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Expert Panel
Planning System Implementation Review
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Dear Expert Panel

**City of Holdfast Bay Submission
The Planning System Implementation Review**

Thank you for the opportunity to make a submission to the Planning System Implementation Review (the Review). The City of Holdfast Bay's submission reiterates the response prepared on behalf of councils by the Local Government Association, adopting its platform for restoring community engagement in the planning process, returning planning powers to local government for greater autonomy in shaping their communities, and enhancing protections to the natural environment and built heritage. Specifically, the City of Holdfast Bay recommends amendments to the current planning system that enables:

1. A well-informed community who can genuinely engage with the planning system.
2. A Planning and Design Code that enables the development of localised policy.
3. Good design outcomes informed by changes to the Planning and Design Code managed by local councils with direct input from its community.
4. Increased regulated and significant tree protection that recognises the importance of these trees and discourages removal through significant penalties.
5. Greater protection to established suburban character and heritage buildings.
6. Removal of the financial burden of administering and implementing the planning system removed from local government and their communities.
7. Empowering individual councils to establish localised land use policy, rather than the current system where unilateral policies are applied through the statewide Planning and Design Code.
8. Provision of greater opportunity to provide for a more localised and nuanced policy to preserve and enhance local character.
9. Provision of a planning system where the community's understanding and usage of the system is improved.



The City of Holdfast Bay is committed to working together with its community and State Government agencies towards the common goal of an improved planning system for South Australia that delivers better outcomes for all. Whilst council is committed to the new planning system as a means to provide an efficient level of service to the community and the development industry, it is concerned that the expediency required by the system has come at the cost of quality in decision making. In this regard, the City of Holdfast Bay believes that the implementation of the planning system and the adoption of the Planning and Design Code will only be successful through an inclusive partnership between local government, its communities and State Government, with reasonable targets and inclusive outcomes.

The new planning system has resulted in a loss of community voice and local knowledge in its decision-making process. Some of the key observations made by Council's elected members, the city's constituents, and those who administer planning policies on the community's behalf, are that the following measures need to be adopted to restore the community's involvement and faith in the planning system, and to ensure that decision making with respect to important planning applications and land use policy changes occur at the local level:

- Developing a successful planning system depends on the State Government's commitment to ensuring full participation of councils and communities in decision making. The State government should work with councils to maximise the local benefits of planning processes, strategies and policies.
- Restore the three tiers of public consultation for planning applications, enabling a greater number of residents to be actively engaged in the planning process, with third-party appeal rights reintroduced for residents to have the opportunity for an independent review of planning decisions that affect their neighbourhood.
- Reintroduction of the balance between elected member and independent member representation on Council Assessment Panels to ensure that the aspirations and expectations of constituents are represented with respect to major planning decisions.
- Restoring the role of local government as the primary authority for planning decisions and land use policy changes, with such responsibilities for statutory and strategic functions clearly defined within the legislation.
- Re-establishing local autonomy as a means to promote the interests of local communities, and to ensure consistent and transparent planning decisions.
- Re-empowering local government to amend and develop localised planning policy, particularly in terms of identifying and protecting areas of built heritage and suburban character.
- Revisiting the regulated tree legislation to reinstate protections once afforded to trees of significant size, irrespective of their relative location to dwellings and swimming pools. It is incongruous to have targets for increasing the urban tree canopy when current laws allow the removal of trees that make the greatest contribution.

More specifically, there are a number of functions associated with the current planning system that are viewed as problematic for the City of Holdfast Bay. These relate to both the functionality of the planning system and the urban outcomes associated with the implementation of the land use policies. The following section breaks down the various parts of the planning system, their respective shortcomings, and recommendations for improvement.

Funding the new Planning System

- The City of Holdfast Bay supports its role as a local decision-making authority and considers that this role should be properly funded by fees and charges set at a cost recovery level. The City of Holdfast Bay opposes any reforms that result in a more unfavourable financial position in relation to planning functions. The fee discrepancy is exacerbated by the fact that the City of Holdfast Bay has had to expend funds to challenge inadequate planning outcomes caused by the narrow and exclusive assessment pathways presently offered.
- The City of Holdfast Bay considers that the costs of the ePlanning system and the SA Planning Portal have been shifted inequitably onto councils. The City of Holdfast Bay is required to pay a levy in excess of \$60,000 each year to maintain a planning portal controlled by the State Government to which the broader community has limited access to. Furthermore, councils must forego lodgement fees to the State Government, being fees that were previously payable to councils.
- The City of Holdfast Bay recommends that lodgement fees are returned to councils, and that audited accounts of the levy expenditure are provided to local government as a means to understand how those funds are expended, particularly now that the ePlanning system has been established and only requires maintenance support.

Developer Contributions

- Infill development within Holdfast Bay is placing increasing pressure on existing council infrastructure. Furthermore, as a downstream council, the City of Holdfast Bay is required to manage the stormwater flows and discharge created by unabated infill in neighbouring council areas. Councils need the ability to seek a development contribution to be charged against new development that requires upgrade of council infrastructure to support the proper servicing of the intended development proposal. Developer contributions are a fair and viable means of raising revenue to improve local infrastructure and assets. Mechanisms by which developer contributions can be regulated and applied to address the pressures on existing infrastructure should be considered in the *Planning, Development and Infrastructure Act 2016*.

Infill Development

- Building sustainable densities is an important aspect to healthy and vibrant communities. The current policy on cumulative impacts of infill development should be reviewed and monitored with appropriate targets and controls established and enhanced policy relating to infill development to address issues such as loss of character, carparking, the loss of private open space and the urban tree canopy.

Heritage and Conservation

- Local government recognises the benefits of protecting its built heritage while emphasising that classification of 'heritage' and 'conservation' status should be made locally, on the basis of evidence. The City of Holdfast Bay does not support the implementation of policies that lack a sufficiently robust evidence base for the removal of heritage protection status to listed properties, for instance.

Principles of Good Design

- Planning decisions should be made cognisant of good design principles and in the best interests of the local community. Further consideration of good design within the Planning and Design Code for all forms of development is required. An appropriate start would be to dismantle the generic design standards that are imposed metropolitan-wide, as this approach fails to consider and articulate individual suburban character that is worthy of noting and replicating in all new development.

Areas of Cultural and Spiritual Values

- Protecting areas of cultural and spiritual value is a shared responsibility of all tiers of government and communities. Further work is required to include policies within the Planning and Design Code that consider non-European cultural and spiritual values.

Urban Greening, Tree Planting and Offset Fund

- The City of Holdfast Bay understands that having higher levels of natural plant life (trees and shrubs located in street verges, parks and on private properties) in their local communities has many social and environmental benefits, particularly in urban communities. Indeed, the City of Holdfast Bay has a proud and ongoing commitment to revegetating its coastal and natural reserves, in addition to implementing an intensive street tree planting program that will restore tree canopies and corridors to the urban environment. However, these attempts at revegetation are exponentially offset by State Government policies that enable the unabated removal of the city's most significant trees. This is such an issue of concern to the Holdfast Bay community that a separate paper is provided as an appendix to this submission containing specific concerns and recommendations to help guide rapidly needed reform.
- To achieve the Tree Canopy Cover Target in the Greater Adelaide 30 Year Plan there is a need to understand that to reduce the heat island effect arising from the increased paved areas and effects of climate change that there is a need for a consistent canopy cover. This can only be achieved by trees being planted on both public land (reserves, open space and streets) and private land. To reduce the heat island effect in the higher density infill areas there is a need to ensure that trees are planted on private land.
- The City of Holdfast Bay recommends that the cost of paying into the Tree Offset Fund in lieu of planting a tree should be commensurate with the full life cost of the tree, notwithstanding the benefit the community will receive.

