27 January 2023

Mr. John Stimson
Presiding Member
Expert Panel
Planning System Implementation Review

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11 Stephenson Street
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Dear Mr. Stimson,

Submission to the Expert Panel – Planning System Implementation Review

Thank you for providing the opportunity for Council to make a submission to the Expert Panel (Panel) with respect to the Planning System Implementation Review (Review). I also note that the extension the Minister for Planning, the Hon. Nick Champion MP provided for local government to make submissions by 30 January 2023 due to the November 2022 elections was appreciated.

I advise that Council considered this matter at its meeting on 24 January 2023 and endorsed the provision of the content of the attachment to this letter, comprised of answers to the questions posed by the Panel within its Discussion Papers, as its submission to the Panel with respect to this review.

A copy of the related Council report and meeting minute is included as an overview and for context. If the Panel has any questions related to these matters, please contact the undersigned.

Light Regional Council wishes the Panel well with its deliberations and we look forward to receiving feedback in respect to its future recommendations to the Minister for Planning.

Yours sincerely,

Craig Doyle
General Manager, Strategy & Development

Enc. Attachment

11.4 Light and Adelaide Plains Economic Development Authority – Regional Subsidiary Charter

RESOLUTION OCM-2023/012

Moved: Cr Lynette Reichstein
Seconded: Cr Peter Kennelly

That Council,

1. Notes and receives the letter from the Hon Geoff Brock MP Minister for Local Government dated 22 November 2022 responding to Adelaide Plains Council & Light Regional Councils request to establish a regional subsidiary;
2. Having considered the report titled 'Light and Adelaide Plains Economic Development Authority – Regional Subsidiary Charter' presented to Council at the January Ordinary meeting, receives and notes the report; and
3. Resolves to not pursue the formation of the Light and Adelaide Plains Region Economic Development Authority - Regional Subsidiary.

CARRIED

11.5 Submission to the Planning System Implementation Review

RESOLUTION OCM-2023/013

Moved: Cr Fabio Antonioli
Seconded: Cr Simon Zeller

That Council:

1. Receives the information contained in this report and endorses the draft submission to the Expert Panel for the Planning System Implementation Review contained in Attachment 1 as its draft submission to the Expert Panel; and
2. Authorises the Acting Chief Executive Officer, who may delegate to relevant staff, to provide a submission to the Expert Panel with respect to the Planning System Implementation Review.

CARRIED

11.6 Regional Public Health Advisory Group and Project Working Groups - Regional Public Health Plan

RESOLUTION OCM-2023/014

Moved: Cr Deane Rohrlach
Seconded: Cr Lynette Reichstein

That Council:

1. Appoints Cr Michael Phillips-Ryder and their proxy Cr Alyson Emery and the General Manager, Strategy & Development as Council's representatives on the Regional Public Health Advisory Group for the term of this Council or until further reviewed and changed.

11.5 Submission to the Planning System Implementation Review

Author: Craig Doyle, General Manager - Strategy and Development

Attachments: 1. Expert Panel Review - Draft Responses

Executive Summary

In early August 2022 the Minister for Planning, the Hon. Nick Champion MP (the Minister) wrote to Light Regional Council (LRC) to announce the commencement of a review of the *Planning, Development and Infrastructure Act, 2016* and the implementation of the Planning and Design Code. This step was taken to respond to concerns raised by local communities and industry groups and aligned with an election commitment of the Malinauskas Government.

An Expert Panel has been appointed by the Minister to undertake the review. The Expert Panel has prepared related Discussion Papers and invited submissions from the public.

Allowing for the Local Government elections in November 2022, Councils have been provided with an opportunity to provide feedback to the Expert Panel by 30 January 2023.

Council staff have reviewed the relevant material and prepared a draft submission, comprised of responses to questions asked in the Discussion Papers prepared by the Expert Panel, which is provided as Attachment 1.

A number of key policy and administration observations have also been included within the draft submission, which also features commentary regarding infrastructure schemes.

The draft submission therefore responds to a range of matters, and it is recommended that Council adopts this as the basis for its submission to the Expert Panel.

RECOMMENDATION

That Council:

1. **Receives the information contained in this report and endorses the draft submission to the Expert Panel for the Planning System Implementation Review contained in Attachment 1 as its draft submission to the Expert Panel; and**
2. **Authorises the Acting Chief Executive Officer, who may delegate to relevant staff, to provide a submission to the Expert Panel with respect to the Planning System Implementation Review.**

Reason for Decision

To provide feedback to the Minister for Planning via the Expert Panel, in accordance with Council's functions under section 7 of the *Local Government Act, 1999*.

Background

In 2012 the State Government appointed the former *Expert Panel*, chaired by Mr. Brian Hayes QC, to review and report on options to transform South Australia's planning system.

This review resulted in new legislation, the *Planning, Development and Infrastructure Act, 2016* (PDI Act) and then the transition to a new system that has completely revised the way that planning is administered in this state.

The process of transition to the new system under the PDI Act has seen a staged introduction of its key elements, examples of which have included the implementation of:

- The South Australian Planning Portal (the basis for 'e-planning', including on-line application lodgement, information and tracking);
- The 'Community Engagement Charter';
- The Environment and Food Production Areas;
- The Planning and Design Code; and
- New Assessment Pathways, relevant authorities (decision makers) and processes.

The delivery of the new system achieved a key milestone on 19 March 2021 when all individual council Development Plans were replaced with the state-wide Planning and Design Code and the Development Act, 1993 was repealed.

In the new planning system, the role of a council is very different to that which was in place under the *Development Act, 1993*. Under the PDI Act, there is a broader range of relevant authorities (decision makers), and the role of a council is more refined. Where there is no Joint Planning Board or regional assessment panel, a council is required to provide resources for an independent assessment panel (Council or otherwise Minister-appointed) and a suitable Accredited Professional must be appointed by the Chief Executive Officer to be the panel's Assessment Manager. The Assessment Manager manages the staff and operations of the assessment panel. In this manner, planning decisions are made independently, by either the relevant panel, or the Assessment Manager, or staff acting as a delegate of the Assessment Manager.

The role of a 'council' is otherwise limited to administration (such as preparing an issuing relevant approval documents), building rules assessment (if nominated by the applicant to provide this function) and/ or functions allowing a council to seek to amend 'designated instruments' (such as seeking to amend the Planning and Design Code) if needed, following the legislated processes with the intention of ultimately seeking a decision from the Minister.

The change to the new planning system has resulted in concerns raised by local communities and industry groups, leading to an election commitment by the Malinauskas Government to review the system and its implementation.

In early August 2022 the Minister for Planning, the Hon. Nick Champion MP (the Minister) wrote to Light Regional Council (LRC) with respect to this matter. The Minister advised he had commissioned a panel of planning experts (Expert Panel), chaired by Mr. John Stimson, to conduct a review of reforms to the planning system implementation, including:

- The *Planning, Development and Infrastructure Act 2016*
- the Planning and Design Code and related instruments, as it relates to infill policy, trees, character, heritage and car parking
- the ePlanning system, to ensure it is delivering an efficient and user-friendly process and platform
- the PlanSA website, to check usability and ease of community access to information.

In October 2022, the Panel released three related Discussion Papers:

- *Planning, Development and Infrastructure Act 2016 Reform Options*

- *Planning and Design Code Reform Options*
- *e-Planning System and PlanSA website Reform Options*

which are available at Have Your Say | Planning Review.

In preparing its Discussion Papers, the Expert Panel has acknowledged submissions and representations made during earlier engagement and review processes, noting that many issues raised over the course of the past 10 years have previously been thoroughly examined by various bodies.

On this basis, the Expert Panel considers that the fundamental elements of the PDI Act are sound.

The Expert Panel notes that this review is an opportunity to reconsider some of the details and it is looking for new information, feedback and experiences directly related to the implementation of the PDI Act and the Code and the community's interaction with the e-planning system.

The Discussion Papers seek to identify potential opportunities for improvement in the PDI Act and feature questions for consideration and response.

The Expert Panel is not a decision-making body, but rather is comprised of subject matter experts brought together to make recommendations to the Minister, with these recommendations informed by feedback received from the community.

