

Special Council Meeting Minutes

19 February 2020

Our Vision

*A City which values its heritage, cultural diversity,
sense of place and natural environment.*

*A progressive City which is prosperous, sustainable
and socially cohesive, with a strong community spirit.*

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City of
Norwood
Payneham
& St Peters

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VENUE Council Chambers, Norwood Town Hall

HOUR 7.00pm

PRESENT

Council Members Mayor Robert Bria
Cr Kester Moorhouse
Cr Evonne Moore
Cr Garry Knoblauch
Cr John Minney
Cr Carlo Dottore
Cr Kevin Duke
Cr Connie Granozio
Cr Mike Stock
Cr Scott Sims
Cr Fay Patterson
Cr Sue Whittington
Cr John Callisto
Cr Christel Mex

Staff Mario Barone (Chief Executive Officer)
Carlos Buzzetti (General Manager, Urban Planning & Environment)
Lisa Mara (General Manager, Governance & Community Affairs)
Sharon Perkins (General Manager, Corporate Services)
Eleanor Walters (Manager, Urban Planning & Sustainability)
Emily Crook (Senior Urban Planner)
Marina Fischetti (Executive Assistant, Urban Services)

APOLOGIES Nil

ABSENT Nil

1A. CONFIRMATION OF THE MINUTES OF THE COUNCIL MEETING HELD ON 3 FEBRUARY 2020

Cr Dottore moved that the minutes of the Council meeting held on 3 February 2020 be taken as read and confirmed. Seconded by Cr Minney and carried unanimously.

1B. DEPUTATIONS

1B.1 DEPUTATION – DRAFT PLANNING AND DESIGN CODE (PHASE 3) CONSULTATION

REPORT AUTHOR: Manager, Urban Planning & Sustainability
GENERAL MANAGER: General Manager, Urban Planning & Environment
CONTACT NUMBER: 8366 4521
FILE REFERENCE: S.422 S.4363
ATTACHMENTS: Nil

SPEAKER/S

Mr David Cree

ORGANISATION/GROUP REPRESENTED BY SPEAKER/S

St Peters Residents Association

COMMENTS

Mr David Cree has written to the Council requesting that he be permitted to address the Council in relation to the Draft Planning and Design Code (Phase 3) Consultation.

In accordance with the Local Government (Procedures at Meetings) Regulations 2013, Mr David Cree has been given approval to address the Council.

Mr David Cree addressed the Council in respect to this issue.

At 7.06pm Mayor Bria sought leave of the meeting to grant Mr Cree permission to continue his address to the Council for a further three (3) minutes.

The meeting granted leave for Mr Cree to continue his address to the Council for a further three (3) minutes.

2. STAFF REPORTS

2.1 DRAFT PLANNING AND DESIGN CODE (PHASE 3) CONSULTATION

REPORT AUTHOR: Manager, Urban Planning & Sustainability
GENERAL MANAGER: General Manager, Urban Planning & Environment
CONTACT NUMBER: 8366 4501
FILE REFERENCE: S/4363
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to provide the Council with an opportunity to review and inform a draft submission which has been prepared on Phase 3 of the Planning and Design Code.

BACKGROUND

The Planning Reforms is a complete and major reform by the State Government of planning legislation, policies, planning authorities and electronic policy (e-Planning) in South Australia, culminating in the implementation of the Planning and Design Code which will replace all Development Plans.

On 1 October 2019, the State Planning Commission released for public consultation, Phase 2 (regional areas) and Phase 3 (metropolitan Adelaide) of the Planning and Design (the Code). Consultation on Phase 2 concluded on 29 November 2019 and consultation for Phase 3 will conclude on 28 February 2020. Consultation has previously been undertaken for Phase 1 (applicable to land not within a Council area) with Phase 1 now having been implemented and operating. At the time of preparing this report, the *Planning, Development & Infrastructure Act 2016* (PDI Act) requires the Code to be implemented by 1 July 2020. However, on 7 February 2020 the Minister for Planning announced an intention to amend the *PDI Act* to remove reference to 1 July 2020 and instead allow the implementation date to be set by declaration in the *SA Government Gazette*. The Minister foreshadowed that Phase 2 will be implemented in July 2020 and Phase 3 will likely be implemented in September 2020.

The scope, scale, detail, complexity and consequences of the new draft Code is substantial. A review of the transition of existing Development Plan policies and key changes and implications has been undertaken. The Code introduces some positive changes, however there are many concerns and unresolved issues surrounding the nature of proposed replacement zones and policy content.

The Code is a large and complicated document which is very different in structure and application to current Development Plans. In the early stages of preparing the Code, its structure and machinations were not expected to be problematic, as it was designed to be accessed in the e-Planning format – an electronic program transmitted over the internet designed to be accessible by all stakeholders. However, as the e-Planning format has not been available during the consultation period, there have been significant challenges in comparing the draft Code to current Development Plans and understanding the full scope of the implications of the proposed policies.

A draft submission on Phase 3 of the Code has been prepared for the Council's consideration. Following consideration by the Council, the submission will be finalised and forwarded to the State Planning Commission before the consultation closing date (28 February 2020).