Having regard to the abovementioned issues, the following technical amendments to the *Planning, Development and Infrastructure Act 2016* (PDI Act) and associated regulations, and the Planning and Design Code are recommended by the City of Holdfast Bay:

- Amend the regulated and significant tree legislation with the aim to protect regulated and significant trees. This would include expanding the definition, determining a value for trees and including a fee when a regulated or significant tree is to be removed and increased penalties for the illegal removal or damage to these trees.
- S56, Fees and Charges: the requirement for councils to pay the ePlanning levy should be repealed. Councils have had to forego lodgement fees to sustain the ePlanning platform, and to seek an additional levy is entirely inappropriate, particularly as the high level of investment by local government does not translate in quality of product or service provided.
- Sub-section 67(4) and (5) should be repealed to ensure that planning policy is determined by proper planning principles through broad community consultation, rather than through a selective vote of property owners.
- S106.2 and Regulation 54(1), Deemed to Satisfy (Minor variations): the ability of Private Certifiers to make minor variations to applications should be repealed or at the very least provide greater guidance and controls on what are minor variations.
- S121(2) Design Review, a person undertaking specified forms of development should be required to undertake design review, rather than being a voluntary process.
- S125 Timeframes in which to make a decision: sub-section 2 Deemed Consents should be repealed.
- Regulation 125, Timeframes within which a decision must be made: more flexible timeframes for complex applications that are not subject to public notification should be introduced.
- Public notification provisions should be reviewed, with more targeted public notification provided and third-party appeal rights introduced for identified forms of performance assessed applications assessed by Assessment Panels and subject to public notification.
- S136, 137, Regulation 3F and definitions relating to Regulated and Significant Trees: an independent review of the regulated and significant tree legislation should be undertaken with the aim to increase protection of regulated and significant trees, this would include expanding the definition. A value for trees should be determined and regulated and included as a fee when a regulated or significant tree is to be removed.
- Planning and Development Fund: amend S194 and 195 and Regulation 119 to ensure that the fund is only used to improve access to public open spaces and places and enable the planning, design and delivery of quality public space that is essential to healthy, liveable communities.

- S197 Off-setting contributions: the operation and applicability of the Urban Tree Off Set Scheme should be reviewed and the contribution for not planting a tree under the Urban Tree Off Set Scheme should be substantially increased to provide an incentive to plant trees on private land and to enable councils to recover the cost of planning and maintaining the trees on public land.
- Include mechanisms by which developer contributions can be regulated and applied to address the pressures on existing local infrastructure.
- A comprehensive review of fees and charges should be undertaken with consideration being given to the lodgment fee currently being paid to the State Government being paid to the council and consideration should be given to a verification and development approval fee.
- Include the ODASA Design Guidelines into the Planning and Design Code – Principles should be incorporated in the Planning and Design Code to ensure that Object 4(d) and S59 of the Act are fully addressed and incorporated within the Code.
- Reintroduce detailed Desired Character Statements for zones to provide clarity in relation to outcomes sought.
- Enable councils the opportunity to include more localised policy within the Planning and Design Code to reflect local neighborhoods and local character.
- Undertake a comprehensive independent review of the benefits and impacts of infill development in metropolitan Adelaide and amend the Code based on the findings.
- Provide greater policy consideration and detail for regional South Australia in the Code.
- Engage with local government on the provisions of policy and design guidelines required to protect heritage and character areas.
- Ensure policy is well written and understood and the language used is not ambiguous and non-contradictory and enables clear outcomes.

To assist the Expert Panel in understanding the challenges faced by the City of Holdfast Bay in administering a planning system where the involvement of councils is limited with respect to shaping policies, engaging with their communities on development applications, and indeed making assessments on merit, it is important to expand on some of the fundamental issues that require revision, with specific recommendations to achieve better outcomes.

Loss of Policy Direction

The City of Holdfast Bay has noticed that the opportunity to develop and improve on land use policy has been lost with the introduction of a single Code that is managed centrally through Planning and Land Use Services and the State Planning Commission. Under the previous system, the City of Holdfast Bay had the opportunity to be innovative through developing and testing policy in its local area, for its own local community. While this previous approach had

drawn a negative response from the development industry due to varying policy across council areas, it led to innovation and ongoing improvement in policy content. While some see value in the new centralised approach which has created 'homogenous' policy across suburban Adelaide, it has stifled innovation and reduced policy content to the lowest common denominator.

Recommendations

- a) Councils should be provided the ability to develop and test policy at a local scale, or at the very least adapt policies to suit their own local circumstances.
- b) State Planning Commission to provide more detailed and comprehensive feedback on issues raised by councils and provide a clear framework and understanding on how policy issues raised by councils can be addressed.
- c) Introduce greater transparency to the otherwise confidential nature of many of the State Planning Commissions discussions, as a means to instill confidence in the system and increase the ability of councils and the community to be engaged in policy development.

The Loss of Local Policy Content

The State Government, in the early stages of development, communicated that the Code would be comprised of current Development Plan policies in the new Code format, in effect a "like for like" transition to precede future changes to policy content developed in consultation with councils.

The Code in its current form does not uphold that commitment. Policy intent, content and tools fundamental to councils' ability to sustain and enhance the quality of suburbs and neighbourhoods from existing Development Plans, have not been replaced with substantive planning policy of a level of detail or rigor necessary to enable good development outcomes. Attention is drawn to a specific example in Holdfast Bay, where allotment densities and site frontages were reduced by up to 30% without any reciprocal policies relating to retention of the urban tree canopy, management of on-street car parking congestion, disposal of stormwater from increased hard-surface areas, and reduction in the number of on-street car parking opportunities through the increase in the number of driveway crossovers.

The Code omits local policy that had been developed by the City of Holdfast Bay in consultation with its community over considerable time and at considerable expense. The State-based approach as adopted in the Code has seen the removal of both this local policy, and in many instances, Structure Plans and Master Plans specifically developed for local and unique areas. Inclusion of these local area plans was supported by the Expert Panel in its original recommendations for Planning Reform.

Perhaps the starkest example of where Ministerial land use policy has failed local communities is represented by the arbitrary allowance for high-rise development in some of Holdfast Bay's most sensitive localities. The State Government saw fit in 2016 to repeal previous local policies

created with community input, in favour of generic high rise policies that had no regard pre-existing local traffic conditions, architectural character, capacity of existing stormwater infrastructure, importance of heritage listed buildings, and the social welfare of those residing adjacent. With the advent of such developments along South Esplanade, Colley Terrace, and Adelphi Terrace (in particular), it is critical that an evaluation of the impacts of such developments is undertaken to understand the ramifications of continuing with these policies, relative to the benefits of re-introducing local content to guide development policy.

Recommendations

- a) Councils should be empowered to develop local policy, including Structure Plans and Master Plans specifically for local and unique areas, and in consultation with their community.
- b) The City of Holdfast Bay seeks a review into the current building height allowances along South Esplanade, Colley Terrace, and Adelphi Terrace to understand the environmental, social, heritage, and built form impact to surrounding residential communities.

Good Design

A key premise behind the South Australian Planning Reforms and as identified in the PDI Act and State Planning Policies, is the focus on good design outcomes under the Code. Good design and placemaking must be a central objective of the Code and must be enforceable in the assessment process.

The importance of design to good planning outcomes has been emphasised throughout the reform process. While the intent to promote good design is clear, this is not fully realised in the Code, which is the most practical and effective instrument available to realise the intent of the PDI Act. As the Code currently stands, these good intentions have not been met. The reduction of the number of zones overall, and stripping away of well developed, locally responsive policy guidance, has resulted in standardised policy across many neighbourhoods and suburbs which fails to recognise and respect unique character.

The City of Holdfast Bay and its community have an expectation that the Code will significantly lift the bar in terms of the quality of design outcomes being achieved through the planning system. Therefore, good design and placemaking must be a central objective of the Code and must be enforceable in the assessment process. Good housing and urban design should not be considered as an add-on, but as an essential part of an acceptable living environment.

Recommendation

- a) Introduce measures that allow councils to expand on the choice of generic zones which they are otherwise limited to, as a means to develop land use policies that meet the specific design needs of the particular locality and areas of character.

Infill Development

The City of Holdfast Bay recognises that building sustainable densities is key to healthy and vibrant communities, however current policy should be reviewed to gain a greater understanding on cumulative impacts of infill development particularly as it related to the loss of local character, the loss of the urban tree canopy, car parking, stormwater and other council-managed infrastructure and both public and private open space.

While the Code accommodates continued infill development in the metropolitan area, the design, impacts and management of infill development should be addressed more thoroughly in the Code, ideally with the guidance of a broader strategy. In the Code, infill development should be considered together with particular regard to policies addressing design, neighbourhood character, and local context.

While there is some recognition of these issues in the State Planning Policies, there is no holistic policy to guide the land use planning and funding settings specific to infill development in urban areas. This policy vacuum contributes to disjointed decision making within the planning system about the intensity of development permitted within an area, and the capacity of that area to accommodate high levels of infill development.

A better understanding is needed of the cumulative impacts of the current policies that encourage infill development, whether the areas that are identified for further infill development have the service and infrastructure capacity to sustain further development, the level of investment that is funded. These issues should be thoroughly considered and clearly articulated in a State Planning Policy on Infill Development.