The Expert Panel requested comments by 16 December 2022. However, the Minister has extended the deadline for councils to comment to 30 January 2023, in order for new councils formed following the local government elections to consider the implementation review and make submissions should they choose.

History

Meeting	Date	Item Reference
Council	26 November 2013	Item 11.1 - Expert Panel on Planning Reform – Light Regional Council Response
Council	24 May 2016	Item 11.2 - Planning, Development and Infrastructure Act, 2016
Council	26 September 2017	Item 12.3.1 - Planning, Development and Infrastructure Act 2016 – Deputy Member of Council Assessment Panel
Council	24 October 2017	Item 11.3 - Planning Reform – October 2017 Update
Council	23 January 2018	Item 11.4 - Planning Reform Update – January 2018
Council	26 March 2019	Item STR9.3.1/2019 - Draft Planning, Development and Infrastructure (General) (Development Assessment) Regulations and Practice Directions – LRC Submission
Council	25 June 2019	Item STR9.3.2/2019 - Heritage Reform in the New Planning System and Light Regional Council Code Conversion
Council	8 December 2020	Item 12.3.1 - Fees and Charges – Planning, Development and Infrastructure Act - Public Notification Signage Fee and Development Application Hard Copy Processing Fee
Council	27 January 2021	Item 12.3.4 - Delegations Under the Planning, Development and Infrastructure Act 2016
Council	23 August 2022	Item 10.4 – State Government Planning Review

Discussion Analysis

Council staff have reviewed the Discussion Papers and drafted responses to the Questions posed therein. These are contained in the draft submission provided as Attachment 1 to this report.

Several of these matters are of a technical nature, however some key points referenced in the respective Discussion Papers include:

Planning, Development and Infrastructure Act, 2016

The PDI Act introduced significant changes, such as new assessment pathways, new relevant authorities, rules governing assessment processes, changes to public notification and tools for the provision of infrastructure with new development.

The Discussion Paper identified some topics for consideration, but comments may be provided on all ideas. The key matters highlighted for LRC within the draft submission include:

- Commentary about certain development that could be excused from requiring notification, referring to particular examples such as telecommunication towers, frost fans and dams in rural areas that meet certain requirements;
- Commentary that notification of certain developments, such as domestic garages on a common boundary between two allotments, should not require notification of all allotments within 60 metres of the development site.
- Commentary on 'Infrastructure Schemes' – these comments have resulted from discussions between staff from 'growth' councils and highlight the challenges experienced and the importance of having a 'whole of government' approach in this area.
- Commentary about the merit of including Local Heritage under the *Heritage Places Act, 1993* and having the listing process managed by Heritage SA to promote greater consistency. Council staff also agree that heritage listing ought to be based on technical merit, rather than current (not activated) section 67 provisions requiring that 51% of landowners in an affected area need to agree to a heritage listing, noting that a suitable appeal process could provide an appropriate alternative to the current approach.
- Commentary on the effectiveness of 'deemed consent notices' and an alternative to the current approach.
- Commentary about 'verification' of applications (the process of relevant authorities receiving an application and related details and then confirming that the application materials provided are ready for an assessment, including determining the relevant assessment pathway).
- Comments about certain development types:
    - Suggesting exemption of minor residential applications (verandahs, carports, garages) behind the front dwelling setback from requiring notification;
    - Noting that applications should only be accepted for allotments that have a Certificates of Title (and not based on a plan of division);
    - Amending the approval processes related to temporary stages required for events on private land;
    - Nominating a relevant authority for applications that would vary a Development Approval; and
    - Including management of site contamination investigation requirements.
- Comments about policy matters:
    - Suggesting adjustment of the 40-metre setback from all boundaries required for new buildings in the Rural Zone;
    - Introducing additional policy for aged care facilities;

  - Noting the community's desire for more 'local' outcomes from planning development, including placemaking and policy that will deliver consistency with local attributes, character and features.

- Comments about Roles and Functions:
  - Providing observations about community perceptions around the role of council in the planning system and its interactions with its appointed independent Council Assessment Panel (CAP), noting that there could be value in formalising the way in which a council may communicate with its appointed CAP to convey a viewpoint without interfering with or otherwise influencing the independence or processes of the CAP;
  - Providing observations about the opportunities and potential benefits of further regulating CAP procedures for consistency (such as meeting arrangements and how representations are heard), in a manner similar to the previous Development Regulations;
  - Comments about pressures experienced by staff involved in administering the new system, including the key role of Assessment Manager;
  - Observations about expanding continuing professional development requirements to be satisfied over two years rather than annually.

Planning and Design Code

A key reform of the planning system was replacing the 72 Development Plans and the myriad zones/ policy areas therein with a consolidated, consistent policy document, being the on-line Planning and Design Code.

The key matters highlighted for LRC within the draft submission include:

- Issues associated with having limited car parking requirements for certain new development (for example at the Roseworthy Township Expansion);
- Comments on how electric vehicle charging stations ought to be regarded under the PDI Act;
- The value of having areas with a car parking fund mapped in the South Australian Property and Planning Atlas (SAPPA).

e-Planning and the PlanSA website

Achieving an on-line planning system is a key reform delivered under the updated planning system. This provides a range of functions (and associated benefits), including:

- Access to a centralised repository of development information;
- The ability to lodge, track and assess development applications;
- Centralised reporting and system data.

The capabilities of the digital system are intended to evolve over time to ensure faster and more efficient development assessment processes via the Planning Portal.

The key matters highlighted for LRC within the draft submission are:

- A suggestion that approved plans are stamped automatically electronically in the system;
- A suggestion that an 'inspection clock' functionality be introduced with reminder notification for relevant officers;
- Support for payment of the lodgement fee on lodgement of an application;
- Advice regarding lodgement of building notifications via the Portal.

Budget Impact

☑ **No**

Conclusion

A number of key policy and administration observations have also been included within the draft submission, which also features commentary regarding infrastructure schemes.

The draft submission therefore responds to a range of matters, and it is recommended that Council adopts this as the basis for its submission to the Expert Panel.

Legislation

Heritage Places Act, 1993

Local Government Act, 1999

Planning, Development and Infrastructure Act, 2016

Strategic Plan

Goal 1 Community:	1.8	Continued investment and commitment in service delivery, including the updating of related plans, policies, and functionalities in-line with legislated requirements.

Council Policies

Nil.

Question Responses

Discussion Paper – e-Planning System and the PlanSA website Reform Options

User Experience

Website Re-Design

1. Is the PlanSA website easy to use?	No commentary to provide.
2. What improvements to the PlanSA design would you make to enhance its usability?	Automatic stamping of plans – plans uploaded under the 'stamped plans' classification are automatically stamped with the date, relevant authority and application number with a semi-transparent stamp so that if it is located over any information, it can still be read. Agree with implementation of standard conditions and notes pre-sets based on element type. Agree with implementation of Code rules document formatted as a checklist for DTS applications.

Mobile Application for Submission of Building Notifications and Inspections

3. Would submitting building notifications and inspections via a mobile device make these processes more efficient?	No commentary to provide.
4. Where relevant, would you use a mobile submission function or are you more likely to continue to use a desktop?	We are more inclined to continue to use a desk top app.

Online Submission Forms

5. Is there benefit to simplifying the submission process so that a PlanSA login is not required?	No objection exists with this concept providing that a trigger exists that advises the relevant authority of any content uploaded to the Portal via the relevant application.
6. Does requiring the creation of a PlanSA login negatively impact user experience?	For one off users, it could be unnecessary.
7. What challenges, if any, may result from an applicant not having a logon with PlanSA?	Limited, may just result in additional calls to Relevant Authorities to see the progress of the application, not a huge concern.

Increase Relevant Authority Data Management

8. What would be the advantages of increasing relevant authorities' data management capabilities?	Has the ability to inform regional plans and strategic planning in general.
9. What concerns, if any, do you have about enabling relevant authorities to 'self service' changes to development applications in the DAP?	Nil

Inspection Clocks

10. What are the advantages of introducing inspection clock functionality?	Introducing inspection clock functionality would provide a good visual indicator of current inspection pressures and also a reminder to inspection officers of upcoming inspections. It will be important to setup the inspections page in the portal to be similar to the applications page with tabs for 'For your action', 'waiting' and 'upcoming' and 'completed'. The notifications could also be moved from the assessments page to the inspections page to link it all together and enable email notifications so that officers get reminders about new and upcoming inspections.

