or abutting Grove Hill.

Our client supports those changes to policy proposed by the current draft Planning and Design Code (PD Code) to the extent that they adequately restrict urban encroachment, restrict land division (including boundary re-alignments), preserve primary production uses, protect the natural landscape of the area and preserve the character of the wider locality.

Our client's land (the land) comprises three (3) contiguous allotments which sit south of the Norton Summit settlement. The land comprises a mix of working orchards and vineyards, four (4) historic dwellings with associated structures, stables, greenhouses, fernhouses, extensive gardens and botanical collections of rare and significant trees (including a large collection of rare old variety camellias), old cold storage building, various other outbuildings, ancillary structures associated with primary production, undulating open space and dense portions of vegetation. The land contains numerous structures of character and historic interest.



Our client is committed to the continued use of the land for primary production purposes and has invested significantly in enhancing the land including new plantings, structures, productive capacity and associated infrastructure. Our client is also committed to the preservation of vegetation including remnant native vegetation.

The land is formally described as:

- Allotment 521 in Deposited Plan 48774 (Certificate of Title Volume 5508 Folio 597);
- Allotment 502 in Deposited Plan 46906 (Certificate of Title Volume 5484 Folio 446); and
- Allotment 500 in Deposited Plan 46906 (Certificate of Title Volume 5484 Folio 444).

Figure 1 below, displays the land in context with the surrounding locality and township of Norton Summit.



Figure 1: Aerial image of the land in context with Norton Summit township

Adjoining properties of the land include a mix of:

- low density detached dwellings, typically on large but irregular shaped blocks to the north and east;
- the Norton Summit settlement further north comprising typically low-density residential dwellings and a small collection of commercial, community, medical and educational facilities;
- densely vegetated hills to the south and west, including 'Giles Conservation Park' which was previously part of Grove Hill until that area was set aside and created as a conservation park in the late 1970s; and
- primary production uses to the north west and east.



All of the properties directly abutting the land are, or have previously been, orchards.

The locality reflects a character that remains representative of primary production (particularly horticulture) and an associated service settlement within the western escarpment of the Mount Lofty Ranges. The existing combination of uses and land configuration presents a highly attractive area that is representative of the historical settlement of the area, continuing primary production and limited settlement, rather than a township.

Over time there has generally been an unfortunate decline in commercial primary production uses and increased pressure for urban development, including division of land for residential development. Our client considers that this is highly detrimental to both the continued use of their land for primary production purposes and the character of the locality more generally. Our client also considers that appropriate buffer zones must exist between primary production areas and sensitive receivers, particularly residential development, to as to avoid land use conflict. It is noted that there is a generally a strong correlation between the number of sensitive receivers and land use conflict, include complaints about activities inherent in primary production uses, such as noise, dust and the application of herbicides etc.

It is noted that the Norton Summit settlement is not located within a zone supporting urban development and expansion. Whilst the settlement exhibits some characteristics of a small township, it has not had historic policy support for expansion and intensification. This historic policy context is important in ensuring that policy going forward provides adequate protection and buffers against undesirable development outcomes.

PROPOSED ZONING

Figure 2 and **Figure 3** depict the current zoning of the land and surrounding locality and the incoming zones proposed in the draft PD Code.



The site and surrounding land uses are currently zoned as follows:

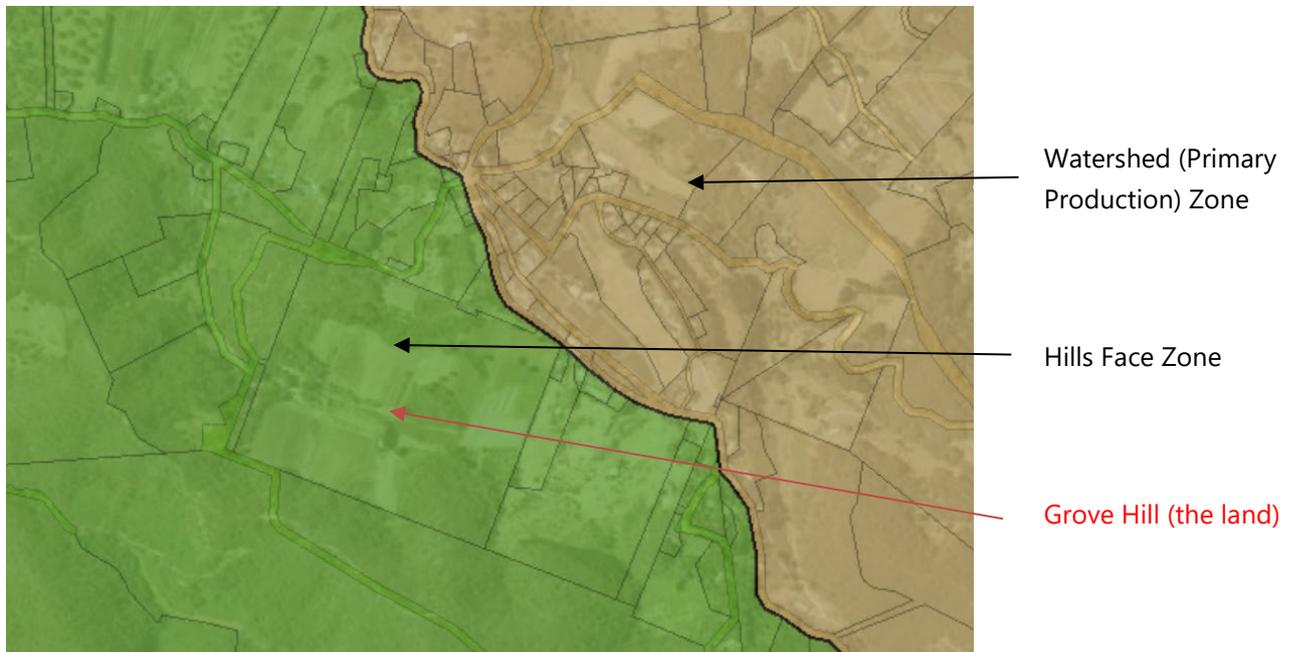


Figure 2: Current zoning

In review of the PD Code, the land and surrounding locality will transition to the following zones:

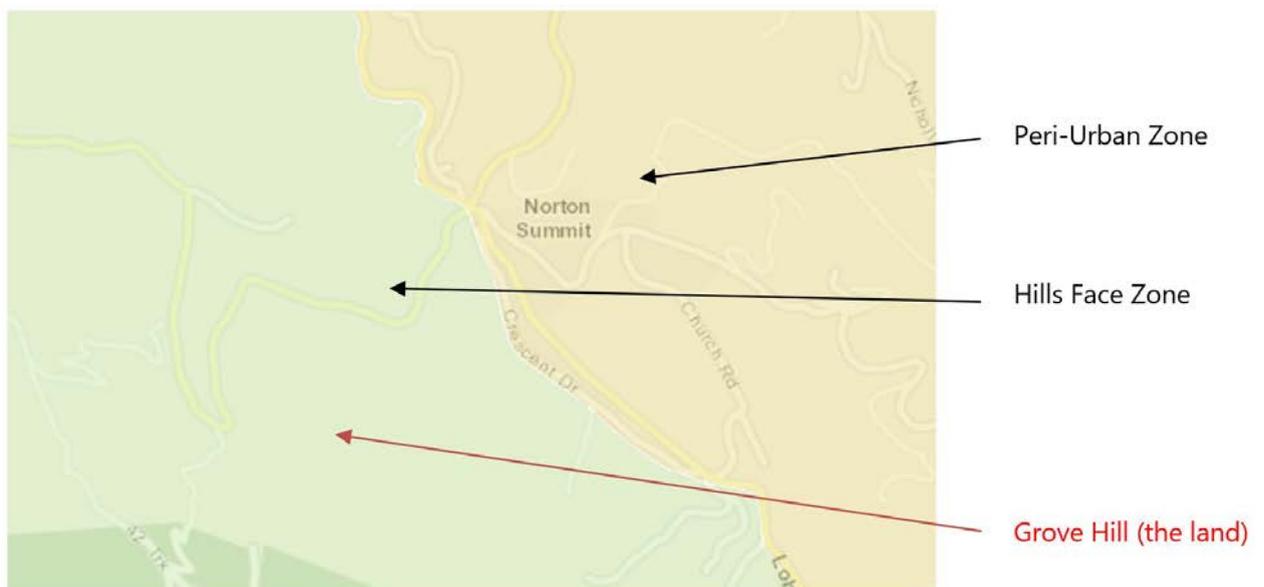


Figure 3: PD Code zoning



As displayed in the images above, it appears that the intent of the PD Code is to preserve the zone boundaries that separate the Norton Summit settlement from the hills face areas to the south. In particular, it is apparent that the zoning for Grove Hill, and for all of the properties immediately adjoining Grove Hill (including all of the properties south of Crescent Drive), will not change. Rather, they will all remain within the Hills Face Zone. The locality further away to the north and east of Grove Hill will transition from being part of the area now zoned as the 'Watershed (Primary Production) Zone' and will instead be re-zoned as being part of the 'Peri-Urban Zone'. It nevertheless appears to us that the current boundary between the Hills Face Zone and the current Watershed (Primary Production) Zone will remain unchanged once the Watershed (Primary Production) Zone is rezoned as being part of the Peri-Urban Zone. Our client submits that the boundary should not change.

HILLS FACE ZONE

The table below compares the key desired outcomes and procedural implications prescribed within the land's current zone versus the incoming PD Code zone

Current System: Hills Face Zone	PD Code: Hills Face Zone
<p>Objective 1</p> <p>1. A zone in which the natural character is preserved and enhanced or in which a natural character is re-established in order to:</p> <ul style="list-style-type: none"> (a) provide a natural backdrop to the Adelaide Plain and a contrast to the urban area; (b) preserve and develop native vegetation and fauna habitats close to metropolitan Adelaide; (c) provide for passive recreation in an area of natural character close to the metropolitan area; (d) provide a part of the buffer area between metropolitan districts and prevent the urban area extending into the western slopes of the Mount Lofty Ranges; and (e) ensure that the community is not required to bear the cost of providing services to land within the zone. 	<p>Desired Outcome (DO) 1.1</p> <p>To maintain the western slopes of the South Mount Lofty Ranges as an important natural asset of Greater Adelaide by limiting development to low-intensity agricultural activities and public and private open space.</p> <p>The natural character of the zone will be preserved, enhanced and re-established to:</p> <ul style="list-style-type: none"> (b) provide a natural backdrop to the Adelaide Plain and a contrast to the urban area; (c) preserve biodiversity and restore locally indigenous vegetation and fauna habitats close to metropolitan Adelaide; (d) provide for passive recreation in an area of natural character close to the metropolitan area; and (e) provide a part of the buffer area between metropolitan districts and prevent the urban area extending into the western slopes of the Mount Lofty Ranges. <p>'Natural character' refers to the natural topography, native vegetation and colours, such as greens and browns of non-reflective earthen tones, normally associated with a natural landscape. Additionally, natural character refers to the open character of the land in those areas of the zone where open grazing currently predominates.</p>