Recommendation

- a) A State Planning Policy relating to infill should be developed to address the loss of local character, the loss of the urban tree canopy, carparking, stormwater and other council-managed infrastructure and both public and private open space.

Heritage and Conservation

Conservation of heritage and historic character through the planning system remains a vital concern for the City of Holdfast Bay community. The City of Holdfast Bay reiterates its earlier comments to the State Government that highly effective heritage conservation policies existed in the now repealed Development Plan, and that these should be reintroduced into the Code and indeed expanded rather than lost through the planning reform program. As matters stand, the Code provides generic heritage and conservation policies, which are oblivious to the distinctly unique character areas within Holdfast Bay. There needs to be a finer grained approach to heritage conservation to ensure that the unique features of a particular area are not lost but in fact enhanced.

Previous Historic Conservation Zones (HCZ) and Contributory Items (CI) were highly valued by the Holdfast Bay community, including identification of certain places as Contributory Items. While the City of Holdfast Bay reluctantly supported the decision to transition many of the

existing Contributory Items into the Code as 'representative buildings' as a means to afford some level of protection to these important places, concern has been expressed that these 'representative buildings' are not defined in the Code. Indeed, the City of Holdfast Bay had to prepare a Code Amendment to ensure that 27 of its most valuable Contributory Items were elevated to Local Heritage status for their own protection.

The interface of development assessment and heritage is particularly significant in the context of State Government directions for urban development. The City of Holdfast Bay believes that urban infill development can be compatible with heritage conservation, and with good design offers opportunities for improving streetscapes and areas in ways that can benefit local heritage places and incentivise their restoration and use. Conversely, such development also has the potential to impact negatively on local heritage, and clear policies and frameworks for decision making are required where heritage conservation must be considered alongside other objectives in pursuit of infill targets.

While it is understood that the Code seeks to provide for flexibility of design response for development that impacts on heritage places, the loss of detailed development guidance, otherwise previously available in council Development Plans, has the potential to result in more development proposals that fail to have appropriate regard to heritage significance and value. Without repeating in whole past submissions made to the State Government on the issue of heritage protection, the City of Holdfast Bay reinforces its support for the following recommendations made in the *2018-19 Inquiry into Heritage Reform* of the Environment, Resources and Development Committee of Parliament:

- State Government commences a statewide, collaborative and strategic approach to heritage reform through development of a staged process and that any reforms undertaken must result in streamlined, clear and responsive processes and transparent and accountable decision making;
- A statewide, strategic approach to identifying heritage of local and state significance, involving the community and interested stakeholders, which is appropriately funded by State Government;
- An audit or review be undertaken of local and state heritage places and contributory items, with the aim of working collaboratively with community and local government;
- A suitable long-term funding base (that incentivises management for heritage and disincentivises deliberate neglect of heritage) for the management of heritage be identified and secured; and
- Sub-section 67(4) and (5) of the *Planning, Development and Infrastructure Act 2016* should be repealed in order to ensure that planning policy is determined by proper planning principles through broad community consultation, rather than through a selective vote of property owners.

The City of Holdfast Bay was pleased to receive notice from the State Planning Commissioner on 19 October 2022 that opportunities had been unlocked to wind back some of the current measures, restoring autonomy to councils to elevate Character Areas to Historic Areas, and

providing support and facilitate councils to review and update their Character Area Statements (and Historic Area Statements) to address identified gaps or deficiencies, and support and facilitate councils to undertake Code Amendments to elevate existing Character Areas to Historic Areas. However, it is important that such measures are reflected by changes to Section 67 (4) and (5) of the Act, which requires a plebiscite of property owners where a heritage character or preservation zone or sub zone is proposed. The Act requires that 51% of property owners agree with the proposal. The City of Holdfast Bay opposes this provision on the basis that the recognition of heritage character should be based on the merits and character of the built form, not on a popular vote. The requirement for 51% of property owners to agree by a vote to the establishment of a heritage conservation zone should be removed from the PDI Act to enable the City of Holdfast Bay to duly recognise areas of distinctive character.

Recommendations

- a) Policy provided in the Historic Area overlay that provides specific guidance and recognition in relation to 'Representative Buildings'.
- b) Clearer reference be provided in the Historic Area Overlay (and Character Area Overlay) to specifically refer to the statements in the Performance Outcomes.
- c) The State Government establish a Panel comprising persons of appropriate expertise, including representation from the Commission, Heritage Council, local government and relevant Government agencies to prepare a roadmap for a staged approach to heritage.
- d) Repeal S67(4) and (5) relating to the requirement for 51% of property owners to agree by a vote to the establishment of a heritage conservation zone.

Urban Greening, Tree Planting and Offset Fund

The City of Holdfast Bay understands that having higher levels of natural plant life (trees and shrubs located in street verges, parks and on private properties) in their local communities has many social and environmental benefits, particularly in urban communities. The City of Holdfast Bay is presently exploring and implementing strategies that maintain and increase levels of urban greenery to maximise the benefits of green cover.

To achieve the Tree Canopy Cover Target in the Greater Adelaide 30 Year Plan there is a need to understand that to reduce the heat island effect arising from the increased paved areas and effects of climate change that there is a need for a consistent canopy cover. This can only be achieved by trees being planted on both public land (reserves, open space and streets) and private land. To reduce the heat island effect in the higher density infill areas there is a need to ensure that trees are planted on private land. Developers and builders need to recognise and accept that they have a responsibility to ensure this occurs and the responsibility does not lie only with State and local government.

A significant improvement to planning policy proposed in the early draft of the Code was the requirement for tree planting and provision of deep root zones within infill development / small lot housing. Unfortunately, this policy has been significantly weakened due to the introduction of an Offset Fund for the planting of the trees required by the policy.

The City of Holdfast Bay's concerns about the approach to providing opportunities for offsetting the planting of a tree on these sites include:

- it undermines the overall intent and purpose of the policy for improving amenity and comfort outcomes for occupants and surrounding properties to infill development sites that the tree would provide over time;
- it focusses planting by local council's into the public realm, which is most likely to be away from the locations where canopy loss is occurring on private sites, and arguably where the benefits of additional tree planting would be less beneficial to the overall policy intent (ie, open spaces and streets already have tree coverage and lower urban heat island impacts).
- it assumes that this will be available as an option, whereas more established locations (where much of the infill is occurring) already have streets filled with mature street trees and open space areas with established trees (or in some cases limited or no open space areas within the same walkable neighbourhood).
- the inadequate cost, is a disincentive to plant trees which is what the community expects for development and will not result in better design and amenity outcomes for occupants.

The cost-benefit analysis undertaken by the State Government to support an offset fund, misrepresented the amenity benefits of trees within development sites, from a comfort viewpoint, particularly in light of increasing higher temperature days as a result of climate change (this is as opposed to direct energy cost savings). The offset scheme option places increased responsibility on local government in achieving the 30 Year Plan's urban tree canopy target, when it is private landowners and developers which are reducing tree canopy, contrary to the policy. The position also ignores the importance of trees to contributing to better design outcomes for infill development (spaces created to accommodate the trees are part of this), and this is a key objective of the PDI Act.

While the City of Holdfast Bay understands the rationale for such a scheme particularly in areas with reactive soils, which would result in an increase in the cost of footings, the City of Holdfast Bay is concerned that the scheme is open to misuse and as such considers that the following should be taken into consideration in a review of the scheme.

Recommendations

- a) Establish clear rules and obligations on the Private Certifier and applicant to ensure that payment into the offset scheme in lieu of a tree on the property is the last resort. Where a tree is unable to be located on a property in conjunction with a dwelling because of reactive soils, footing costs or setbacks and the applicant is therefore required to pay into the offset scheme, these applications should not be assessed on merit in lieu of a lack of significant vegetation on the site.
- b) Ensure that the cost of planting and maintaining a tree must reflect the actual cost, as set by the respective council at the time of assessment.

- c) Mandating the size requirement of the tree to be planted on the site.
- d) Requiring the planting of an appropriate established tree on the site should form part of the Certificate of Completion/Certification of Occupancy (ie the builder/developer is compelled to plant the tree prior to permission being granted for occupation).

Assessment Panels

The gradual erosion of elected member representation on Council Assessment Panels has been unnecessary and has not met community expectations, resulting instead in a loss of community voice and local knowledge in the decision-making process. A review of the current limit of one elected member on local Council Assessment Panels should be undertaken to ensure that community views are adequately represented in decision making, particularly as the State Government's marginalization of elected member involvement on Assessment Panels has occurred in concert with a reduction in the ability of neighbours to make representation and be heard on development in their locality.