11. What concerns, if any, would you have about clock functionality linked to inspections?	This would need to be further discussed with the PlanSA IT team that would set this up to understand how this process would work.
12. What, if any, impact would be enabling clock functionality on inspections be likely to have on relevant authorities and builders?	Again, a good visual indicator for all parties as to what inspections have been notified and when they would be occurring.

Collection of Lodgement Fee at Submission

13. Would you be supportive of the lodgement fee being paid on application, with planning consent fees to follow verification?	Yes. This is strongly supported. This will enable the application to be considered as lodged rather than just submitted and not create any confusion as to what version of the P&D Code shall be used for assessment purposes. It will also eliminate one of the steps in the lodgement process.
14. What challenges, if any, would arise as a consequence of 'locking in' the Code provisions at lodgement? How could those challenges be overcome?	Likely sole consequence is that applicants could submit and pay lodgement fee and then sit on the application for many months with no penalty, or have multiple applications submitted under several iterations of the Code. In the case of DTS applications, if combined verification and assessment were introduced, this could effectively be used to extend the period of time that an approval is valid, as the Code rules are locked in at the payment of the lodgement fee, but the operative date would only commence from the approval date. The issue that arises is that an application left 'unactioned' for an extended period of time would not be subject to any Code Amendments if the Code is ;locked-in' at the point where the Lodgement Fee is paid.

Combined Verification and Assessment Processes

15. What are the current system obstacles that prevent relevant authorities from making decisions on DTS and Performance Assessed applications quickly?	Limited obstacles within the e-planning system. Primary issues of delay fall outside of the e-planning system itself, in terms of waiting on information to complete both verification and then assessment processes. Alterations could be made to the e-planning system can be made to massage these issues – particularly around the timely supply of relevant information. These could include an applicant being required to provide mandatory information within 6 months of the initial request.

16. What would be the advantages of implementing a streamlined assessment process of this nature?	This could reduce the number of information requests and remove the requirement to double check DTS applications to ensure the Code has not changed between when the application was submitted compared to when the fees were paid on the application.
17. What, if any, impact would a streamlined assessment process have for non-council relevant authorities?	No commentary to provide.

Automatic Issue of Decision Notification Form

18. What are the advantages of the e-Planning system being able to automatically issue a Decision Notification Form?	Reduce double handling of a DTS application. Not possible for performance assessed applications.
19. What do you consider would be the key challenges of implementing an automatic system of this nature?	Nil
20. If this was to be implemented, should there be any limitations attached to the functionality (i.e., a timeframe for payment of fees or the determination will lapse)?	One to two weeks (Code Amendments are occurring approximately once a fortnight in 2022) from the requesting of fees after the completion of verification/assessment for DTS applications only.

Building Notification through PlanSA

21. Would you be supportive of mandating building notifications be submitted through PlanSA?	Yes, all building notifications should now be submitted via the Portal. The building industry has had time to work with the Portal and the ability for the building notifications to be submitted via fax, phone, email etc. has created a significant administrative burden on Councils. The Portal is the nominated platform, and the requirement that councils support the building industry with their administrative tasks impacts on key priority functions, being assessments and inspections.

22. What challenges, if any, would arise as a consequence of removing the ability for building notifications to be received by telephone or in writing to a relevant council? How could those challenges be overcome?	Limited where notifications can be submitted through PlanSA without a login.
23. Would this amendment provide efficiencies to relevant authorities?	Yes, building surveyors have had to take on a significant level of administrative work that could be managed more effectively by having notifications interact directly with the relevant application.

Remove Building Consent Verification

24. Would you be supportive of removing the requirement to verify an application for building consent?	No we are not supportive of removing the verification process from Building.
25. What challenges, if any, would arise as a consequence of removing building consent verification? How could those challenges be overcome?	If the building verification step is bypassed, the applicant would just receive the fee notification. If we lose the ability to be able to ask for mandatory information up front as part of the notification process, it will just result in information being requested after the fees are paid. Some applicants may choose not to proceed with an application if they are unable to obtain a building rules consent and then the dilemma of a fee refund would be left to be resolved.

Concurrent Planning and Building Assessment

26. What would be the implications of enabling multiple consents to be assessed at the same time?	Would need to reform the legislation to enable the ability to vary individual consents within an existing application, otherwise this will be likely to result in a significant increase in variation applications which will increase frustration. This is likely to occur where the building consent is issued first and alterations to the appearance, siting or layout may be required to obtain the planning consent, resulting in inconsistency between the consents that may not be resolvable as a minor variation.
27. How would this process deal with applications that require public notification?	Variation between consents would frustrate the process and lead to resources in ensuring plans approved via the sperate concurrent consents are indeed the same. Concurrent assessments are not generally supported.

Innovation

Automatic Assessment Checks for DTS Applications

1. What do you consider would be the key benefits of implementing an automatic system of this nature?	No commentary to provide.
2. What do you consider would be the key challenges of implementing an automatic system of this nature?	This would require a specific level of quality of plans to enable the system to work and could largely alienate regional councils. Further, a substantial portion of DTS applications are lodged by the owners of the land and often comprise hand drawn elements.
3. Would you be supportive of the Government investing in developing this technology so that it may integrate with the e-Planning system?	Not at this point in time, our view is that resources should be directed into areas of greater urgency.

3D Modelling for Development Application Tracker and Public Notification

4. What do you consider would be the key benefits of the e-Planning system being able to display 3D models of proposed developments?	Provides a visual context to representors.
5. Do you support requiring certain development applications to provide 3D modelling in the future? If not, why not? If yes, what types of applications would you support being required to provide 3D modelling?	Yes, but as this is an evolving area and cost is a relevant factor, it should only be applied to applications within particular zones of the CBD and inner metropolitan areas which exceed a certain height, or developments that exceed a certain development cost (10 million perhaps).
6. Would you be supportive of the Government investing in developing this technology so that it may integrate with the e-Planning system?	Yes

Augmented Reality Mobile Application

7. Would you be supportive of the Government investing in developing this technology so that it may integrate with the e-Planning system?	Not at this point in time – should ensure that 3D modelling does not cause information supplied by applicants to be too onerous in the first instance.

Accessibility through Mobile Applications

8. Do you think there is benefit in the e-Planning system being mobile friendly, or do you think using it only on a computer is appropriate?	Greater mobility would assist building surveyors whilst undertaking inspections.
9. Would you be supportive of the Government investing in developing this technology so that the PlanSA website and the e-Planning system is functional on mobile?	Yes

Discussion Paper – Planning and Design Code Reform Options

Car Parking

Code Policy

1. What are the specific car parking challenges that you are experiencing in your locality? Is this street specific and if so, can you please advise what street and suburb.	The parking requirements for the Roseworthy Township Expansion are an emerging issue. The RTE is in the 'Masterplanned Neighbourhood Zone' which only requires an on street carparking provision of 0.3 of a carpark per dwelling. Public transport is not available, as Adelaide Metro bus services are not established, and the closest train station to the Roseworthy Growth Areas is located in Gawler some 10 kilometres away. As a consequence, residents are heavily reliant on private passenger vehicles to travel to work, school, medical facilities and shopping districts etc. Households requiring more than one vehicle are common. While public transport service provision may escalate in time, a 0.3 car park space per dwelling requirement is completely insufficient and therefore not suitable. This issue is compounded as suburban streets are narrow (i.e. 7.2-metre-wide carriage ways) which restricts the ability for on street carparking on both sides of a road as well as allowing two-way simultaneous vehicle access. Increasing road carriage way widths to 7.6 m in width would in part improve manoeuvrability for vehicle users within streets. Areas like Lightsview have created congested streets with no opportunity for visitor carparking which in turn results in persons having to park a distance away from the destination point. The design parameters of onsite undercover carparking spaces are considered insufficient. A single carpark width of 3 metres, length of 5.4 metres and garage door opening of 2.4 metres largely only cater for very small vehicles and not the SUV and land cruisers now prevalent and popular amongst car owners. The reality of undercover car parking rates this minimal in size, demonstrates that they are not fit for purpose. The high site cover permitted within residential zones also often results in landowners using garages as storage areas which in turn then leads to on street carparking pressures. Designing for larger under cover carparking areas would enable larger vehicles to be parked undercover as well as require that domestic storage areas are provided in standard housing designs.
2. Should car parking rates be spatially applied based on proximity to the CBD, employment centres and/or public transport corridors? If not, why not? If yes, how do you think this could be effectively applied?	No commentary provided.