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Outcome 1: Social Equity

A connected, accessible and pedestrian-friendly community

Objective:

1. *Convenient and accessible services, information and facilities.*
2. *A people-friendly, integrated, sustainable and active transport network.*
3. *An engaged and participating community*
5. *Access to affordable housing for lower income earners.*

Outcome 2: Cultural Vitality

A culturally rich and diverse city, with a strong identity, history and sense of place

Objective:

3. *A City which values and promotes its rich cultural and built heritage*
4. *Pleasant, well designed, and sustainable urban environments*

Outcome 3: Economic Prosperity

A dynamic and thriving centre for business and services

Objective:

1. *A diverse range of businesses and services.*
2. *Cosmopolitan business precincts contributing to the prosperity of the City.*
5. *A local economy supporting and supported by its community.*

Outcome 4: Environmental Sustainability

A leader in environmental sustainability

Objective:

1. *Sustainable and efficient management of water, waste, energy and other resources.*
2. *Healthy and sustainable watercourses.*
3. *Sustainable and attractive streetscapes and open spaces.*
5. *Mitigating and adapting to the impacts of a changing climate.*

FINANCIAL AND BUDGET IMPLICATIONS

The financial and budget implications associated with the implementation of the Code and Planning Reforms remain unclear, as the e-Planning system has yet to be finalised and given there is uncertainty over final details of the development assessment process to be followed once the Phase 3 of the Code is operation (e.g. public notification and assessment fees).

The State Planning Commission is responsible for creating and implementing the Code, however the Council has incurred, in addition to staff costs, minor costs in preparing supplementary consultation material including flyer leaflets which were attached to rates notices and Development Approval notices, as well as assistance from a consultant in preparing community information sheets.

The e-Planning Portal will be an integral part of delivering the new Code. To facilitate this, the *Planning, Development & Infrastructure Act 2016* (PDI Act) allows the State Government to collect financial contributions from Local Government towards the costs of establishing and maintaining the online portal. The value of the required contribution from each Council is scalable and is currently set at \$58,000 for this Council, payable per annum.

In addition to this annual contribution, Department of Planning, Transport & Infrastructure (DPTI) staff have foreshadowed that a portion of future development application lodgment fees will be taken by the State Government to maintain the Portal, however, the extent of this fee is not yet known. The basis for this fee claim will need to be clarified with the State Government in due course as the annual contribution is assumed to already factor in maintenance costs for the Portal.

Local Government will face additional costs in preparing for and running internal systems in conjunction with, the new online development assessment processing system (e.g. purchasing equipment to facilitate lodging applications to the Portal, staff training and additional software to facilitate integration with existing Council systems). A budget allocation of \$10,000 has been included in the Council's 2019-2020 Budget to accommodate this, however the full costs and resourcing implications this transition are as yet unknown due to current uncertainties surrounding the e-Planning system.

EXTERNAL ECONOMIC IMPLICATIONS

One of the key objectives of the State Government's reform agenda is to drive investment and economic development in the State through removing barriers, 'perceived barriers' and 'inefficiencies' (as yet undefined) in the planning system.

SOCIAL ISSUES

The introduction of the Code and other aspects of the Planning Reforms will change how members of the community interact with the planning system, with the level of impact varying depending on the situation and the policy detail in the Code when it is implemented. For example, DPTI has foreshadowed that following closure of public consultation, the public notification triggers in the draft Code will be extensively reviewed and likely to be amended prior to implementation of Phase 3 of the Code in July 2020. This will mean that there is no visibility or opportunity for the community to see and provide comment on, the public notification opportunities that will be specified in the Code. Another aspect of the Code which could have a significant impact on the community is a shift towards more mixed use zones rather than homogeneous land use zones and separation of incompatible land uses which is typical of current Development Plans.

CULTURAL ISSUES

In respect to built heritage, the policy framework relating to heritage places and historic buildings has been a significant point of discussion in the Planning Reforms program. Heritage is a significant component of the cultural identity of the City of Norwood Payneham & St Peters and is comprehensively managed through well-considered and detailed policy in the Development Plan. Any noticeable changes to how and what heritage places and areas are identified has the potential to change the character and built form landscape of the community over time. The Council's role supporting buildings and places of heritage value under the *Development Act 1993 and Heritage Act 1993* strongly aligns with one of the key objectives of the Council and the community, which is to protect and enhance the City's valued built form and character.

ENVIRONMENTAL ISSUES

The draft Code contains a range of policies which affect the sustainability and environmental outcomes of urban development.

RESOURCE ISSUES

Reviewing the draft Code amongst the broader planning reform program is a complex and challenging task, consuming considerable staff resources.

RISK MANAGEMENT

The introduction of the Code could carry significant risks to the State's planning system and development outcomes if not developed with the appropriate inputs including genuine collaboration with local government and a level of community engagement commensurate with the impact of the policy reforms. That said, the Council's role in managing these risks has unfortunately been limited due to a lack of collaboration from DPTI and absence of control over the Code content. Local Government's role in setting policy for its community has been largely removed in the State Planning Commission being assigned legislative responsibility for this role.

CONSULTATION

- **Elected Members**

As Elected Members will recall, Information Sessions were held on 23 October 2019 and 25 November 2019 to outline various aspects of the draft Code.

- **Community**

Phase 3 of the Code was released by the State Planning Commission for public consultation from 1 October 2019 to 28 February 2020.

The State Planning Commission is responsible for undertaking consultation in accordance with the *Community Engagement Charter*, however this document does not specify minimum consultation requirements as is currently prescribed for the Development Plan Amendment process as set out in the *Development Act 1993*. Instead, the *Community Engagement Charter* anticipates a flexible approach allowing the consultation to be tailored to meet the needs of the community and the nature of the document on consultation. Commentary on the extent and appropriateness of the Commission's consultation is outlined in the Council's draft submission contained in **Attachment A**. The *PDI Act* requires the Commission to notify property owners within a proposed Historic Area Overlay and as such, approximately 50,000 letters were distributed to affected owners in mid-January 2020.