Aside from its concerns around the diminishing role of elected members on Assessment Panels, the City of Holdfast Bay is also concerned with the process for appointing independent members to an Assessment Panel, with the current accreditation system discouraging a diversity of professions and community members. This is due to the complexity of the accreditation system particularly for non-planners, the cost of becoming and maintaining accreditation, and the ongoing Continual Professional Development requirements. The restrictive provisions as to persons who can be appointed as Independent Assessment Panel members prevents otherwise capable community members from nominating for membership to the Holdfast Bay Council Assessment Panel.

A further deterrent to nominating for membership to the Holdfast Bay Council Assessment Panel is that currently under the PDI Act there is no statutory immunity from personal liability for members of Assessment Panels, instead liabilities of the Assessment Panel rest with the Council, which is in turn covered by the LGA Mutual Liability Scheme, which can choose not to indemnify. Any individual appointed to an Assessment Panel acting honestly in that capacity would have rights at common law to be indemnified by the appointing authority. The legislation is silent on that point in that there is no provision for immunity, transfer of responsibility of liabilities of individual members to the Assessment Panel.

Recommendations

- a) Restore the balance between elected member and independent member representation on Council Assessment Panels to ensure that the aspirations and expectations of constituents are represented with respect to major planning decisions.
- b) Introduce measures that encourage broad-based nominations for membership to the Council Assessment Panel to ensure quality rather than simply qualified representation.
- c) Legislate immunity for Assessment Panel member decisions to avoid liability falling on councils.

Infrastructure Framework

Infrastructure Schemes are not serving the purpose they were intended for. S162-184 collectively deal with the establishment of infrastructure delivery schemes for basic and essential infrastructure. The issue for the sector is that the processes and associated resource implications of such statutory schemes are so complex and resource intensive that they have not been taken up. Rather, the traditional model of non-statutory infrastructure agreements tied to land by way of Land Management Agreement continues to be used.

The City of Holdfast Bay would encourage the resolution of this issue in the Act, as a statutory process would be beneficial where land ownership is fragmented, and coordination of infrastructure is more difficult and for infill Councils where smaller scale public realm works are needed to be part-funded by developers. Councils are still having to set up costly and time-consuming legal agreements to leverage good public realm upgrades.

Recommendation

- a) Ensure that infrastructure provision is resolved at the planning stage of the development application process, reducing the need to reserve such decisions through statutory schemes. This will enable the community to understand the future infrastructure provision and enable council's to plan for their funding and delivery.

Public notification

The City of Holdfast Bay has noted concern within its community since changes were introduced in March 2021 to public notification requirements. There is a view that people feel they have the right to be engaged where developmental changes and development applications are proposed in their neighbourhood, but that the current planning system denies them of that opportunity. Specifically, the Planning and Design Code reduces the public notification requirements, with significantly more land uses being classified as 'Deemed to Satisfy', and therefore not requiring notification. In addition, the appeal rights of third parties have also been significantly reduced, with only restricted developments being subject to third party appeal rights. Notification is an important tool for informing and engaging with communities and the provisions relating to public notification should enable this communication in both metropolitan and regional contexts.

Recommendations

- a) Review Division 2 (Planning Consent) under the PDI Act 2016 and Division 3 (Notice requirements and consultation) of the PDI (General) Regulations 2017 to more appropriately consider the impacts of land use and developments on adjoining owners and communities.
- b) Reinstate three tiers of public consultation relative to the impact of the development proposal, thereby enabling neighbours to be formally notified, with the option to express their views, and the safeguard of being able to appeal a decision that significantly compromises their amenity.

Regulated and Significant Trees

The City of Holdfast Bay and its community is concerned with the current protections that exist in the planning system to safeguard regulated and significant trees. While the City of Holdfast Bay is working hard to plant new trees, there is not enough available space on public land to replace what is being lost from private land because of the reducing allotment size and increasing built site coverage across the council area. This is such an issue of concern to the Holdfast Bay community that a separate paper is provided as an appendix to this submission containing specific concerns and recommendations to help guide rapidly needed reform.

Recommendation

- a) Revisit the regulated tree legislation to reinstate protections once afforded to trees of significant size, irrespective of their relative location to dwellings and swimming pools. It is incongruous to have targets for increasing the urban tree canopy when current laws allow the removal of trees that make the greatest contribution.

Developer Contributions

With infill development putting pressure on existing infrastructure within the City of Holdfast Bay, the ability for the council to seek a development contribution to be charged against new development that requires upgrade of council infrastructure to support the proper servicing of the intended development proposal need should be considered. Developer contributions are a fair and viable means of raising revenue to improve local infrastructure and assets.

Recommendation

- a) Development of mechanisms by which developer contributions can be regulated and applied to address the pressures on existing infrastructure should be considered in the *Planning, Development and Infrastructure Act 2016*.

Private Certification

The City of Holdfast Bay believes that planning decisions should be made locally. Communities continue to perceive councils as responsible for planning decisions, and as such councils will continue to hold significant interest in all local development outcomes. However, councils have no formal responsibility nor resources to oversee privately assessed applications and may be legally vulnerable if they do so.

The City of Holdfast Bay has previously raised concerns with the use of private certification in the planning system, specifically given that the system now allows for private certifiers to assess applications and approve 'minor' variations where a prescribed standard is not met. Section 106(2) of the Act provides that where a relevant authority (which includes a Level 3 accredited professional) is satisfied that development is Deemed to Satisfy (DTS) except for one or more minor variations, they must assess it as DTS. Indeed, the City of Holdfast Bay has experienced instances where developments had been privately certified where the development did not satisfy important criteria. Examples have also been provided of private certifiers exercising considerable discretion in the judgement of a 'minor' departure from the criteria.

The system is therefore easily being flouted by private certifiers deeming significant variations to be 'minor' to achieve a quick approval that might not be in the community interest. This aspect of the system should be more tightly regulated. The ability for a planning Level 3 accredited professional to act as a relevant authority where there are one or more minor variations under S106(2) should be removed. In this regard, there needs to be both greater oversight and regulation of private certifier decisions, and a return to a system where only local councils make planning decisions.

Recommendations

- a) Restore planning consent authority to local government, ensuring that private certifiers do not make planning decisions; or
- b) Private Certifiers be more effectively regulated by the Chief Executive of the Department in their role as the Accreditation Authority to ensure the proper operation of the system, and the quality of development outcomes are reflected in practice/on the ground.

Coastal climate change and protection of coastal land

Increased understanding of coastal change is highlighting the need for progressive changes to coastal zoning to accommodate sea-level rise and other climate-related impacts. The City of Holdfast Bay is particularly vulnerable to coastal climate change due to its geographic location. Impacts to coastal land from changing coastal conditions can result in changes to the land that are similar to the impacts of "development". Areas of "coastal land" are commonly under the care, control and management of councils. The role of councils in managing changes to coastal land due to changing environmental conditions is unclear. As climate-related coastal changes increase, this lack of clarity will continue to increase. Coastal protection mechanisms are exceptionally costly but funding mechanisms do not currently meet the scale of the challenge. As such the following recommendations should be adopted.

Recommendations

- a) Coastal planning policies to be based on statewide modelling of 2050 and 2100 inundation and erosion hazards.
- b) State Government to develop a state Coastal Retreat Policy that links to the PDI and other relevant legislation.
- c) State Government to implement similar reforms to NSW, VIC and QLD with reviews to ensure improved interaction between Planning, Development and Infrastructure Act, Coast Protection Act, Harbors and Navigation Act, Crown Land Management Act and Heritage legislation. Reviews should include in their scope an investigation into funding mechanisms that match the scale of funding required for coastal protection and that fit with state policies, plans and legislative frameworks in a consistent, strategic and prioritised manner.

Thank you once again for the opportunity to be engaged on this most important review. Should you have any further queries regarding the City of Holdfast Bay's submission, please do not hesitate to contact Council's Manager Development Services, Mr Anthony Marroncelli, on 8229 9904 or at amarroncelli@holdfast.sa.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Roberto Bria', written in a cursive style.