3. Should the Code offer greater car parking rate dispensation based on proximity to public transport or employment centres? If not, why not? If yes, what level of dispensation do you think is appropriate?	Proximity to public transport routes is not the only determinant. The public transport offering needs to be frequent (e.g. more than once per hour), reliable and affordable if it is to provide people with a viable alternative to private vehicle use. As a peri-urban council, it is not practical in our circumstances to apply a greater level of dispensation.
4. What are the implications of reviewing carparking rates against contemporary data (2021 Census and ABS data), with a focus on only meeting average expected demand rather than peak demand?	Examples such as Lightsview ought to provide a case study for this. Flattening parking rate requirements to meet average and not peak demand will simply create periods where parking is availability is diminished; and during those periods drivers will be forced to park either illegally or more remotely and walk to their desired destination. The risk to vehicle owners will be that their vehicles and property will potentially be less secure during these periods. A likely outcome is that government will be lobbied to provide secure parking elsewhere in the absence of having this required on private allotments, incurring a public cost. Another alternative is that government will be lobbied to invest more heavily in public transport to increase service frequency and reliability, which would likely include greater subsidisation of service provision.
5. Is it still necessary for the Code to seek the provision of at least one (1) covered carpark when two (2) on-site car parks are required.	Not necessarily, however we would say that providing an undercover car park would likely be more highly regarded in terms of establishing and retaining property value, providing two 'uncovered' parking spaces would meet the demand requirement. An observation however is that as vehicles are a significant investment, people often seek a level of protection for them. Where no undercover parking space is provided, there is invariably a subsequent application for a carport that may then intrude into the front setback requirements and have an effect on the predominant streetscape character, which is often not desirable.

Design Guidelines

6. What are the implications of developing a design guideline or fact sheet related to off street carparking?	A design guideline or fact sheet may not carry enough weight to have a positive effect. The related Expert Panel Discussion Paper 'Planning and Design Code Reform Options' observes at page 61 that: *In the Panel's view, although car parking is a legitimate issue for South Australians, there is not significant work to be done to the Code, but rather in the appropriate management of both on and off-street car parking and local road design. These matters largely fall to local government authorities to manage and enforce.*

	Local road design is influenced by many factors, including minimum road widths, driveway locations, service requirements and streetscape landscaping. Building envelope plans and fixed driveway locations are one mechanism, however oftentimes these are 'eroded' on a case-by-case basis as a landowner seeks a double width driveway or to 'flip' the intended driveway location. An alternative here could be to require wider streets in new greenfield locations to maximise on-street supply and look at policy mechanisms to protect off-street parking design from encroachment by limiting driveways to single width and/ or fixing the locations of same.

Electric Vehicles

7. EV charging stations are not specifically identified as a form of development in the PDI Act. Should this change, or should the installation of EV charging stations remain unregulated, thereby allowing installation in any location?	EVCS should be partly regulated in our view. EVCS should be exempt: • Where located within a public space • Where located on private property • Where an existing land use is in place; and • Where no advertising is involved in the development If a charging station is to be listed as a land use in its own right, then they should be considered a form of development (i.e. similar to a car park or petrol filling station).
8. If EV charging stations became a form a development, there are currently no dedicated policies within the Code that seek to guide the design of residential or commercial car parking arrangements in relation to EV charging infrastructure. Should dedicated policies be developed to guide the design of EV charging infrastructure?	Yes, if EVCS become a form of development, policy will be required to assess them against.

Car Parking Off-Set Schemes

9. What are the implications of car parking fund being used for projects other than centrally located car parking in Activity Centres (such as a retail precinct)?	Parking off-set schemes to centralise parking supply require time to accumulate funding to address the concern they are intended to respond to. In a rapidly growing residential development, allowing developers to build new homes with insufficient supply based on a parking off-set scheme is likely to be less responsive than necessary and a cause of concern. Congestion of roadways with vehicles would compound access, manoeuvrability and safety concerns and become a significant source of complaint. A better scenario could be to recognise this requirement as a part of an infrastructure scheme to assign suitable land in an optimum location, facilitate shared use (e.g. between peak and off-peak times) with a retail area, opens space or other appropriate facility and enable planning for 'whole of life' such that as private parking demand declines as may be forecast over time, the sites can be regenerated for other community uses.
10. What types of projects and/or initiatives would you support the car parking funds being used for, if not only for the establishment of centrally located car parking?	No commentary provided.

Commission Prepared Design Standards

11. Do you think there would be benefit from the Commission preparing local road Design Standards?	A number of Council's collaborated and created the following document https://www.ipwea.org/southaustralia/viewdocument/infrastructure-guidelines-sa-rev-1. Creating yet another document would be superfluous given the work and detail that went into documents already available and used by councils.

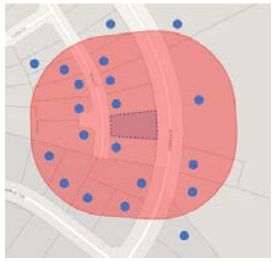
Other

Mapping of Car Parking Fund Locations

Council areas that provide a carparking fund within their council area should be spatially mapped within SAPPA. This would enable applicants to have ease of access to this information.

Discussion Paper – *Planning, Development and Infrastructure Act, 2016* Reform Options

Public Notification and Appeal Rights

1. What type of applications are currently not notified that you think should be notified?	Potential for development that exceeds 6 storeys in the Winery Experience Zone to be publicly notified.
2. What type of applications are currently notified that you think should not be notified?	• Telecommunication towers in the Rural Zone should reflect the public notifications triggers that existed under the Development Act. i.e. where height limits were exceeded then public notification should be triggered. • Frost fans that achieve a 500 m separation distance from a non-associated dwelling should not require public notification. The current system requires that all frost fans are publicly notified. EPA noise policy suggests that no noise issues occur where these distances are achieved. It would remove the need for unnecessary public notification. • Dams in a Rural Zones should not be notified other than where they exceed a 1:3 gradient and where not associated with an agricultural or horticultural land use. Dams are necessities and requiring public notification of dams which are common elements in a Rural Zone is considered unnecessary. The safety, appearance, spillways etc of a dam are matters that are considered as part of an assessment. • The Panel should explore farming and horticultural land uses as being forms of Accepted Development or even possibly exempt from development where located within a Rural or Rural Horticulture Zone.
3. What, if any, difficulties have you experienced as a consequence of the notification requirements in the Code? Please advise the Panel of your experience and provide evidence to demonstrate how you were adversely affected.	 Public notification of retaining walls and any development on a boundary, including garages, that currently trigger public notification require that all properties within 60 metres to be notified. In instances where boundary development triggers notification, only the property(ies) directly affected by the proposal should be notified (i.e. the property that will have the boundary work on their common property boundary. At present a garage on the boundary results in properties two or three hoses removed from the site to be notified. This is nonsensical. The Residential Code largely removed notification of all minor domestic structures, including those located on a property boundary. It appears as the PDI Act has regressed substantially in this regard and re-introduced notification where it had previously been removed as part of the Residential Code amendments. See example below. The image below is a live example that illustrates the boundary development that only affects one other property; however 20 properties are required to be notified. This is ineffective.