There has been significant concern within Local Government about the scope of consultation which has been undertaken by the Commission and whether it is insufficient given the magnitude of changes resulting from the implementation of the Code and the general lack of awareness amongst property owners and the general community regarding the significant changes that are proposed under the Code. As such, many Councils provided supplementary communication to the community – a task which the Commission should be responsible for. Activities undertaken by the City of Norwood Payneham & St Peters to raise awareness of the Code consultation have included:

- information on Council's website;
- *Look East* and *Your NPSP* articles;
- flyers attached to rates notices and development approval notices;
- information included on Section 7 property searches;
- presentation on the draft Code at a community Heritage Information Session;
- meetings with Local Resident Associations; and
- information provided to respondents of the Council's Contributory Item survey.

Despite the Council advocating for all property owners in the City of Norwood Payneham & St Peters to be provided with direct notification by the Commission of the new policy outcomes under the Code, the Commission's Community Engagement Plan (dated September 2019) did not provide for this.

Due to anomalies and errors in the content of the draft Code, the Local Government Association Mutual Liability Scheme advised Councils against providing specific advice on the draft Code to the community. As such, any community members who had specific enquiries regarding the draft Code have been directed to the dedicated DPTI consultation hotline and/or information on the SA Planning Portal website.

- **Staff**

General Manager, Urban Planning & Environment
Senior Urban Planner

- **Other Agencies**

The Council has participated in reviews of Code policy in conjunction with the Local Government Association, Department of Environment and Water and Water Sensitive SA.

DISCUSSION

Planning Reforms Program

The *PDI Act*, was assented to by Parliament in April 2016. The Act comprises wholesale reform of the planning system, the elements of which are being progressively developed and implemented by the State Government. The planning reform program has included the release by the Commission of numerous Discussion Papers, Regulations, Policy Position Papers and community information. Wherever possible and relevant, this Council has provided submissions or feedback on a range of documents and issues, either formally or by the administration. Council staff have also worked collaboratively with the Local Government Association of South Australia and other practitioners in Local Government in sharing analysis and providing submissions and recommendations on many of these documents and issues.

The release of the draft Code for consultation on 1 October 2019, marked a significant stage in the planning reform program given that the single State-wide Code is scheduled to replace every South Australian Development Plan by 1 July 2020. The replacement of Development Plans will result in the loss of significant local policy content, which has been developed over many years through Development Plan Amendments.

Transition from Development Plan to the Code

Over the last ten years, this Council has undertaken four (4) key Development Plan Amendments (DPAs) intended to strategically distribute and facilitate development in appropriate locations and improve development outcomes. Each DPA was informed by extensive community consultation. These DPAs include:

- March 2019 - *Educational Establishments Review DPA*: rezoned several school and community sites into the Community Zone and incorporated policies tailored to these uses;
- July 2015 - *Residential Zones and Policy Areas DPA*: introduced 3 key residential zones covering the majority of the Council's residential areas seeking to allow for quality urban infill in appropriate areas while conserving character areas;
- October 2013 - *Kent Town and The Parade Strategic Growth DPA*: focused development growth along main corridors to allow for increased densities in appropriate locations; and
- August 2011 – *Residential Development (City Wide Policy)PAR*: introduced a suite of residential policies addressing a range of previous policy gaps seeking improved development outcomes e.g. private open space requirements, flood mitigation policies, urban design, car parking requirements etc.

Although the draft Code has intended to carry over the fundamental basis of the above zoning changes, there are significant notable differences between Zones anticipated in the Development Plan and new Code zones, as evidenced in the draft submission. These differences are expected to result in changes to land uses in various areas and built form outcomes such as building heights and increased floor areas. Additionally, most of the local (Council specific) policy content has been removed (without justification) in the transition to the Statewide Code.

Code Framework and Supplementary Documents

The draft Code is a significant document (3031 pages) and contains development policies within four (4) essential layers as outlined in Table 1 below.

TABLE 1: PRINCIPAL LAYERS IN THE PLANNING & DESIGN CODE

	Description	Example	How it Applies	Local Variations
General Modules	Generic policy that applies to most forms of development	Design in Urban Areas Traffic Access & Parking	Non-spatial Relevant policies are determined by <i>Classification Tables</i>	No local variations. Consistent policy across the State
Zones	Principal organising layer typically focused on land use, development density and building heights. Zones contain <i>Classification Tables</i> which determines the policies to be applied when assessing a development	Community Facilities Zone General Neighbourhood Zone	Spatial	Policy wording is standard, however <i>Technical Numerical Variations</i> can be used in the Code to apply different site areas, frontage widths, building heights etc. in different locations
Subzones	Enable variation to policy within a zone; variations may reflect local characteristics	Soft-edged Landscaped Subzone	Spatial	Reported as the only opportunity for local policy. One subzone has been proposed for this Council (Soft-edged Landscaped subzone in the Urban Corridor (Boulevard) Zone) but this subzone is replicated in other Council areas and does not contain any local policy specific to this Council.
Overlays	Overarching layer managing special spatial or geographic requirements including hazards, heritage, State Agency referrals. Overlays can span multiple zones.	Historic Area Overlay State Heritage Place Overlay Hazards (Flooding) Overlay	Spatial	No local variations. Consistent policy across the State, however <i>Historic Area Statements</i> and <i>Character Area Statements</i> can be applied in the relevant overlays.

The Code must be read in conjunction with an online mapping tool to understand how the spatial layers are applied (i.e. what zone, subzone or overlay(s) apply to a particular property or area). In addition to the above, the Code also includes land use definitions, administrative definitions, and referral triggers (which are not determined by an overlay).