Roberto Bria

CHIEF EXECUTIVE OFFICER

Appendix: Expanded Commentary Specific to Regulated Trees and Urban Tree Canopy

Topic	Summary of Issue	Possible resolution / Proposed amendment
<p>Tree protections</p>	<p>A high proportion of tree canopy cover is the most effective and cost-effective method for the provision of cooling increasingly warm urban areas, especially around urban heat islands that are created by large areas of hard surfaces and no shade. Protection and retention of existing canopy is as important as growing new canopy. There is a significant canopy increase target in the 30-year plan and many councils are now introducing their own canopy increase targets. Canopy is a highly valued resource and needs protection.</p>	<p>Remove the ability to prune up to 30% of regulated and significant trees without requiring council approval. The 30% rule is difficult to enforce and is often flouted. There is also no time caveat that the 30% applies to, i.e. it could be 30% within one year, or within one week. This allows continual abuse of this regulation. It is also recommended that the ability to prune without approval be reduced to 10% within one year. In addition, fence-lining (boundary pruning) of public and regulated trees must not be allowed.</p> <p>The City of Holdfast Bay recommends implementing a system for the pruning of regulated and significant trees that requires the mandatory use of Australian Standard 4373: Pruning of amenity trees. In addition, there needs to be a requirement that pruning of regulated trees is undertaken by a Level V arborist. This will significantly protect existing tree canopy as well as ensuring the best pruning techniques to ensure tree health and structure, and for public safety. This will significantly protect existing tree canopy.</p>
		<p>The City of Holdfast Bay recommends that the definition of a regulated tree includes that it meet one of the criteria of either: minimum trunk circumference, OR minimum height, OR minimum canopy spread at the sizes recommended below. Preferably two or more of these criteria would be used together.</p>
	<p>There are benefits in reducing the minimum circumference for regulated and significant tree protections.</p>	<p>Many more trees would be protected. This action would bring South Australian tree protection standards up to a minimum level of best practice, depending on the size that is recommended. The City of Holdfast Bay therefore recommends reducing the minimum circumference for regulated (protected) trees to approximately 0.5 m as a baseline and also giving councils the power to institute further protections based on their own contexts.</p>
	<p>There are benefits in introducing a height protection threshold, to assist in meeting canopy targets.</p>	<p>This would protect many more existing trees and their canopy. The City of Holdfast Bay recommends that a tree with a height of 6m or more be defined as regulated (protected). Height is easy to measure.</p>

Topic	Summary of Issue	Possible resolution / Proposed amendment
	<p>There are benefits in introducing a crown spread protection, to assist in meeting canopy targets.</p>	<p>This would protect more existing trees and their canopy. The City of Holdfast Bay recommends that a tree with a canopy spread of more than 9m² be defined as regulated (protected). The methodology for measurement of this must be defined in the regulations to ensure consistent application across multiple jurisdictions.</p>
	<p>There are benefits in introducing species-based tree protections.</p>	<p>The City of Holdfast Bay strongly recommends removing the exempt species list in Section 3(F) and instead the Regulations must refer to the Declared Plant species list in the <i>Landscape SA Act 2019</i>. This makes interpretation of the legislation much easier, reduces confusion and will reduce administrative burden. Conversely, the use of species-based protections will increase administrative burden, increase confusion and have potentially adverse effects by protecting the wrong trees. The use of size only criteria for protection through classification as regulated (or similar wording) is much easier to administer, interpret and apply.</p>
	<p>Privately Certified developments: These cause lots of issues, with inaccurate/misleading plans submitted to Council which often do not reflect Council trees in the plan. In addition, many of these certifiers are interstate, and never attend the site in person to examine its context, or proximity to trees. Instead they use inaccurate satellite or aerial imagery. This frequently results in buildings with roofs that extend into and interfere with pre-existing public tree canopy, which subsequently has to have high pruning requirements, increasing the maintenance burden of already under-resourced councils, and reducing potential additional canopy.</p>	<p>Councils should be able to refuse a development if the plans are inaccurate/misleading, and force private certifiers to ensure all lodged documents are accurate and reflect council vegetation. Plans should show the crown of public trees that encroach onto the subject site. There is no wording in the Act that empowers councils to do this at the moment.</p> <p>In addition, it should be mandatory that private certifiers and relevant authorities (e.g. surveyors) visit every site in person as part of the design process to ensure that pre-existing public tree canopy is protected and the building design accounts for this.</p>
	<p>Trees are often removed by State Government on State Government land without independent consideration of the value of the trees against the reasons for their removal. This often occurs along major roads and at public school sites. These types of locations have particularly high risks associated with increased urban heat.</p>	<p>The City of Holdfast Bay recommends that current exemptions from tree protection regulations for some State Government agencies (notably the Department of Infrastructure and Transport, and Department for Education) be removed; as well as advocacy to exempt Commonwealth agencies (e.g. the Department of Defence) to promote the protection of trees on public land – particularly</p>

Topic	Summary of Issue	Possible resolution / Proposed amendment
		given the increased urban heat risk exposure of these publicly managed areas.
Distance from structures	Currently a protected tree (excluding <i>Agonis flexuosa</i> or <i>Eucalyptus</i>) can be removed or damaged if it is within 10m of a dwelling or swimming pool. As this section of the Act is currently written it can easily cause problems and be abused, as was demonstrated recently when an old, abandoned, filled-in pool was used to remove a regulated tree. Another case went to the ERD Court and allowed the removal of a Norfolk Island Pine that had a stem >10m away from any structure, on the basis that a basal root was within 10m of a building.	<p>Reducing or removing this distance will significantly enhance protection for existing trees and bring SA into line with other states where the majority of councils in the University of Adelaide report do not have a distance provision.</p> <p>The City of Holdfast Bay therefore recommends:</p> <ol style="list-style-type: none"> 1. Replacing the current 10m distance provision with a requirement for a proponent to demonstrate that a protected tree is interfering with a substantial structure (e.g. through an engineer's report) and the value of that structure be weighed up against the value of the tree; or in lieu of Recommendation 1. 2. Include <i>araucaria heterophylla</i> (Norfolk Island Pine) on the list of species that are excluded from entitlement to removal or damage on the basis of being located within 10m of a private dwelling or swimming pool, and as a tree on public streets and reserves.
	There are benefits in revising the circumstances when it would be permissible to permit a protected tree to be removed to better manage problematic tree species (i.e. not only when it is within the proximity of a major structure, and/or poses a threat to safety and/or infrastructure)?	<p>Regulated (protected) trees should be allowed to be removed in the following circumstances:</p> <ul style="list-style-type: none"> - If listed in the Declared Plant species list in the <i>Landscape Act SA 2019</i> - When it poses a significant threat to safety, as assessed by a Level V arborist. The risk assessment methodology must be industry standard and specified in the <i>PDI Act</i> to ensure consistent application.
Urban tree canopy offset scheme	There are real benefits in increasing the fee for payment into the offset scheme.	At the moment the fee is too low, which means it is too easy and affordable for the majority of households to pay, rather than plant a tree. The fee needs to be high enough to incentivise tree planting rather than paying a high fee.
	There are benefits in aligning the fee for tree removal with the actual cost to a council of delivering (and maintaining) a tree, noting that this would result in differing costs in different locations.	Whilst the City of Holdfast Bay recognises that costs are different in different areas, Council would argue that an average tree installation and maintenance cost could be derived for the Adelaide metropolitan area. This cost should be enough to cover a minimum of 3 years formative care and watering, and deriving this average should be undertaken as part of the review process.