4. What, if any, difficulties have you experienced as a consequence of the pathways for appeal in the Code? Please advise the Panel of your experience and provide evidence to demonstrate how you were adversely affected	No commentary provided
5. Is an alternative planning review mechanism required? If so, what might that mechanism be (i.e. merit or process driven) and what principles should be considered in establishing that process (i.e. cost)?	No commentary provided

Accredited Professionals

6. Is there an expectation that only planning certifiers assess applications for planning consent and only building certifiers assess applications for building consent?	Yes. This would ensure that 'no blurring of the lines' occurs between the planning and building assessments.
7. What would be the implications of only planning certifiers issuing planning consent?	No negative implications, as planners would be aware of the consequences of issuing decisions inconsistent with policy and potential of challenge from Councils. To be clear it is assumed that there is no intention of removing Assessment Managers from the decision-making process for DTS applications.
8. Would there be any adverse effects to Building Accredited Professionals if they were no longer permitted to assess applications for planning consent?	Only a few certifiers actually provide both services and the reality is that Council's undertake the final consistency check to ensure that the applications have been correctly determined. Where they have not, development authorisation will be withheld.

Impact Assessed Development

9. What are the implications of the determination of an Impact Assessed (Declared) Development being subject to a whole-of-Government process?	No commentary to provide.

Infrastructure Schemes

Planners from growth councils of Adelaide Plains Council, Town of Gawler, Light Regional Council, City of Onkaparinga, City of Playford, City of Salisbury, Mount Barker District Council, Barossa Council have come together to provide a joint response regarding the need to establish workable infrastructure schemes for large and complex land developments.

We agree with the expert panel that as provided in the *Planning, Development and Infrastructure Act 2016* (the Act) the General and Basic scheme would be overly complex and difficult to work with, if operatable at all. Two quotes from the Expert Panel Discussion Paper are illuminating:

*'The provisions regarding general infrastructure schemes have **not yet** commenced and before they have commenced, the Commission must conduct an inquiry into the schemes in relation to the provision of essential infrastructure under Part 13 of the PDI Act, and a report on the outcome of the inquiry must be laid before both Houses of Parliament* (pg. 31)'.

This is a very concerning delay in the provision of essential infrastructure, which in turn would be a drag on project implementation and overall economic development. Despite the PDI Act being in place since 2016. The Discussion Paper also highlights the complexity of managing these infrastructure projects:

*'The legislative provisions surrounding infrastructure schemes under the PDI Act are **far more detailed and complex** than the legislative provisions in most other jurisdictions* (pg. 33)'.

Councils have responded to this legislative and policy gap with local developer contributions schemes using Deeds and Infrastructure Agreements anchored to affected properties by Land Management Agreement/s to secure infrastructure provision or funding (e.g. via Separate Rates levies on properties) once they reach a development trigger.

For example, the current approach to infrastructure provision in Gawler East Growth Area provides an example of a significant resourcing and administration challenge aimed at delivering outcomes that also affect State Government assets.

On 1 July 2017, Council introduced three Separate Rates across the Gawler East Growth Area totaling $19.6 million (M):

1. Transport Infrastructure (Link Road) Separate Rate - $8.2M
2. Community Infrastructure Separate Rate - $4.8M
3. Traffic Interventions Separate Rate - $6.6M

In addition, Council contributed $5.4M to the development of infrastructure in Gawler East Growth Area bringing the total potential infrastructure spend to $25M.

These schemes in themselves are complex and require individual tailoring of legal advice and agreements. On occasion, these schemes involve a council maintaining matching agreements with several landowners concurrently across a nominated area. They involve extensive staff resources in their administration, including providing advice on interpretation (as needed),the development of proposals, gaining cooperation of landowners and levying of the separate rate.

Current arrangements are resource intensive, inefficient and given they are managed at a local level in most cases, likely to be inconsistent across the state.

Some councils have experienced negotiating and settling deeds involving infrastructure affecting state assets, such as the arterial road network, without the relevant state agency being a party to the Agreement.

Councils have also experienced challenges in circumstances where affected properties are sold and landowner responsibilities are not appropriately transferred as a part of the transaction.

An alternative solution to Land Management Agreements and Separate Rates is required to enable the development of the State's strategic growth areas. The solution needs to work for these areas because they require co-ordinated infrastructure delivery and rezonings where not all landowners are in agreeance and where the infrastructure provision may have a long horizon and several providers.

We strongly believe based on our combined experiences there must be a **whole of government** approach, requiring all relevant parties to come together to discuss and ultimately agree to revised schemes for infrastructure requirements, its delivery and funding. The Councils agree with the State Government position that infrastructure delivery must be resolved prior to the commencement of a related Code Amendment. There would be a benefit in ensuring that for certain larger-scale undertakings, detailed Structure Planning precedes related infrastructure negotiations and Code Amendments.

Given the need to expedite development in South Australia a simpler system can be developed to ensure that there is a common understanding of required infrastructure contributions at the outset of each project requiring same. The Councils who have collaborated to develop this paper contend that a 'case by case' approach as currently utilised is delaying infrastructure projects from housing to employment lands and hence holding up both orderly and economic development.

Infrastructure Schemes should be clear and straightforward in what they need to achieve based on the following principles - **strategic, equitable, sustainable and best practice, adaptive, and economical.**

Within the Discussion Paper – Planning, Development and Infrastructure Act 2016 Reform Options, we note the Jurisdictional Comparison and consider there is substantial merit in further exploring alternative legislative provisions noting there is support within this group for a similar approach taken by the Victorian Planning Authority. It is noted that the State of Victoria has been operating a Developer Contributions Scheme since 2003. We have been asked to respond to the following questions on Infrastructure Schemes posed by the Expert Panel:	
10. What do you see as barriers in establishing an infrastructure scheme under the PDI Act?	Response • Acknowledging that one of the schemes is not operational, the schemes are overly complex with numerous decision-making points by different owners. • Councils are concerned that most of the decision making, and control comes from the State Government when Local Government has the knowledge, links to the community and current and future ownership of most of the infrastructure. • The schemes provide no guidance on where the upfront investments will come from. • Separately, the schemes place considerable responsibility on the 'Scheme Coordinator' role, making this the subject of potential governance risk in conducting negotiations with more than one Landowner/ Developer ; • The Scheme Coordinator approach may lack the ability to involve key stakeholders, e.g. government agencies and/ or key utilities to ensure timely deliverables.
11. What improvements would you like to see to the infrastructure scheme provisions in the PDI Act?	Response • It is considered the issues identified in question 1 plus the recommendations in questions 3 should be considered. • In addition, councils would like the definitions of infrastructure to be reviewed to incorporate open space and other social infrastructure. • The Act should be amended to ensure Structure Planning of growth areas with infrastructure designs and costings occurs prior to the rezoning process. • The Act needs to require that the State Government provides for an effective whole of government infrastructure co-ordination that aligns with Regional Plans, including funding mechanisms for infrastructure agencies. It is difficult for councils to engage with infrastructure providers (e.g. SA Water, SAPN/Electranet and the Department for Education) at

	the strategic planning and rezoning stages. Agencies need to be committed to providing services to facilitate and support development opportunities.
12. Are there alternative mechanisms to the infrastructure schemes that facilitate growth and development with well-coordinated and efficiently delivered essential infrastructure?	Response A 'Whole of Government' approach (including Transport, Education, Health and Wellbeing, Emergency Services, Environment, Recreation and Sport, Local Government etc.) via an empowered authority would appear to be an effective alternative model to consider exploring. For instance, the Victorian system has been identified as having a better coordinated infrastructure model and provides an example of measures that could be adapted to South Australia such as: • Predetermined contribution costs for various types of infrastructure, with the ability to alter the agreed cost when identified in a structure plan. • A State infrastructure fund to pay for infrastructure prior to development proceeding and costs being recouped. • A minimum requirement that 10% of land is allocated towards key infrastructure at the structure planning stage. Anecdotal feedback suggests that the Victorian model has the benefits of all stakeholders, (including landowners, developers, communities, local authorities, State Departments/agencies, key utilities etc.) being aware of a contribution-based approach in contemplating rezoning and development opportunities. Councils would be interested in exploring such a model with the State Government and other stakeholders, acknowledging that Councils would maintain an interest in continuing to manage key local infrastructure decisions and delivery management arrangements. Any processes need to ensure key triggers for delivery of required outcomes. As Development Assessment is problematic as a trigger for infrastructure delivery and relying upon the Land Management Agreement/ Infrastructure Deed model can also be problematic, it is considered that creating another legislative device that can be attached to an affected Certificate of Title, similar to a LMA may be worth considering as an addition to the current tools.