It is important to emphasise that each zone contains Classification Tables which set out the policies which can be applied to a development proposal. For example, a policy relating to upper level window screening can only be applied to a development if this policy is listed as applicable to that land use within the Classification Table. If the policy is not listed in the Classification Table, the planner undertaking the assessment of a proposal cannot consider this requirement in their assessment. This is very different to the current planning system where a planner assesses a development against policies which they consider are relevant to the development. In the absence of the yet-to-be-released e-Planning system, the Classification Tables are difficult to navigate as they require the user to cross reference policy reference numbers throughout the hard copy Code document.

Once operational, the e-Planning system should enable the relevant policies (in words) to be provided to the user once a land use (eg. office) and location is entered into the Portal. This approach is predicated on the system software accurately identifying all relevant policies that apply to a development proposal.

The Classification Tables also determine which one of three (3) planning assessment processes apply to a proposed development, as outlined in Table 2 below, together with the closest equivalent process in the current system.

TABLE 2: ASSESSMENT PATHWAYS FOR PLANNING ASSESSMENT

Current Development Plan Framework		Future Code Framework	
Assessment Pathway	Decision Maker	Assessment Pathway	Decision Maker
Complying <i>'Tick-box' assessment against set criteria</i>	Council OR Private Certifier	Deemed-to-Satisfy <i>'Tick-box' assessment against set criteria</i>	Council OR Private Accredited Professional
Merit <i>Assessment of the merits of the proposal against Development Plan policies</i>	Council	Performance Assessed <i>Assessment of the merits of the proposal against Code policies</i>	Council
Non-Complying <i>Development which is not anticipated or ordinarily supported</i>	Council with concurrence required by State Planning Commission	Restricted <i>Development which is not anticipated or ordinarily supported</i>	State Planning Commission

The likely difference in the volume between 'Complying' developments in the existing system and 'Deemed-to-Satisfy' developments in the new system is very difficult to evaluate as this is determined by the zone, subzone and various overlays which may apply to any given property. However, it is clear that the draft Code identifies substantially fewer 'Restricted' development types compared to 'Non-complying' development identified in current Development Plans. This reduction is in one respect a significantly negative change as it relaxes development opportunities in various zones and could result in increased land use conflicts. However, given that 'Restricted' development is determined by the Commission, rather than the Council, increasing the volume of applications determined by the State Planning Commission rather than the Council is not supported.

Due to the size and nature of the Code documents, it is not practical to append these to this report. A Code extract containing the Zones and Subzone relevant for this Council can be accessed at the following link:

https://www.saplanningportal.sa.gov.au/_data/assets/pdf_file/0006/593088/City_of_Norwood_Payneham_and_St_Peters_-_Council_Specific_Code_Extract.pdf

The online mapping tool can be accessed via the following link:

<https://dpti.geohub.sa.gov.au/portal/apps/webappviewer/index.html?id=5fcfc772bf7d4c279ad9bb11c15bf419>

Various documents and guides released to accompany the draft Code also available on the SA Planning Portal:

https://www.saplanningportal.sa.gov.au/have_your_say/Draft_Planning_and_Design_Code_for_South_Australia#Phase_Three

The draft Code and mapping tool were released for consultation containing significant errors and omissions, as set out in the Mapping Improvements publication, which was released with the Code. The following supplementary documents have been released to address some of these issues:

- *Mapping Improvements (1 October 2020)*: summarises some (but not all) of the known mapping errors, including several affecting the City of Norwood Payneham & St Peters.
https://www.saplanningportal.sa.gov.au/_data/assets/pdf_file/0010/587728/Mapping_Improvements.pdf

- *Updated Classification Tables*: correct some errors and omissions in the Classification Tables. Unfortunately when this document was released on 23 December 2019 it did not indicate what changes had been made. Due to the size of the document (2200 pages), the late release date and the lack of clarity on the extent of changes which had been made, this update has not been able to be reviewed by most practitioners. The Council's submission is therefore based on the original (October 2019) draft of Phase 3 of the Code.
- *Phase Three Code Update Report (23 December 2019)*: highlights further areas in the Code which require changes or corrections. This report mostly addresses these issues at a high level, rather than detailing amended policies:
https://www.saplanningportal.sa.gov.au/data/assets/pdf_file/0007/613654/Planning_and_Design_Code_-_Phase_3_Update_Report.pdf
- *Historic Area Statements and Character Area Statements*: Following extensive feedback that the consultation version of the Code omitted the important Historic and Character Area Statements, these were developed and released on 23 December 2019. Area Statements will be used to identify and articulate key elements of historic or character importance in areas within Historic Area Overlays and Character Area Overlays. The statements are intended to replace current Desired Character Statements in Development Plans and carry across relevant Development Plan policies, however the draft Statements prepared for this Council are not considered to be adequate replacements and risk significantly different development outcomes due to their ambiguity. These issues are discussed in more detail in the draft Submission.
https://www.saplanningportal.sa.gov.au/data/assets/pdf_file/0003/613308/Historic_Area_Statements_and_Character_Area_Statements_-_Phase_3_-_City_of_Norwood_Payneham_and_St_Peters.pdf

Key Issues in the Code

The draft Submission contained in **Attachment A**, explores a range of issues in detail, however, a summary of key issues is outlined below.

Consultation Challenges

There is significant concern amongst Local Government and the community generally, about the effectiveness of the consultation which has been undertaken by the Commission.