Topic	Summary of Issue	Possible resolution / Proposed amendment
	<p>There are benefits in increasing the offset fees for the removal or regulated or significant trees?</p>	<p>Unless the fees are significantly high they will not act as a deterrent for the removal of protected trees. The fee in this circumstance should include up to 100% of the value of the tree (to be calculated using stipulated methodology) and replacement cost.</p> <p>In addition, the development application lodgment and assessment fees should be increased significantly. The City of Holdfast Bay recommends removing Sections 119(7) and (8) of the <i>PDI Act</i>, the result of which would be to give councils the ability to request additional information, such as an arborist's report, as part of the process in assessing a request to remove a regulated tree. If trees are defined as protected/regulated, etc. consideration should be given to not allowing their removal at all, unless they are a Declared Plant in the <i>Landscape SA Act</i> or pose a significant safety risk.</p>
	<p>The offsetting of lost open space through payment into the Planning and Development Fund could have an increased allocation of funding to urban greening priorities. The current fund favours large-scale projects and does not have a clear method for prioritising projects based on urban greening or climate resilience needs.</p>	<p>The Planning and Development Fund should be aligned with the priorities emerging from the Adelaide Urban Greening Strategy (in development by Green Adelaide), along with the evidence-base being collected through the state government urban heat and tree canopy mapping. Options for funding of smaller projects and biodiversity projects to also be considered.</p>
<p>Public realm tree planting</p>	<p>There are benefits in amending the criteria within the Planning and Development Fund application assessment process to give greater weighting to the provision of increased tree canopy.</p>	<p>The City of Holdfast Bay recommends stronger priorities and criteria weighting needs to be given to urban greening, including increasing tree canopy and biodiversity projects.</p>
<p>Climate resilience</p>	<p>Most developments being approved today will still be here in 2050, which means these developments MUST factor in climate change and resilience now. As natural hazards intensify, living expenses like energy bills, mortgages and insurance will get more expensive for 'climate vulnerable' homes – that is, homes that are in high-risk areas and have not been built to mitigate those risks. The current Code does not have clear policy outcomes that promote more energy efficient and carbon neutral buildings apart from minimal standards of insulation and</p>	<p>Land-use planning needs to be updated to respond to a changing climate. This means providing the tools needed to plan for risk and uncertainty. Examples include scenario planning, carbon assessments of developments, water-sensitive urban design and factoring in the latest climate science into everyday decisions on land use. It must be mandatory to consider natural disaster and climate risks in all land-use planning decisions for new development and redevelopment.</p> <p>The City of Holdfast Bay recommends detailed and early planning occur for the cumulative</p>

Topic	Summary of Issue	Possible resolution / Proposed amendment
	<p>shading and tree planting. Land use planning can play an important role in climate change mitigation and adaptation. The <i>Planning Development and Infrastructure Act 2016</i> requires the Minister for Planning to prepare a specific state planning policy relating to climate change. The Policy identifies the specific policies and principles that should be applied to minimise adverse effects of decisions made under the Act on the climate and promoting development that is resilient to climate change. A key action for the State Government is to strengthen these policies for climate-smart development through the planning system.</p>	<p>impacts of climate change on communities and urban areas, and their consequences.</p> <p>Upcoming amendments to the National Construction Code will see a requirement for new constructions to increase from a 6-star to 7-star rating and the Planning and Design Code should also be amended to reflect this by promoting more energy efficient and carbon neutral buildings.</p>
<p>Climate hazard mapping</p>	<p>Climate-related hazards have the potential to change over time and need to include some flexibility in planning responses on a regular basis as new information is collected. This is particularly important for:</p> <ul style="list-style-type: none"> • Bushfire • Urban heat • Coastal erosion • Flooding (including seawater inundation). 	<p>State Government to coordinate regional climate hazard mapping on a regular basis and include hazard overlays in the SA Property and Planning Atlas. The SA Property and Planning Atlas should be a central location for climate hazard mapping. Hazard overlays are therefore required to direct permitted types of development, housing design and planning requirements for community emergency responses. Climate risks must also be overlaid on both existing and future urban zones to identify hazard 'hot spots'.</p>
<p>Water sensitive urban design (WSUD)</p>	<p>There is currently no guidance to achieve Water sensitive urban design (WSUD) outcomes (e.g. 'green' stormwater management systems, swales, permeable pavers, rain gardens, tree inlets, etc).</p>	<p>Water sensitive urban design techniques should be incorporated into developments and include evidence of bio-filtration systems, grassed or landscaped swales, slotted kerbs, permeable pavements, and retention systems, consistent with the examples provided in the "Water Sensitive Urban Design Technical Manuals for the Greater Adelaide Region".</p>

Open Space and Trees Project

Summary of Issue	Comments
<p>The City of Holdfast Bay notes that the State Planning Commission's 'Open Space and Trees Project' and provide general support for Part 1 and Part 2 of the project and that these should be reviewed by the Expert Panel as part of the Planning System Implementation Review.</p> <p>The <i>Open Space and Trees Project – Part 1A (Arborist Review)</i> has been reviewed by the City of Holdfast Bay arborist, together with key staff involved in regional collaboration on urban greening priorities in the Resilient South regional climate partnership (www.resilientsouth.com). The City of Holdfast Bay would appreciate the following key points being noted:</p> <ul style="list-style-type: none"> • Dr Dean Nicolle does not appear to hold arboricultural qualifications, nor is he a member of, or endorsed by, a relevant professional association (e.g. the International Society of Arborists or Arboriculture Australia). • The methodology that Dr Nicolle has used to value and rank species appears to be based on his opinion and professional experience and is not recognised externally. These valuations should be evaluated by a group of industry professionals before being accepted by the State Government. • The majority of Dr Nicolle's report is concerned with the inclusion of various species on exemption lists under Regulation 3F of the <i>Planning, Development and Infrastructure Act 2016</i>. The presence of such lists complicates the implementation of the Act in that a proponent needs to identify a tree to evaluate if it can be modified/removed. 	<p>Specific detailed responses are provided in Tables 1 and 2 below. It is noted in particular that many of the recommendations will have resourcing and financial implications for councils. The comments in the table represent views of technical staff and not a formal position for the City of Holdfast Bay.</p> <ul style="list-style-type: none"> • TABLE 1. Summary of Recommendations from the <i>Open Space and Trees Project – Part 1A (Arborist Review)</i> Report with City of Holdfast Bay responses. • TABLE 2. Summary of Recommendations from the report <i>Urban tree protection in Australia: Review of regulatory matters</i> (by The University of Adelaide) with City of Holdfast Bay responses. <p>With regard to Regulation 3F (exempt species), it is suggested it would be preferable to remove this section. Then, proponents wishing to remove/modify ANY TREE above a specific size threshold, would need to apply for a council permit to do so.</p> <p>While several of the recommendations from the reports are supported, the City of Holdfast Bay is concerned that increased protection of trees will increase the regulatory burden on local governments. It is therefore recommended that any increase in regulation be accompanied by a mechanism to resource local governments for this, e.g. through leveraging fees or state government provision of funds.</p>

Table 1. Summary of Recommendations from the *Open Space and Trees Project – Part 1A (Arborist Review)* Report with City of Holdfast Bay responses.

Section 2.4.1 – Currently generically excluded species under Regulation 3F (4) (b)	
Recommendation	Response
Retain <i>Acer negundo</i> (box elder) on the list of species under Regulation 3F(4) (b).	Not supported.
Remove <i>Acer saccharinum</i> (silver maple) from the list of species under Regulation 3F(4) (b).	Supported.
Retain <i>Ailanthus altissima</i> (tree of heaven) on the list of species under Regulation 3F(4) (b).	Not supported.
Remove <i>Alnus acuminata</i> subsp. <i>glabrata</i> (evergreen alder) from the list of species under Regulation 3F(4) (b).	Supported.
Remove <i>Celtis australis</i> (European hackberry) from the list of species under Regulation 3F(4) (b).	Supported.
Remove <i>Celtis sinuensis</i> (Chinese hackberry) from the list of species under Regulation 3F(4) (b).	Supported.
Remove <i>Cinammomum camphora</i> (camphor laurel) from the list of species under Regulation 3F(4) (b).	Supported.
Retain <i>Cupressus macrocarpa</i> (Monterey cypress) on the list of species under Regulation 3F(4) (b).	Not supported.
Remove <i>Ficus</i> species (figs) from the list of species under Regulation 3F(4) (b)	Supported.
Remove <i>Ficus macrophylla</i> (Moreton Bay fig) from the list of species under Regulation 3F(4) (b) except where <15m from dwelling.	Supported. Suggest removal of this species from the list entirely as it is captured within the genus <i>Ficus</i> covered by the previous recommendation.
Retain <i>Fraxinus angustifolia</i> (desert ash) on the list of species under Regulation 3F(4) (b) except for the grafted cultivar ‘Raywood’ (claret ash).	Supported to remain consistent with Declared Plants of SA
Remove <i>Fraxinus angustifolia</i> ‘Raywood’ (claret ash; listed as <i>F. angustifolia</i>) from the list of species excluded from Regulation 3F (4) (b).	Supported
Retain <i>Lagunaria patersonia</i> (Norfolk Island hibiscus) as exempt from tree-damaging activity under Schedule 4 (18).	Supported
Remove <i>Melaleuca styphelioides</i> (prickly-leaved paperbark) from the list of species excluded from Regulation 3F (4) (b).	Supported.
Retain <i>Pinus radiata</i> (Radiata pine) on the list of species excluded from Regulation 3F (4) (b).	Not supported.
Remove <i>Platanus x acerifolia</i> (London plane) from the list of species excluded from Regulation 3F (4) (b).	Supported.
Retain <i>Populus alba</i> (white poplar) on the list of species excluded from Regulation 3F (4) (b).	Not supported.
Retain <i>Populus nigra</i> ‘Italica’ (Lombardy poplar) on the list of species excluded from Regulation 3F (4) (b).	Not supported.
Retain <i>Robinia pseudoacacia</i> (black locust) on the list of species excluded from Regulation 3F (4) (b).	Not supported.
Retain <i>Salix babylonica</i> (weeping willow) on the list of species excluded from Regulation 3F (4) (b).	Not supported.