Current System: Hills Face Zone	PD Code: Hills Face Zone
<p>Desired Character</p> <p>The western slopes of the south Mount Lofty Ranges in Metropolitan Adelaide are an important natural asset to both the population of the urban area and the tourism industry. Development which is undertaken in this zone should not only preserve but should also enhance the natural character of the zone or assist in the re-establishment of a natural character. The term "natural character" refers to the natural topography, native vegetation and colours, such as greens and browns of non-reflective earthen tones, normally associated with a natural landscape. Additionally, natural character refers to the open character of the land in those areas of the zone where open grazing currently predominates.</p>	
<p>Procedural Matters</p> <p>Land division is non-complying and Category 3 form of development for the purposes of public notification.</p>	<p>Procedural Matters</p> <p>Land division is a Restricted Development Classification and requires public notification to adjacent land, land potentially impacted, person of a prescribed class and the general public.</p>

As detailed in the table above, the intent of the current and new zones appears to be generally consistent. Land division will be limited significantly in order to protect the natural environment and rural setting characterising the Hills Face Zone areas.

Our client nevertheless submits that the description of the 'natural character' (as referred to on the 'Desired Outcome') should be amended to expressly include recognition of the form of horticultural primary production comprised by the orchards in the area. As currently drafted, the PD Code only captures areas which are predominantly comprised of remnant native vegetation and those which feature 'open grazing'. The definition would be improved by referring to 'open grazing and cropping' which tend to occur on land with similar disposition and also to land used for horticultural uses, which has a separate and distinct character which is, none the less, natural. The existing and historical orchards in the area (such as Grove Hill and other historical orchards) are much more predominant forms of agriculture and are substantially more significant to the natural character of the area.

Our client also submits that the 'Procedural Matters' under the PD Code for the Hills Face Zone should be amended so that boundary re-alignments are expressly included as 'land divisions' and should therefore constitute Restricted Development Classifications for which public notification (including to adjacent land and land potentially impacted) is required.

Subject to the above, our client is in support of the PD Code maintaining the Hills Face Zoning and its general intent to preserve the existing, largely undeveloped, character of these areas and to protect existing primary production.



PERI-URBAN ZONE

The table below compares the key desired outcomes and procedural implications prescribed within the Norton Summit settlement's existing Watershed (Primary Production) Zone versus the incoming PD Code Peri-Urban Zone. As mentioned above, and to avoid any confusion, Grove Hill and all of the properties immediately adjoining Grove Hill (including all of the properties south of Crescent Drive) are within, and will remain within, the Hills Face Zone rather than the Watershed (Primary Production) Zone or the incoming PD Code Peri-Urban Zone. Nevertheless, the Watershed (Primary Production) Zone and the incoming PD Code Peri-Urban Zone are in the general vicinity to the north and east of Grove Hill and Grove Hill would be affected by development in those areas, hence we provide our comments on the proposed Peri-Urban Zone.

Current System: Watershed (Primary Production) Zone	PD Code: Peri-Urban Zone
<p>Objectives</p> <ol style="list-style-type: none"> 1. The maintenance and enhancement of the natural resources of the south Mount Lofty Ranges. 2. The enhancement of the Mount Lofty Ranges Watershed as a source of high quality water. 3. The long-term sustainability of rural production in the south Mount Lofty Ranges. 4. The preservation and restoration of remnant native vegetation in the south Mount Lofty Ranges. 5. The enhancement of the amenity and landscape of the south Mount Lofty Ranges for the enjoyment of residents and visitors. 6. The development of a sustainable tourism industry with accommodation, attractions and facilities which relate to and interpret the natural and cultural resources of the south Mount Lofty Ranges, and increase the opportunities for visitors to stay overnight. 	<p>Desired Outcomes</p> <p>DO 1 A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents while also conserving the natural and rural character, identity, biodiversity and scenic qualities of the landscape.</p> <p>DO 2 A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes it's regional identity.</p> <p>DO 3 Create local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.</p>
<p>Procedural Matters</p> <p>Land division is non-complying and a Category 3 form of development for the purposes of public notification. In certain circumstances s boundary realignment may be assessed on merit.</p>	<p>Procedural Matters</p> <p>Land division is a Restricted Development Classification when in the Limited Land Division Overlay, except if for a boundary realignment, and requires public notification to adjacent land, land potentially impacted, person of a prescribed class and the general public.</p> <p>Land division (in the form of a boundary realignment) is a Performance Assessed Development and requires public notification.</p>



As detailed in the table above, it appears that the policy intent of the current and new zone will be largely maintained. Land division will be limited significantly in order to protect existing primary production land and the rural character setting of the wider area.