In earlier stages of the planning reform program, the State Government foreshadowed a high level of 'consultation and collaboration' with Local Government. To this end, a Collaborative Work Program was agreed in March 2018, to form the partnership for collaboration between the Department and the Council. Unfortunately, the collaboration as set out in the Program has never eventuated and as a result, there are numerous local policies, concept plans and mapping information which are either missing or incorrect in the current draft of the Code. The Council was also not involved in determining how the Code would be spatially applied to the City of Norwood Payneham & St Peters.

The Community Engagement Charter states that people should "*have access to all relevant information at the time it is needed so that they can participate fully.*" The extent of errors and omissions in the Code significantly compromises the ability for practitioners, the community generally and property owners to properly and confidently understand the full impact of the draft Code policies. The supplementary information released on 23 December 2019 - including Historic and Character area Statements, the update report and the Updated Classification Tables - have been released very late in the consultation process, therefore allowing insufficient time for these to be adequately reviewed and understood. This material (except for the Area Statements) has only appeared on a website, there is not widespread awareness of the Code and its subsequent changes.

The extent of post-consultation changes to the Code are expected to be significant but there will be insufficient time for further community consultation to occur prior to 1 July 2020. As such, it is expected that the version of the Code which will be implemented in September 2020 will be very different to the draft Code which was available during consultation. If the Council was afforded the prior opportunity to collaborate on how zones would be applied and what detailed policies would appear in the Code, as envisaged in the Collaborative Work Program, there would not be the significant level of uncertainty and concern over what the Code will contain when it replaces the Development Plan before September 2020.

Zone Changes

Every property in the State will be rezoned from a Development Plan Zone to a Code Zone. Despite an intention for there to (generally) be no substantial change in policy intent, the Code Zones have shifted away from homogenous land use zoning typical in Development Plans and have introduced a much broader, more flexible juxtaposition of land uses in many zones. For example, there is an increase of non-residential land uses anticipated in residential zones and vice versa, an increase in permissible floor areas in many commercial zones and current office or industrial zones are transitioning to zones with a much broader mix of non-residential land uses. There has also been a shift away from the traditional 'centres hierarchy' of Local, Neighbourhood, District and Regional level centre zones. For this Council, a single Suburban Activity Centre (with no subzones to differentiate scale) is proposed to replace a Local, a Neighbourhood and three (3) District level zones. The new planning rules are therefore the same for the St Peters Bakehouse on Stephen Terrace as they are for the Marden, Firlie and Avenues Shopping Centres. This new flexibility in the Suburban Activity Centre policies refer to both neighbourhood and district level catchments, which is distinctly different in policy intent to the current Development Plan.

In being more flexible towards land use distribution and zone hierarchy, the draft Code appears to facilitate new development and investment wherever possible, irrespective of the current zoning, location of the development and long held land use planning principles. No satisfactory evidence, research or modelling has been provided to demonstrate why such a significant shift is warranted. This change will have significant impacts on small business and main streets such as The Parade – issues which the Commission is not prepared to justify reasons for this significant change in direction.

Residential zones have also been significantly standardised in the draft Code. Some residential zones such as the Suburban Neighbourhood Zone include *Technical Numerical Variations* (TNVs) allowing existing Development Plan requirements for site area and frontage width to be carried across into the Code. (Note that the 'no further subdivision' policies currently applied in this Council's Residential Character Zones have been omitted in the draft Code, as discussed further below.) Other residential zones, such as the General Neighbourhood and Housing Diversity Neighbourhood Zones, do not include TNVs for site areas or frontage widths so the same figures will consistently apply wherever this zone is applied across the State. Of particular concern, the Housing Diversity Neighbourhood Zone anticipates densities of 70 dwellings per hectare regardless of dwelling type; this 'one size fits all' approach is not considered appropriate in any of the locations proposed within this Council (including parts of the Historic Conservation Zone).

The Council has not been offered any subzones, which were advised in the *Blueprint for the Planning and Design Code* (2018) as being the only policy layer to cater for local variation and reflect nuanced local requirements for new development. With no subzones to accommodate numerous current Development Policies that have not carried across to the standardised zones and overlays, the result is that the new Code policies do often not reflect the existing or desired development outcomes in those areas.

Significant changes to policy, zones and subzones in the draft Code are required in order to adequately replace the existing suite of Development Plan Zones. The Council's draft submission rejects many parts of the Code, unless suitable subzones can be created, to ensure localised development outcomes are not compromised. Again, a significant impact which has not been justified to the community.

Loss of Local Policy

The four significant DPAs undertaken by the Council over the last 10 years introduced significant volumes of local policy reflecting carefully considered desired outcomes for various locations and in some instances the policy was created in response to previous poor development outcomes. In preparing these DPAs, the Council intentionally developed locally relevant policy, reflective of local circumstances and community expectations, in favour of standardised policy from the State Government planning policy library available (and encouraged) at the time.

In the proposed Code framework, opportunities for including local policy are limited to:

- **Subzones:** only one subzone (of questionable purpose) has been proposed for this Council;
- **Technical Numerical Variations (TNVs):** Development Plan figures for site area, frontage width, building height etc. are only carried across in circumstances where the zone specifies a TNV can apply for these development features;
- **Historic and Character Areas Statements:** while Area Statements could present a good opportunity for reflecting local policy in historic or character areas, unfortunately the statements drafted for this Council are significantly lacking the detail contained in the corresponding policy in the Development Plan; and
- **Concept Plans:** the methodology for which existing concept plans were or were not included in the draft Code is unclear, however none of this Council's concept plans have been proposed for inclusion.