Local Heritage in the PDI Act

13. What would be the implications of having the heritage process managed by heritage experts through the Heritage Places Act (rather than planners under the PDI Act)?	On balance, it is agreed that there is value in incorporating local heritage provisions into the Heritage Places Act to provide legislative separation between heritage listing and planning matters. In this, there is support for the heritage listing process being managed by Heritage SA for consistency. It is noted that Representative buildings should also go through the same listing or delisting process and Local and State Heritage listed places. Heritage SA experts would also be well versed in determining if heritage overlays are accurate and provide advice as to whether overlays should be altered. Further it is recommended that Heritage SA should initiate Code Amendments when considering heritage areas. This would be undertaken in consultation with the local council. A realistic consideration however is the resourcing implications this would have on Heritage SA. Additional staff would be required to manage the work created via any such legislative change. It is noted that having Heritage Experts then make subsequent decisions about Local Heritage Places is interpreted as removing this form of development from the planning legislation. Light Regional Council would prefer to remain as the relevant authority for full or partial demolition of a Local Heritage Place, with a process inclusive of a referral an opportunity for direction from Heritage SA. An application for full demolition of a Local Heritage Place should require a structural engineer's report so an assessment has regard to technical structural advice regarding the place involved. The referral to Heritage SA that includes the partial or full demolition of a Local Heritage Place would in turn remove the public notification trigger facilitating decisions that are technical and fact-based. In summary, the Local Heritage Place mandatory referral replacing the public notification process would streamline processes. To do both would only add layers to the process which is not deemed necessary.
14. What would be the implications of sections 67(4) and 67(5) of the PDI Act being commenced?	We note section 67(4) is not yet activated and provides: *(4) In addition, an area cannot be designated under an amendment to the Planning and Design Code as constituting a heritage character or preservation zone or subzone unless the amendment has been approved by persons who, at the time that consultation in relation to the proposed amendment is initiated under the Community Engagement Charter, constitute at least the*

	prescribed percentage of owners of allotments within the relevant area (on the basis of 1 owner per allotment being counted under a scheme prescribed by the regulations) With section 67(5) indicating the *prescribed percentage* means 51% of relevant owners of allotments within a relevant area. We agree that this implies that the decision to designate any new heritage character or preservation zone or subzone may be diminished to one of local popularity amongst affected landowners rather than technical merit, and it would seem unlikely that this threshold would be achieved. The suggestion to remove this requires consideration of whether affected landowners have an appropriate opportunity to provide input to the Code Amendment process. It would seem than a suitable appeal process for affected property owners could be one way of offering an alternative to sections 67(4) and 67(5) in such circumstances.

Deemed Consents

15. Do you feel the deemed consent provisions under the PDI Act are effective?	The 'deemed consent notice' provision is not an effective tool in our view. The notion of a 'deemed consent' is predicated on the relevant authority having all of the necessary information for an application and then failing to process it efficiently. The reality is more nuanced. Applications are received with incomplete details, poor quality plans or otherwise in a form where they could achieve a consent if there are minor adjustments negotiated for the proposal. Relevant authorities could simply refuse such applications to achieve processing times and thus avoid the risk of deemed consent notices being received. However this outcome would not be in the interests of those applicants or good customer service more generally. The planning system presently does not anticipate or allow for a negotiation between a relevant authority and an applicant within the assessment process to test if a supportable compromise form of a proposal is achievable. However it is likely that councils processing applications are finding value in consulting with applicants during an assessment in to resolve such planning issues to enable better planning decisions to be realised. The 'deemed consent notice' provision places an administrative obstruction to this approach, as receiving the notice then forces a redistribution of resources to prepare to respond in the ERD Court. There are increasingly suggestions of deemed consent notices being received immediately after a timeframe deadline, even if there has been ongoing communication with an applicant.

	Our view is that deemed consent notices are not an effective approach in their current form. Were they to remain, the following process should be added and mandated via Practice Direction: 1. Notice to be served on Council that allows 10 business days for Council to issue a decision i.e., approval or refusal not just the option to ratify the consent. 2. If this does not occur then the matter should proceed to the ERD Court. It is recommended that legislation is changed to remove the need of legal counsel from the process and affidavits, to reduce the cost burden on councils which is substantial.
16. Are you supportive of any of the proposed alternative options to deemed consent provided in this Discussion Paper? If not, why not? If yes, which alternative(s) do you consider would be most effective?	The following is not supported: 1. Deemed Approvals. A development authorisation is generally only withheld where there are significant inconsistencies between the consents issued. Withholding of a development authorisation is not without good reason. The deemed approval process would only frustrate the final process. This would only increase compliance issues and costs for Councils. 2. Final development approval must only be issued by the Council. The level of inconsistency between consents is substantial and certifiers may make different determinations with respect to inconsistencies between consents (i.e. greater flexibility). Such outcomes could strike at the heart of a matter that was the subject of a representation and which resulted in setback being achieved, but then compromised via inconsistent plans. This commentary also relates to minor variation applications. Increasing timeframes across the board for all applications may alleviate some of the pressure and allow for better planning design outcomes.

Verification of Development Applications

17. What are the primary reasons for the delay in verification of an application?	There are a combination of factors that have an influence in this space. Councils are often required to assist resident applicants with navigating the SA Planning Portal or lodging applications on their behalf. While there is a fee arrangement for assisting with lodgements, there is nonetheless an allocation of time made towards providing this customer service.

	Council resources are limited, and the timeframe-focus imperative of the planning system requires local government to prioritise application processing. In the community, there is a broad unawareness of the quality of plans and level of detailed information required to support a Development Application in the community. Anecdotal reports indicate that private entities that were once involved in the development system under the previous Act, such as larger shed or minor outbuilding prefabricators (e.g. Stratco, Olympic and Softwoods) have made a commercial decision to no longer submit applicants on their client's behalf. The result of this is that often: • Applicants interacting with the system are unfamiliar with its requirements • The quality of plans and supporting information is often deficient • Insufficient information is being uploaded with the application Councils issuing requests for further information to achieve the minimum mandatory information required to achieve verification are often then finding that applicants are confused if they receive a subsequent request for further information necessary to process the application in accordance with its assigned pathway. It is an administrative duplication that is not well received by the applicant. Relevant authorities, particularly councils, are having to allocate considerable time to confirming that applications are suitable for processing via the verification requirements at the same time as facing penalties, such as deemed consent notices, for failing to achieve assessment timeframes. As noted, these obligations are in addition to assisting residents with navigating the new system and also responding to development enquiries, which are key services that whilst necessary to support local ratepayers and residents, do not appear to be factored in to legislated arrangements. Another matter that should be given consideration is the amount of time that an application can effectively reside in verification mode. At present no timeframe exists and an application cannot be withdrawn or cancelled by a relevant authority as they are not technically lodged and no legislation exists to enable an authority to cancel an application that has not been responded to via the verification process. As such, we recommend that after a 4 month period of requesting mandatory

	information on at least 2 occasions, that the relevant authority should be able to cancel the application. It recommended that legislation to this affect is introduced into the General Regulations.
18. Should there be consequences on a relevant authority if it fails to verify an application within the prescribed timeframe?	No, there shouldn't be any consequences on a relevant authority if it fails to verify an application within the prescribed timeframe. From a council perspective, this would amount to the risk of being penalised because an applicant has failed to satisfy the minimum requirements of the legislation. This question doesn't have regard to the fact that relevant authorities are spending significant amounts of time verifying applications and asking for repeat information on a single application. This data is not being captured and doesn't illustrate the work required to manage an application via the verification process. The alternative view would be that the system should not accept applications that are incomplete.
19. Is there a particular type or class of application that seems to always take longer than the prescribed timeframe to verify?	In the Light Regional Council's experience those few applications that fail to meet the verification timeframes are few and far between. However, it should be noted that a $40 million development may be lodged with various expert reports and the reality is that this documentation needs to be digested before it can be determined if an application may trigger a referral and in turn require more information as part of the mandatory information process. Such an application is vastly different to verifying an application for a 6m x 6m carport or other minor domestic outbuilding. This is not accounted for in the legislated arrangements. There needs to be greater understanding and recognition that Council staff do not simply exclusively assess applications. They are required to perform multiple roles with competing demands between verification, v's assessment, v's site visits/ inspections, V's requests for further information, vs responding to enquiries, v's liaising with applicants, their representatives and referral bodies, responding to internal enquiries from management and educating the general public on the system (new enquiries and those that relate to applications within the system) v's finalising applications.
20. What would or could assist in ensuring that verification occurs within the prescribed timeframe?	The Expert Panel's Discussion Paper highlights that verification of development applications is a unique process to South Australia. The term 'verification' is generally unfamiliar to an applicant, particularly those that do not regularly interact with the planning system. There could be value in replacing the term 'verification' with 'Application Review' (or similar). The majority of applicants would understand this term. It would be more effective to refine the request for further information (RFI) process and charge the mandatory lodgement fee at the time the application is submitted. This would have the additional benefit of clarifying the lodgement date and version of the Code that applies to the application.