However, given the manner in which policy is now constructed, our client expresses concern in respect of the PD Code transitioning the Watershed (Primary Production) Zone to the Peri-Urban Zone. The Watershed (Primary Production) Zone was clear by its nomenclature and key policy that the primary purpose of the zone was supporting primary production uses and protection of the Mount Lofty Ranges Watershed. There was no inference from the name of the Watershed (Primary Production) Zone that it would offer material support for intensification of uses, such as dwellings, which would result in potential conflict with both primary production uses and protection of the watershed. The new name of Peri-Urban only reflects upon the proximity of the zone to the urban area, and requires more detailed analysis to fully understand the policy intent of the zone. The first Desired Outcome of a 'diverse range of uses' could be interpreted as including uses such as dwellings, particularly in light of the reference to 'proximity to the metropolitan area' and the stated desire to use the land at a 'scale and intensity' that will 'capitalise' on that proximity. This is exactly the type of urban encroachment that is of concern to our client and is likely to adversely affect primary production in the area.

We note that both the land and surrounding locality falls within an Environment Food Protection Area (EFPA), and therefore no land division, including boundary realignment, for the purposes of residential development is permitted. Our client supports the current EFPA policy and seeks that no amendment to the designated EFPA be permitted within the locality, including Norton Summit settlement. In considering the implications of the EFPA, it is considered that a reference to this should be clearly articulated in the Desired Outcomes for the Peri-Urban Zone.

In addition, we have undertaken a review of the current zoning requirements for a detached dwelling within the Peri-Urban Zone. At present a new or additional dwelling is commonly assessed as non-complying unless a number of exceptions can be satisfied, including implications associated with flooding, waste management and proximity to natural watercourses. At present the current zoning limits detached dwellings with exceptions permitted in appropriate circumstances.

We note that the Peri-Urban Zone classifies a detached dwelling as a Performance Assessed development, however a significant number of overlays must be considered, including character, heritage, bushfire protection, natural resources, water resources and vegetation. It appears that the transition to the Peri-Urban Zone will retain the intent of the existing Watershed (Primary Production) Zone as a detached dwelling will be subject to numerous policies focussed on environmental protection, character and protection of land for commercial primary production uses. It is critically important that the impact of proposals for more sensitive land uses, such as dwellings, on existing primary production be considered as part of the assessment process.



In any event, and consistent with our client's position as stated above with respect to boundary re-alignments in the Hills Face Zone, our client submits that the 'Procedural Matters' under the PD Code for the Peri-Urban Zone should be amended so that boundary re-alignments are expressly included (without exception) as 'land divisions' and should therefore constitute Restricted Development Classifications for which public notification (including to adjacent land and land potentially impacted) is required.

CLOSURE

Our client seeks that the intent of the existing zone policies be preserved and that policy for land in the proposed Peri Urban Zone in the vicinity of their land ensures that a proliferation of dwellings, particularly on sites where there is no connection to primary production uses of the land, is prevented.

In summary, our client is of the firm view that any form of urban encroachment would significantly compromise the intent of the current zone policies, as well as the PD Code zone's proposed desired outcomes and associated policies. Subject to its submissions in this letter, our client supports the preservation of the Hills Face Zone over their land, but would seek that further consideration is given to appropriateness of policy within the proposed Peri-Urban Zone in the Norton summit area to ensure that undesirable land uses are restricted and the potential for land use conflict is minimised.

Should you require any further details on this submission, please do not hesitate to contact the undersigned by phone on [REDACTED]

Yours sincerely

Michael Richardson
MasterPlan SA Pty Ltd

cc: Giles family (via email).