Retain <i>Salix chilensis</i> 'Fastigiata' (Chilean pencil willow) on the list of species excluded from Regulation 3F(4) (b).	Not supported.
Retain <i>Salix fragilis</i> (crack willow) on the list of species excluded from Regulation 3F(4) (b).	Not supported.
Retain <i>Salix x rubens</i> (hybrid crack willow) on the list of species excluded from Regulation 3F(4) (b).	Not supported.
Retain <i>Salix x sepulcralis</i> var. <i>chrysocoma</i> (golden weeping willow) on the list of species excluded from Regulation 3F(4) (b).	Not supported.
Remove <i>Schinus molle</i> (peppercorn) from the list of species excluded from Regulation 3F(4) (b).	Supported.
Section 2.4.2 – Other species recommended as generically excluded species	
Recommendation	Response
Add <i>Eucalyptus globulus</i> (Tasmanian blue gum) to the list of species excluded from Regulation 3F(4) (b).	<p>Only support the addition of Declared Plants (<i>Olea europa</i>, <i>Tamarix aphylla</i>, <i>Pinus halepensis</i>) listed in the <i>Landscape SA Act 2019</i>.</p> <p><i>Phoenix canariensis</i> and all palms are to be excluded on the basis of them being botanically classified as a grass.</p>
Add <i>Eucalyptus grandis</i> (flooded gum) to the list of species excluded from Regulation 3F(4) (b).	
Add <i>Eucalyptus saligna</i> (Sydney blue gum) to the list of species excluded from Regulation 3F(4) (b).	
Add <i>Melaleuca armillaris</i> (bracelet honey-myrtle) to the list of species excluded from Regulation 3F(4) (b).	
Add <i>Olea europa</i> (olive) to the list of species excluded from Regulation 3F(4) (b), excepting non-fruiting cultivars and individuals.	
Add <i>Phoenix canariensis</i> (Canary Island date palm) to the list of species excluded from Regulation 3F(4) (b).	
Add <i>Pinus halepensis</i> (Aleppo pine) to the list of species excluded from Regulation 3F(4) (b).	
Add <i>Pittosporum undulatum</i> (sweet pittosporum) to the list of species excluded from Regulation 3F(4) (b).	
Add <i>Populus</i> species (all poplar species) to the list of species excluded from Regulation 3F(4) (b).	
Add <i>Prunus</i> species (all stone fruit species) to the list of species excluded from Regulation 3F(4) (b).	
Add <i>Pyrus</i> species (all pear species) to the list of species excluded from Regulation 3F(4) (b).	
Add <i>Salix</i> species (all willow species) to the list of species excluded from Regulation 3F(4) (b).	
Add <i>Tamarix aphylla</i> (Athel pine) to the list of species excluded from Regulation 3F(4) (b).	
Add <i>Ulmus minor</i> (English elm) and <i>Ulmus x hollandica</i> (Dutch elm) to the list of species excluded from Regulation 3F(4) (b).	
Section 2.4.3 – Species currently not excluded even when <10m from a dwelling/pool	
Recommendation	Response
Regulation 3F(4) (a) be abolished, and replaced with a list of species to be excluded from the definition of a 'regulated tree' and 'significant tree' under the <i>PDI Act 2016</i> when located <10m from a dwelling or pool.	Not supported. The ability to remove a tree in proximity to a structure without any evidence that the structure is of value or being negatively impacted by the tree, makes this provision open to abuse.
<i>Agonis flexuosa</i> (willow myrtle) not be excluded, even when <10m from a dwelling or pool.	The meaning of this recommendation is unclear. The City of Holdfast Bay recommends that trees

	not be exempt from protections based on proximity to a structure alone.
<i>Eucalyptus</i> species (gums) not be excluded, even when <10m from a dwelling or pool.	The meaning of this recommendation is unclear. The City of Holdfast Bay recommends that trees not be exempt from protections based on proximity to a structure alone.
Section 2.4.4 – Species recommended for exclusion when <10m from a dwelling/pool	
Recommendation	Response
<i>Casuarina</i> species (all species and excluding the genus <i>Allocasuarina</i>) be excluded from the definition of a ‘regulated’ or ‘significant’ tree when <10m from a dwelling or pool.	Not supported.
<i>Cupressus</i> species (all species except <i>C. macrocarpa</i>) be excluded from the definition of a ‘regulated’ or ‘significant’ tree when <10m from a dwelling or pool.	Not supported.
<i>Ficus</i> species (all species) be excluded from the definition of a ‘regulated’ or ‘significant’ tree when <10m from a dwelling or pool.	Not supported.
Section 2.4.5 – Trunk size triggers	
Recommendation	Response
For multi-trunked individuals, only trunks that are 1m or greater in circumference be included in the total trunk circumference, with no average trunk circumference required.	The City of Holdfast Bay agrees that there is value in instituting a minimum threshold for trunks when calculating the trunk circumference of multi-stemmed trees. However, the City of Holdfast Bay regards the current 2m circumference threshold for a tree to reach ‘regulated’ status as too large. The City of Holdfast Bay therefore supports this suggestion but suggests an individual trunk circumference threshold lower than 1m. Any change in the way multi-trunked trees are assessed should ensure typical mature grey box (<i>Eucalyptus microcarpa</i>) meet the definition of a Regulated/Significant tree.
Section 2.4.6 Consistency with the <i>Landscape South Australia Act 2019</i>	
Recommendation	Response
All tree species of Declared Plants in the <i>Landscape South Australia Act 2019</i> also be listed as generically excluded species in the PDI Act 2016. Regulation 3F (4)(c) of the <i>PDI Act 2016</i> could then be removed from the regulations, as it would become redundant. This option will result in a longer list of generically excluded species under Regulation 3F (4)(b) of the PDI Act 2016, but would mean that all generically excluded species are listed together in the <i>PDI Act 2016</i> , without the need to cross-reference the <i>Landscape South Australia Act 2019</i> .	Not supported. The <i>Landscape South Australia Act</i> is primarily focused on the management of productive landscapes and open areas and some species that are identified as weeds in a general sense may be suitable for cultivation under some conditions in an urban environment. However, Councils should be empowered to designate zones around urban sites of high biodiversity, in which street trees are planted that are not declared plants in the <i>Landscape SA Act</i> , so that they do not spread into these high value sites.
No species of Declared Plants in the <i>Landscape South Australia Act 2019</i> be listed as generically excluded species in the PDI Act 2016, and Regulation 3F (4)(c) of the <i>PDI Act 2016</i> is retained (effectively excluding all Declared Plant species). While this option would result	Supported, noting that consideration should be given to including any Declared Plant in the <i>PDI Act</i> also.

<p>in a much shorter list of generically excluded species under Regulation 3F (4)(b) of the <i>PDI Act 2016</i>, it is less user-friendly, as it would require anyone enquiring about which species are exempt to consider both Regulation 3F (4)(b) of the <i>PDI Act 2016</i> and the numerous classes of Declared Plants in the <i>Landscape South Australia Act 2019</i>.</p>	<p>Both of these recommendations overly complicate what should be a simple system whereby all trees are protected unless they are on the list of Declared Plants in the <i>Landscape South Australia Act 2019</i>.</p>
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Section 2.4.7 Species identification concerns

Recommendation	Response
<p>It is recommended that the identification concerns regarding certain species that are recommended for exclusion be further investigated. Such an investigation is beyond the scope of this report. Potential mechanisms to address species identification concerns could include a clause in the Regulations requiring for the professional identification of a tree prior to approval of its removal/damage/pruning. Professional identification could be undertaken by agreement with the Botanical Gardens and State Herbarium of South Australia (likely requiring some additional resources by this organisation to undertake the identifications), or by an appropriately qualified and/or experienced consultant (e.g. a botanist) at a financial cost to either the applicant or the approving body.</p>	<p>Not supported.</p> <p>While the City of Holdfast Bay agrees that incorrect identification remains a problem with the protection of trees, the City of Holdfast Bay does not regard mandating identification by the Botanic Gardens and State Herbarium or other experts as necessary. Rather, the City of Holdfast Bay recommends increased enforcement of and penalties for arborists who incorrectly identify protected trees leading to their damage or removal to encourage greater upskilling of the industry, and the use of external consultants for identification when required.</p> <p>Planning overlays could be used to identify areas where expert identification might be warranted, e.g. in native conservation areas where superficially similar weeds may grow alongside native relatives (e.g. <i>Casuarina glauca</i> and <i>Allocasuarina verticillata</i>).</p>

Section 3 – Should Regulation 3F(4)(a) be extended to include genera *Corymbia* and *Angophora*?