	The combined 'verification/ application review' and RFI process would require a longer time to process i.e., 15 business days, but this would enable all the information required and fees to be requested at one time. The current process is summarised as: 1. Application submitted – Relevant Authority starts verification process and requests mandatory information (this may require up to 3 requests). 2. Once mandatory information is submitted, the file is reviewed a second time and, providing all the mandatory information is provided, fees are then requested. Applicants unfamiliar with the process are not aware that further information may be requested after this process. Applicants commonly express their frustration with respect to this matter. 3. Once fees are requested then file is again placed in abeyance. 4. Once fees are provided, an assessment is started the file is assessed and a RFI is sent if any other required information is lacking. If further information is required, the file is then placed in pending. 5. Once further information is provided an assessment commenced including distribution of referrals and public notification if required. Clearly, there are multiple steps and time is lost before an assessment is commenced which results in inefficiencies. If the process were to be revised as suggested, 15 days for application review would enable efficiencies and then a 15-day processing time is likely to be sufficient as the information required to finalise an assessment would be available. This is likely in the file only requiring 2 interactions before a decision is issued. Substantial efficiencies could be achieved via this suggested alternative process.
21. Would there be advantages in amending the scope of Schedule 8 of the PDI?	This is not considered to be necessary. It would be beneficial to adopt the suggested process change above and revise the verification process entirely. A beneficial change to the portal would being able to change the element after a RFI is issued and information provided as this would re set the assessment clock if the applicant initiates changes that may then trigger a referral or other process not originally required.

Other Comments

Process

Minor Residential Applications

Minor residential applications such as verandahs, carports and garages (inclusive of a dwelling) on boundaries (behind the front dwelling setback) should be exempt from any form of public notification.

If there is a desire for the Review Panel to retain public notification for development such as carports, garages etc on a boundary then the notification should only extend to those properties that are directly affected. A new category of public notification should be introduced if notification remains for minor domestic structures, that only requires public notice be given in writing to the property owner directly affected (similar to the Category 2A under the Development Regulations 2008 that was never enacted).

New Allotments

New Allotments that have been approved in a plan of division but have not been cleared to enable deposit of the plan at the Lands Titles Office or assigned a Certificate of Title can be lodged within the Portal. This should not be able to occur. An allotment on a plan of division is hypothetical until it is formally created. Currently certifiers are approving dwellings on allotments that don't exist. No regard can be given to the location of infrastructure such as streetlights, side entry pits, pram ramps, on-street parking etc. At present Council is having to withhold Development Authorisation where allotments do not lawfully exist.

Performance Stage for Events

The Light Regional Council and other outer metropolitan and regional councils feature numerous wineries which like to host annual special events such as a 'Day on the Green'. These events which only occur over a day or weekend are considered incidental and ancillary to the lawfully established winery use and therefore not considered an additional use or change in land use requiring a development authorisation.

These events often require large temporary stage structures (platforms) for performances – e.g. 400+ square metres in area and with elements more than 6 metres high. It is understood that, if located on private land, these structures are 'development' constituting 'building work' and require building rules consent accordingly.

A building rules assessment of these stages is problematic as they are temporary structures and the National Construction Code (NCC) is more tailored to the assessment of permanent structures. Further, a full assessment is required against the NCC, which is a time-consuming process and accordingly Council is experiencing issues with trying to issue a development authorisation for this form of temporary structure.

Production companies have advised that the following document https://www.abcb.gov.au/sites/default/files/resources/2022/Standard-temporary-structures.pdf exists and is utilised interstate as an assessment document for temporary stages and other similar temporary structures. This document is not recognised via the PDI Act and General Regulations or P&D Code and as such cannot be used as the assessment tool to undertake a building rules assessment.

The process associated with erecting such temporary stages includes engineering plans and a review and sign-off procedure.

Schedule 4 (4)(11) of the PDI (General) Regulations 2017 provides for:

The construction of a temporary building by, or with the authorisation of, a council where the building—

a) does not remain on the site for more than 60 days; and
b) is erected for the use of the council, or for some other public or community purpose approved by the council; and
c) does not carry any advertising material (other than material which is incidental to the purpose for which the building is erected)

Music events and events such as a Day on the Green are more in the nature of a commercial activity (rather than a public or community purpose) and legal advice obtained has advised that this exclusion does not apply in such circumstances. The construction of these temporary performer's stages therefore involve building work and require development authorisation.

It is recommended that to resolve the above issue that one of the following recommendations is advanced.

Possible solutions recommend include:

1. Amend schedule 7 – and make temporary performer's stages complying forms of development where they satisfy the following criteria:
    a. The stage is only for a short and temporary period i.e. 3 days or less; and
    b. An application is supported by an engineer's certificate.

OR

2. That all performer's stages be exempt from being development where they are temporary in nature and associates with festivals and the stages are closed stages and not public stages (i.e. only for use by the performer and not for public access).

OR

3. The document listed above 'ABCB Temporary Structures Standard' (https://www.abcb.gov.au/sites/default/files/resources/2022/Standard-temporary-structures.pdf) should be endorsed by the State Government and adopted and included within the P&D Code and Regulations which would enable a building rules assessment to be undertaken against this document.

Variation Development Applications

Where a variation to a development application is proposed that seeks to alter a condition, this is not determined to be development.

Where a variation to a condition is proposed, a condition is not development and therefore *Table 5 Procedural Matters (PM) – Notification* does not apply as a 'Condition' is not a 'Class of Development'.

If an application is a variation application under Section 128(2) of the PDI Act that seeks to vary a prior development authorisation; the first thing to consider for such applications is whether the proposal includes any 'development' for the purposes of the PDI Act. A change to the hours of operation is not 'development'. If another element is not proposed that involves building work then separate elements would not apply.

Under section 107(3) of the Act, the statutory requirement to undertake public notification only applies to a 'proposed development', where that development is to be assessed under that section as a code-assessed, performance-assessed development. Where a proposal does not include development, the requirements of section 107(3) do not arise. Public notification is not required and there is no need to consider Table 5.

A variation to a development authorisation or consent that includes a change to a condition should be allocated an assessment pathway and public notification category.

Legal advice has confirmed that the PDI Act unfortunately doesn't address how variation applications that do not involve development are to be considered. Further, under the PDI Act and PDI (General) Regulations, the identity of the relevant authority is ordinarily determined on the basis of the relevant category of development (i.e. as accepted, code-assessed or impact-assessed), where such categories only apply to 'development'. In the absence of clear direction in the legislation, the default position under section 93(1) of the PDI Act, is that the council assessment panel is the relevant authority. As such, in the example provided above the CAP is the relevant authority to determine a variation application.

Should the CAP desire to delegate the assessment of such applications to staff, it would need to be delegated pursuant to Sections 102 and 128 of the PDI Act to assess and grant or refuse planning consent in relation to variation applications that do not involve 'development'.

The issues above should be resolved by designating a relevant authority for such applications rather than require further delegations to be applied by the relevant authority. This would assist in standardising the process for all Councils.

Practice Direction 14 – Site Contamination

The need to obtain Preliminary Site Investigation (PSI) reports is concerning in the following instance:

- Clause 5 of Practice Direction 14 requires that where no land use exists, and a land use is proposed that a PSI is required as part of the development application.