While the loss of any local policy is not supported without any documentation and justification of the rationale, there are some key policy gaps which the Code does not address and are of particular concern:

- *Land Division Controls*

The Residential Character (Norwood) and Residential Character zones contain strong land division control policies such as:

Evandale/Maylands/Stepney Policy Area Principle of Development Control 4

The division of land should not create a hammerhead, battleaxe or similar configuration allotment in Stepney.

Evandale/Maylands/Stepney Policy Area Principle of Development Control 5

Land division creating additional dwelling sites should not occur:

- (a) *in Evandale along Morris, Elizabeth and Wellesley Streets; and*
- (b) *in Maylands, along Phillis and Frederick Streets, except where it involves:*
 - (i) *the redevelopment of existing multi-unit sites; or*
 - (ii) *the conversion of an existing dwelling into two (or more) dwellings where the building and the front yard maintain the original external appearance to the street.*

Notwithstanding the use of TNVs for minimum site areas and frontage widths in most of the relevant areas, the Code, as applied to this City, does not contain any remotely similar land division control policy.

- *City Wide Policy*

The 2011 Residential Policy DPA introduced a comprehensive suite of City Wide policies which have been effective and beneficial for many development outcomes. Examples include policies addressing the design of semi-detached dwellings, setback requirements for hammerhead development, various policies relating to development in laneways, and flood mitigation policies. The draft Code is silent on many of these policy issues.

- *Concept Plans*

As referred to above, none of this Council's Concept Plans as contained in the Development Plan have been transitioned to the draft Code. Of particular concern, is the loss of Concept Plans for key development areas in the Urban Corridor and District Centre (Norwood) Zones, identified laneways which are suitable for development, and development control areas in the Residential Character (Norwood) Zone.

Heritage and Character

In the Code, overlays will be used to manage development relating to heritage and character, as outlined in Table 3.

TABLE 3: HERITAGE AND CHARACTER FRAMEWORK

	Current Development Plan Framework	Proposed Code Framework
State Heritage Places	<p>Identified by address in Table NPSP/5 and spatially identified in heritage figure maps</p> <p>Development Plan contains policies which are applied to development directly affecting a State Heritage Place and different policies which are applied to development proposed adjacent to (i.e. on a neighbouring site) a State Heritage Place</p>	<p>Spatially identified in the State Heritage Place Overlay.</p> <p>Adjacent properties are also located within the Overlay</p> <p>Unlike the Development Plan, the Code policies do not provide any distinction between proposed developments which directly affect a State Heritage Place compared to development which is proposed adjacent to a State Heritage Place. There should be different policies to deal with these two different types of proposals.</p>
Local Heritage Places	<p>Identified by address in Table NPSP/6 and spatially identified in heritage figure maps</p> <p>Development Plan contains policies which are applied to development directly affecting a Local Heritage Place and different policies which are applied to development proposed <i>adjacent</i> to a Local Heritage Place</p>	<p>Spatially identified in the Local Heritage Place Overlay.</p> <p>Adjacent properties are also located within the Overlay</p> <p>Unlike the Development Plan, the Code policies do not provide any distinction between proposed developments which directly affect a Local Heritage Place compared to development which is proposed adjacent to a Local Heritage Place. There should be different policies to deal with these two different types of proposals.</p>
Historic Areas	<p>Located within the Residential Historic (Conservation) Zone or Mixed Use Historic (Conservation) Zone</p> <p>Zone and policy area boundaries are shown in Development Plan maps and heritage figure maps</p>	<p>Located within the Historic Area Overlay which sits above a Zone which reflects the typical land use of the area</p> <p>e.g. a property might be located in the Suburban Neighbourhood Zone and the Historic Area Overlay</p>
Contributory Items	<p>Identified by address in Table NPSP/7 and spatially identified in heritage figure maps</p>	<p>Removed as a policy tool for clarifying which buildings are desired to be retained</p> <p>Historic Area Overlay includes demolition control policies however each application for demolition will need to consider the historic contribution of the building on a case-by-case basis.</p>
Character Areas	<p>Located within Residential Character Zone or Residential Character (Norwood) Zone</p>	<p>Located within the Character Area Overlay which sits above a Zone which reflects the typical land use of the area</p> <p>e.g. a property might be located in the Suburban Neighbourhood Zone and the Character Area Overlay</p>

Existing State and Local Heritage Places will be transitioned to the new system, however there are changes to the development policies which apply to these properties. Contributory Items will not be individually identified in the new planning system as is currently the case. Rather, it is proposed that the Historic Area Overlay policies will provide guidance for which buildings can or cannot be demolished. The issues and concerns regarding this proposed policy position have been a significant point of discussion during consultation and have been raised by this Council, together a number of other Councils, with the State Planning Commission, Members of Parliament and the Environment Resources and Development Committee of Parliament, among other stakeholders. The issues and concerns regarding the proposed policy framework affecting heritage and character development outcomes are set out in further detail in the draft submission contained in **Attachment A**.

Building Heights

Inconsistent, incorrect or missing policies relating to building heights in the draft Code have also resulted in significant confusion and concern during the consultation period. As drafted, the Code policies could be interpreted as allowing development either up to six (6) storeys or with no specified maximum building height in many currently low-scale commercial zones. In most residential locations, the TNV building height is either missing or has been incorrectly spatially applied.

For the Code's commercial zones, in response to widespread concerns regarding the increase up to six (6) storeys, the *Update Report* indicates that in some of these affected areas, the Code will adopt the existing Development Plan height, or where there is no height specified in the Development Plan, the Code policy will seek development which is commensurate with the prevailing building height. It is unclear what opportunity the Council will have to review and check and revised Code mapping and policy for all zones.