Recommendation	Response
<p>It is recommended that all species (and therefore all genera) be included in the definition of ‘regulated tree’ and ‘significant tree’ under the <i>PDI Act 2016</i>, even when <10m from a residential dwelling or swimming pool, excluding generically excluded species (listed in Section 4.1) and excluded species when <10m from a dwelling or pool (listed in Section 4.2). This makes redundant the question of whether the genus <i>Eucalyptus</i> as referred to in Regulation 3F(4)(a) should be extended to also include the genera <i>Corymbia</i> and <i>Angophora</i>.</p>	<p>Supported, noting earlier comments around exemptions close to a dwelling or swimming pool.</p>
<p>In the case that the alternative and non-preferred recommendation is adopted, that all species be excluded from the definition of ‘regulated tree’ and ‘significant tree’ under the <i>PDI Act 2016</i> when <10m from a residential dwelling or swimming pool, excepting for <i>Agonis flexuosa</i> and <i>Eucalyptus</i> species (i.e. the current regulations), then the following is recommended:</p> <ul style="list-style-type: none"> - <i>Eucalyptus</i> (all species) be maintained as an exception to the exclusion from the definition of 	<p>Supported, noting earlier comments around exemptions close to a dwelling or swimming pool.</p>

'regulated tree' and 'significant tree' under the *PDI Act 2016* when <10m from a residential dwelling or swimming pool

- *Angophora* (all species) and *Corymbia* (all species) be added as exceptions to the exclusion from the definition of 'regulated tree' and 'significant tree' under the *PDI Act 2016* when <10m from a residential dwelling or swimming pool.
- *Agonis flexuosa* (Willow Myrtle) be removed from the exception to the exclusion from the definition of 'regulated tree' and 'significant tree' under the *PDI Act 2016* when <10m from a residential dwelling or swimming pool.

TABLE 2. Summary of Recommendations from the report *Urban tree protection in Australia: Review of regulatory matters* (by The University of Adelaide) with City of Holdfast Bay responses.

Section 6.1 Recommendations drawn from regulatory review data	
Recommendation	Response
Reduce circumference protection threshold from 2m to approximately 50cm.	Supportive of reducing circumference protection in <i>PDI Act</i> as a baseline and then giving councils power to institute further protections based on their own contexts.
Institute an independent height protection threshold of less than 6m.	Not supported. It is instead recommended that a tree with a height of 6m or more be defined as 'regulated'.
Institute an independent crown spread protection threshold of $\leq 6m$.	Not supported. It is instead recommended that a tree with a canopy spread of more than $9m^2$ be defined as 'regulated'. The measurement of this must be defined in the regulations to ensure consistent application across multiple jurisdictions.
Institute location-based protections for trees.	Supported. Councils should be able to develop their own zoning/planning overlays to protect particular tree types in different areas of their councils.
Designate one or more tree registers to which nominations can be made, the entries on which should be extended full protections.	Supported, particularly if exemptions (e.g. due to species or proximity to a structure) remain. Protections from a tree register should override any exemptions. The process for nominating and reviewing a listing also need to be elucidated. Also need to consider the maintenance requirements for a registered tree to prevent them being neglected. This register should also be available as a spatial overlay in the SA Property and Planning Atlas.
Reduce proximity-based exemptions to existing tree protections to 3m of a substantial structure (house or other major building).	Not supported. It is instead recommended the removal of a distance exemption, as it is less important than impact assessment balanced against tree value. In lieu of this, that <i>araucaria heterophylla</i> (Norfolk Island Pine) is placed on the list of species that are excluded from entitlement to removal or damage on the basis of being located within 10m of a private dwelling or swimming pool, and as a tree on public streets and reserves.
Ensure that any assessments or works on significant trees are undertaken by a suitably qualified arborist.	Supported with modification. Suggest amendment to "significant or <u>regulated</u> trees". The requirement for an expert assessor under the Native Vegetation Act may provide a useful parallel here.
Provide a tree protection mechanism to promote the biodiversity of the urban forest through the protection of rare or unusual species.	Supported. It is also suggested to using Santamour's diversity guideline as a mechanism to support urban forest species diversity. This guidelines suggests that an urban tree population should include no more than 10% of any one

	species, 20% of any one genus, or 30% of any family.
Institute limits on the pruning that may be undertaken on protected trees without arboricultural advice.	Supported.
Stipulate all pruning of protected trees, including clearance from public utilities, must be undertaken in accordance with AS4373: Pruning of Amenity Trees.	Supported.
Provide a mechanism for local governments to charge a fee for assessment of tree works applications.	Supported.
Provide a mechanism for local governments to erect structures where protected trees have been vandalised or illegally removed.	Supported only on the condition that the replacement 'structure' is able to contribute to increasing tree canopy (e.g. to be covered by a climbing plant), and doesn't contribute to increasing urban heat problems.
Provide a mechanism for local governments to require bonds be paid to protect Regulated and Significant trees on development sites.	Supported. Funds need to be directed to tree management in local government.
Review the penalties available for local governments to police protected tree provisions.	Supported. Funds need to be directed to tree management in local government.
Section 6.2 Recommendations based on expertise	
Recommendation	Response
A fee and bond be instituted to apply for any works with the potential to impact a regulated, or significant tree.	Supported. Funds need to be directed to tree management in local government.
For protected trees on private land, the bond mentioned above is to have a floor value of \$1,000 (indexed) per tree, plus up to 100% of the value of the tree (calculated using stipulated methodology) plus replacement cost (cost to remove existing tree, purchase, plant and establish a similar tree, i.e. cost within first three years). 'Similar tree' to be defined by a government authority in line with a council or State Urban Forest Strategy and may represent a tree of a similar age/size and the same or a different species.	Supported. Funds need to be directed to tree management in local government.
For protected trees on private land, bond to have a floor value of \$1,000 per tree (calculated using stipulated methodology), plus up to 100% of the value of the tree and land area (within crown extent). Land value to be calculated using council rates and after any rezoning or subdivision.	Supported. Funds need to be directed to tree management in local government.
Value of tree to be calculated using a methodology that has been developed or optimised for Adelaide conditions and tree species (suggest upcoming Minimum Industry Standard MIS506: Industry guidance on tree valuation methodologies, practices and standards to be used as a starting point) and used across greater Adelaide area. Methodology to be developed or endorsed by the South Australian government.	Supported. State Government should provide direction on which methodology to use (or use in specific circumstances) to avoid wildly different valuations.
Tree valuations to be undertaken by a Level V arborist who has undertaken a training course in the state-endorsed valuation methodology indicated above.	Supported. This would be analogous to the system used for Accredited Native Vegetation Consultants.

Register of qualified valuers to be maintained by appropriate industry body or SA Government.	
Tree valuations can be disputed by a proponent or council by commissioning a second appropriately qualified valuer. Final decision to be made by a relevant authority, who may commission a third independent valuer if required.	Supported.
Level V arborist to inspect bonded trees for damage, and if necessary, undertake a new valuation using the valuation accepted in the development application as a benchmark. Any damage reducing the value of the tree will be penalised through the forfeiture of that amount. The inspecting arborist may recommend deferral of inspection by up to a year if they suspect impacts are not yet detectable.	Supported, however the council/inspecting arborist should have the ability to defer inspection by up to three years if warranted.
In the case of works impacting the structural root zone or >25% of the tree protection zone, including soil compaction, grade change or interference with roots, proponent remains liable for tree damage for a period of one year following work completion. Tree to be inspected by council arborist one year after works completed, if tree appears to be in decline, clock extended for a maximum of three years.	Supported.
Fees and forfeited bonds are to be collected by a relevant authority and held in a dedicated fund to be used for the development of urban canopy within the local area, including to fund the purchase of land for tree planting.	Supported. Funds should be collected in a Council fund for use in the relevant local government area.