

From: [Graham Burns](#)
To: [DPTI:Planning Reform Submissions](#)
Cc: [Tom Craven](#); [REDACTED] [@oakfordhomes.com.au](#); [James Holland](#)
Subject: Planning and Design Code - Phase 3 (Urban Areas) Code Amendment
Date: Wednesday, 26 February 2020 3:31:31 PM

Attention: Planning Reform Team:

We act for Craven Estates Pty Ltd. Our client owns 26.2 hectares of vacant land on the southern side of Nairne, between Saleyard Road and Jeffrey Street. The land is used for general grazing purposes but was rezoned by the previous Government for urban residential purposes via the *Mount Barker Urban Growth DPA (Ministerial)*. The DPA was authorised on 16 December 2010. The land is now situated in the Residential Zone and in the Urban Renewal Policy Area 13 of that zone. Among other things, the Desired Character for Policy Area 13 calls for medium density housing on flatter land and higher residential densities than those which currently prevail. The gradient of much of our client's land is such that these ambitions will be difficult to achieve.

Our client subsequently applied to the District Council of Mount Barker to divide the land into residential allotments, reserves and public roads. The application was not decided within the prescribed time by Council, so our client subsequently appealed to the ERD Court against what amounted to Council's deemed refusal of the application. The appeal has been adjourned while our client considers a new plan of division which responds more appropriately to the site's physical features. We also believe that it addresses many of Council's concerns.

It is likely that the new plan of division will be lodged as a fresh application. Among other things the new plan will feature larger and therefore fewer allotments due to the slope of the land. A sustainable on-site wastewater treatment and effluent disposal system is also under consideration for each allotment in response to Council's advice that the Nairne's CWMS system has reached or is close to capacity. Disappointingly, the preliminary advice received from Council is that the larger proposed allotments "*. . . are inconsistent with the intent of the Residential Zone and Urban Renewal Policy Area.*"

The draft Planning and Design Code proposes that our client's property will be part of the Housing Diversity Neighbourhood Zone. This Zone is intended for "*[a]llotments created . . . for residential purposes to accommodate a diverse range of low to medium density housing*" (PO 2.1) and for development to achieve "*. . . a net residential density of up to 70 dwellings per hectare*" (DTS/DPF 2.1). The new plan of division will satisfy both of these draft Code provisions.

We are now considering whether to wait for the Code to come into operation and lodge the new plan of division so that it can be assessed against the Code. What we are unsure of is whether certain provisions of the Residential Zone and Urban Renewal Policy Area 13 under the Development Plan, particularly those provisions being relied upon by Council in its recent letter to us, will find their way into the Code.

We would be pleased to elaborate on this submission should it be necessary to do so on our client's behalf.

For obvious reasons we request that the contents of this submission not be made public or released to the Council.

Regards,

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