Urban Corridor Policy

During the 2013 *Kent Town and The Parade Strategic Growth DPA*, the Council made considered decisions in relation to various policies including:

- **Building height envelope** – a policy which determines building heights and setbacks in adjoining residential zones based on an angle taken from a zone boundary. The Council determined that the appropriate angle should be 30° contrary to the State Government's preferred 45° (which would have resulted in greater impacts on adjacent properties). The 30° angle was incorporated into policy for the Urban Corridor Zone;
- **Key Development Sites** – identified sites which, due to their size and location, are considered capable of accommodating an increased maximum building height (specified in storeys and metres in the Development Plan) subject to specific development guidelines. The Council adopted Key Development Sites which are identified in a concept plan and the policy parameters are outlined in zone policy;
- **Significant Development Sites** – sites of 2500m² or greater which can achieve additional building height (specified as a percentage) above the maximum building height otherwise given in the zone, subject to meeting particular criteria. The Council determined that this policy approach was not appropriate and therefore was not adopted in the 2013 DPA.

The draft Code has reversed all of the above policy decisions, despite their adoption by the former Minister for Planning, by revising the building height envelope policy to 45° (maintaining 30° for southern boundaries), deleting the Council's Key Development sites and associated concept plans and introducing policies allowing significant development sites at 30% higher building heights. Council staff have been advised that the 45° building height envelope and significant development sites policy changes were included at the direction of the State Planning Commission. No evidence or justification has been provided for this significant change in policy, which will have impacts on residential properties adjoining these sites and urban form will be significantly compromised.

Further analysis of draft Code, comparison with the current Development Plan and the exploration of various policy issues are included in the draft Submission contained in **Attachment A**.

OPTIONS

The Council has the following options with respect to how it responds to Phase 3 of the draft Planning & Design Code.

Option 1

Following consideration of Phase 3 of the draft Planning & Design Code, the Council can resolve to endorse the attached draft submission contained in **Attachment A**, with or without amendments, as being suitable for submitting to the Commission.

This option is recommended.

Option 2

The Council can resolve to make changes to the submission beyond the discussion in this report.

This option is not recommended, due to timing deadlines imposed by the consultation period.

Option 3

The Council can resolve to not make a submission to the State Planning Commission in response to the consultation, however this would result in a significant missed opportunity to raise important issues of concern.

CONCLUSION

The introduction of the *Planning & Design Code* represents a significant stage of the planning reform program as the Code will replace all existing Development Plans and will therefore determine the type, nature and scale of development throughout the City. The consequences of the Code policy are substantial and there is considerable risk in introducing such a complex policy framework – particularly as many of the changes are being introduced without justification.

The draft Code, as presented during consultation, is not considered to be an appropriate or adequate replacement of the City of Norwood Payneham & St Peters Development Plan due to the loss of local policy, introduction of ill-fitting standardised policies and zones and the subsequent likelihood of poor development outcomes.

The draft Code is not faithful to the stated commitments of retaining important local policy variations, a key success factor in preserving good design outcomes for local communities and for South Australia.

Due to various errors and omissions and with the extent of key parts of the Code that are not yet visible, the draft Code in its current form is considered unacceptable. Substantial changes are required to maintain the intent and outcomes currently contained in the Council's Development Plan. The Code makes significant changes to owners' development rights, which should only be pursued where the State Planning Commission is confident these owners have been directly made aware of the changes and provided with the opportunity to make a submission.

The risks of implementing a deficient Code by September 2020 can only be mitigated by a full and thorough analysis and road-testing in an e-Planning format and with the commitment to working with Councils to reinstate critical local policy.

COMMENTS

Nil

RECOMMENDATION

1. That the draft submission contained in Attachment A, in response to Phase 3 of the *draft Planning & Design Code*, be endorsed and the submission be forwarded to all Members of the State Planning Commission, all Members of State Parliament, the Local Government Association, Mayors of all Councils in South Australia and the Chair of the Environment, Resources and Development Committee of Parliament.
 2. That the Chief Executive Officer be authorised to make any minor editorial/grammatical changes to the submission prior to the submission being lodged.
-

Short Term Suspension of Proceedings

At 7.09pm the Mayor, with the approval of two-thirds of the Elected Members present, suspended the meeting procedures pursuant to Regulation 20(1) of the Local Government (Procedures at Meetings) Regulations 2013, to enable the Council to discuss the contents of Item 2.1.

Cr Moore moved:

That the proceedings be suspended for one (1) hour.

Seconded by Cr Patterson and carried unanimously.

Cr Mex declared a perceived conflict of interest in this matter, as she is the President of Community Alliance SA Inc, an organisation which represents residents' groups. Cr Mex advised that she would remain in the Chamber and would keep an open mind during the debate and vote in the best interests of our City.

Cr Moore declared a perceived conflict of interest in this matter, as she assisted in collecting signatures for a petition calling for the deferral of the Planning and Design Code. Cr Moore advised that she would remain in the Chamber and would keep an open mind during the debate and vote in the best interests of our City.

Cr Whittington declared a perceived conflict of interest in this matter, as she is a member of the Community Alliance SA Inc, an organisation which represents residents' groups. Cr Whittington advised that she would remain in the Chamber and would keep an open mind during the debate and vote in the best interests of our City.

Cr Sims left the meeting at 7.51pm.
Cr Sims returned to the meeting at 7.52pm.

Resumption of Proceedings

At 8.04pm proceedings resumed.

Cr Minney moved:

- 1. That the draft submission contained in Attachment A, in response to Phase 3 of the draft Planning & Design Code, be endorsed and the submission be forwarded to all Members of the State Planning Commission, all Members of State Parliament, the Local Government Association, Mayors of all Councils in South Australia and the Chair of the Environment, Resources and Development Committee of Parliament.*
- 2. That the Chief Executive Officer be authorised to make any minor editorial/grammatical changes to the submission prior to the submission being lodged.*
- 3. That the Chief Executive Officer, the General Manager, Urban Planning & Environment, the Manager, Urban Planning & Sustainability and the Senior Urban Planner, be thanked for their work regarding the draft submission in response to Phase 3 of the draft Planning & Design Code.*

Seconded by Cr Dottore and carried unanimously.

3. CONFIDENTIAL REPORTS

3.1 ADELAIDE FOOTBALL CLUB – POSSIBLE RE-LOCATION TO PAYNEHAM MEMORIAL SWIMMING CENTRE AND PATTERSON RESERVE – SUBMITTED BY MAYOR ROBERT BRIA

NOTICE OF MOTION: Adelaide Football Club – Possible Re-Location to Payneham Memorial Swimming Centre and Patterson Reserve
SUBMITTED BY: Mayor Robert Bria
FILE REFERENCE: S.00232
ATTACHMENTS: Nil

Pursuant to Regulation 12(1) of the *Local Government (Procedures at Meetings) Regulations 2013*, the following Notice of Motion has been submitted by Mayor Robert Bria.

NOTICE OF MOTION

That the Chief Executive Officer approach the Adelaide Football Club seeking its interest in relocating its headquarters to the Payneham Memorial Swimming Centre and Patterson Reserve precinct, Felixstow.

REASONS IN SUPPORT OF MOTION

As part of its transition away from AAMI Stadium at West Lakes, the Adelaide Football Club (AFC) has identified the Adelaide Aquatic Centre as a potential new site for its headquarters.

The Club has approached the City of Adelaide with its proposal, which involves a \$65m re-development of the site. The Club's plans have been well publicised in the media over the past few months.

To date, discussions about the proposal have been met with fierce opposition from sections of the City of Adelaide and the wider community, largely due to the sensitivities associated with the 'commercial' nature of the proposal on the Adelaide Parklands.

The current consultation period for feedback to the City of Adelaide regarding the proposal is due to end on 11 March 2020.

Without knowing the outcome of the consultation, the opposition to the proposal provides the City of Norwood Payneham & St Peters with an opportunity to present another option for the Adelaide Football Club to consider, albeit an option which involves a site which is 7km out of the Adelaide CBD.

The Payneham Memorial Swimming Centre and Patterson Reserve precinct, Felixstow, offer a number of opportunities that could meet the Club's and the Council's strategic objectives, such as:

- redevelopment of the Payneham Memorial Swimming Centre (fully enclosed);
- Patterson Reserve is large enough to accommodate a practice oval for football;
- Payneham Youth Centre could be re-adapted and refurbished as a gym;
- \$65 million of private investment in public facilities (the Council could never afford this sort of investment);
- long-term economic and social benefits from the redevelopment of the precinct into a state of the art sports precinct; and
- no loss of green space (Patterson Reserve) as a result of the development.

STAFF COMMENT

Given the master planning process which is currently being undertaken for the Payneham Memorial Swimming Centre, this proposal is timely.

RECOMMENDATION 1

That pursuant to Section 90(2) and (3) of the *Local Government Act 1999* the Council orders that the public, with the exception of the Council staff present, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

(b) information the disclosure of which –

- (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is or proposing to conduct business; and
- (ii) would, on balance, be contrary to the public interest;

by the disclosure of sensitive commercial information and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

RECOMMENDATION 2

Under Section 91(7) and (9) of the *Local Government Act 1999* the Council orders that the report, discussion and minutes be kept confidential for a period not exceeding 12 months, after which time the order will be reviewed.

Cr Knoblauch moved:

That pursuant to Section 90(2) and (3) of the Local Government Act 1999 the Council orders that the public, with the exception of the Council staff present [Chief Executive Officer, General Manager, Governance & Community Affairs, General Manager, Urban Planning & Environment, General Manager, Corporate Services and Executive Assistant, Urban Services], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

(b) information the disclosure of which –

- (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is or proposing to conduct business; and*
- (ii) would, on balance, be contrary to the public interest;*

by the disclosure of sensitive commercial information and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

Seconded by Cr Callisto and carried unanimously.

Cr Granozio left the meeting at 8.08pm.

Cr Moore left the meeting at 8.10pm.

Cr Granozio returned to the meeting at 8.12pm.

Cr Moore returned to the meeting at 8.13pm.

Cr Minney moved:

That the Council does not approach the Adelaide Football Club seeking its interest in relocating its headquarters to the Payneham Memorial Swimming Centre and Patterson Reserve precinct, Felixstow.

Seconded by Cr Duke and carried.

Division

Cr Duke called for a division and the decision was set aside.

Those in favour:

Cr Knoblauch, Cr Minney, Cr Duke, Cr Stock, Cr Sims, Cr Moorhouse and Cr Moore.

Those against:

Cr Patterson, Cr Whittington, Cr Dottore, Cr Granozio, Cr Callisto and Cr Mex.

The Mayor declared the motion carried.

4. CLOSURE

There being no further business, the Mayor declared the meeting closed at 8.50pm.

Mayor Robert Bria

Minutes Confirmed on _____
(date)