The following case studies are provided to highlight the deficiency with the current Practice Direction:

Case Study No 1

- Warehousing activity in a Strategic Employment Zone. The site is vacant and because no land use exists the site is transitioning from a class 7 (vacant land) to a class 6 land use which is warehousing. Based on this case study a PSI is required. Consultants and Applicants are frustrated with Council's administering the Practice Direction dictates the required processes. This is a flawed process in this instance given the zoning of the land.

Case Study No 2

- Activity Centre development within the Master Planned Neighbourhood Zone where an Activity Centre subzone exists and the land is vacant, the Practice Direction pursuant to Clause 5 (d) requires the centre applicant to produce a PSI where the land is vacant regardless of the fact that the subzone is an Activity Centre that anticipates centre uses.

Case Study No 3

- Where a dwelling was the original land use which changed to an office and then reverts to a dwelling a PSI is triggered based on the land use hierarchy table within the Practice Direction. It is recommended that the Practice Direction should include exclusions from requiring a PSI where the following is proposed:
    - Dwelling use to an office to a dwelling
    - Dwelling to a child-care centre to a dwelling.

It is however recognised that where a land use changes from a Dwelling to a form of Industry and then back to a dwelling, then a PSI is justified.

The need to obtain Preliminary Site Investigation (PSI) reports is concerning in the following instance:

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The following case studies are provided to highlight the deficiency with the current Practice Direction:

Case Study No 1

Warehousing activity – Strategic Employment Zone

The site is vacant and because no and use exists the site is transitioning from a class 7 (vacant land) to a class 6 land use which is warehousing. Based on this case study a PSI is required. Consultants and Applicants are frustrated with Council's administering the PD which dictates the required processes. This is a flawed process in this instance given the zoning of the land.

Case Study No 2

Activity Centre development within the Master Planned Neighbourhood Zone where an Activity Centre subzone exists and the land is vacant, the Practice Direction pursuant to Clause 5 (d) requires the centre application to produce a PSI where the land is vacant regardless of the fact that the subzone is an Activity Centre that anticipates centre uses.

Case Study No 3

Where a dwelling was the original use which changed to an office and then reverts to a dwelling a PSI is triggered based on the land use hierarchy table within the practice direction. It is recommended that the Practice Direction should include exclusions from requiring a PSI where the following is proposed:

- Dwelling use to an office to a dwelling
- Dwelling to a childcare centre to a dwelling

It is however recognised that where a land use changes from a Dwelling to a form of Industry to a dwelling, then a PSI is justified.

Farming

Farming transferred from accepted development to exempt in certain zones and subject to the current accepted development requirements. All assessment associated with a change of land use to a farming land use in a Rural zone relates to the Planning Assessment. Given that the accepted development criteria for farming excludes building work, no assessment is required under the Building Consent, as such Relevant authorities are having to undertake an administrative process with no assessment undertaken and charging fees for this to occur.

Significant opportunity exists to expand the scope of accepted development. In most zones, a DTS assessment for an outbuilding, carport or verandah only contains the following additional assessment criteria when compared to the accepted development criteria (other than where overlays are involved):

1. A larger floor area
2. Does not result in less than the required Private Open Space, or Off-street Carparking; and
3. Driveway access points on allotments with a frontage width of 10 metres or less are limited to width of between 3.0 and 3.2 metres.

Given the value of 2 and 3, an argument could be made that they should be both included as part of an accepted development in any case.

By expanding the scope of accepted development, the cost of applications of this nature will be reduced along with the total time between the submission of the application and the issuing of development approval.

Other forms of DTS development may be more difficult to incorporate into accepted development as they will have assessment provisions that require a greater level planning knowledge to interpret and apply.

Policy

Rural Zone Policy

The policy requires that 40-metre setbacks are achieved for all development. This includes implement sheds, agricultural buildings, tourist accommodation etc. A setback of 40-metre for an agriculture building is considered excessive and can result in excessive intrusion into productive land if the ability to cluster buildings efficiently is not provided for. It is recommended that the Policy should be changed so that a 40-metre front setback is preferred but other setbacks are discretionary where consistent with the pattern of development within the context of the site and the locality.

Aged Care Policy

Very little policy exists within the P&D Code for aged care facilities and retirement villages making assessments difficult. This results in the relevant authority having to utilise standard residential policy including TNV's etc as part of the suite of assessment policy. These policies are not useful for an assessment of such facilities.

Table 7 in the Code (Land use definitions) defines retirement facility that reference the Retirement Villages Act and residential care land uses. In the zone policies i.e. General Neighbourhood Zone, the land uses are referred to as a retirement village or supported accommodation as envisaged forms of development, however, they follow no assessment pathway with no land use specific policy. These are common land uses and specific assessment policy should be introduced to assist assessors to assess such applications.

Local Policy

With a year of operation of the state-wide *Planning & Design Code*, planners are reporting approval outcomes where the 'loss of local policy' from what once existed is now becoming more noticeable. An example of relevance to Light Regional Council is a risk that the Rural Zone policy is too broad or too generic putting at risk the nuanced nature and unique character of the Barossa's rural areas. This is a more fundamental risk of the introduction of 'generic' rather than 'tailored' planning policy across the State, but we acknowledge the original intent of the Code was to achieve more consistent outcomes (almost regardless of council area), so understand this is potentially an expected outcome of the system. We have observed community interest in this space however and have seen increased community activity in lobbying for local placemaking and greater policy certainty.

Roles and Functions

The Role of Council

There appears to be community misunderstanding on the role of Council as it relates to planning assessment and the role of independent Council Assessment Panels (CAPs). It is understood that there have been instances of councils/ council members seeking to advise, appear before, or otherwise support community in their interactions with these independent bodies.

An opportunity may exist here to 'reframe' the manner in which a council may formally communicate with its appointed Panel, to convey a viewpoint without interfering with or otherwise influencing the independent processes of the CAP.

Council Assessment Panel (CAP) Meeting and Operating Procedures

Council has received queries about the operating procedures of its CAP, including electronic attendance by representors, recording meetings and time provided to representors to appear before the panel.

The *Planning, Development and Infrastructure Act 2016* (PDI Act) (s83(1)(f)) provides that the procedures of a CAP must comply with any requirements prescribed by the regulations. These required procedures are set out in Part 3 of the *Planning, Development and Infrastructure (General) Regulations 2017.* Regulation 18 specifically then provides that, except insofar as a procedure is prescribed by the Act or the regulations, the procedures of an assessment panel in relation to the conduct of its business will be as determined by the assessment panel itself. The CAP therefore determines how it will conduct its business and the Council has no legal authority to influence or dictate this.

Council respects this, however, it does seem that the individual nature of these arrangements has led to calls in the community for greater standardisation, which in turn may be of benefit to all CAPs to ensure that there is consistency across these key functions.

The regulations provide an opportunity for CAP procedures to be regulated for consistency in a manner similar to the previous *Development Regulations, 2008,* which in turn may provide greater support for the CAPs across the state.

Processing DAs under the PDI Act

The planning system established under the PDI Act has drawn much attention to assessment performance against timeframes. The objective of achieving quality outcomes and a high standard of development seems to have reduced in priority against ensuring applications have been determined within the allocated timeframe.

The attention timeframes and performance comparison does not have regard to the resources available to those councils at a point in time, the 'overall' service level being achieved in terms of the support that council might be providing to its community to enable residents to interact with the 'portal' based system or even the standard of development that is being achieved.

It is becoming clearer that the new system is having an impact on those employed to administer it. The focus upon timeframes provides a foundation for sustained pressure and stress for the staff involved.

A successful planning system can benefit from applicants, assessing officers and specialists collaborating to work through issues presented by a proposal and determine if a solution exists that might enable a consent to be issued.

This approach provides an alternative to a deemed consent notice structure as elaborated on in this response.

Assessment Managers in Council

There seems to be some concern and/ or general confusion around the Council-employed Assessment Manager position/ role noting the appointee still sits within a council hierarchy (and are answerable to their Chief Executive Officer) but in many ways are also only answerable to the State or to the Accreditation Authority.

We see some challenges here in terms of a people management role for their General Manager or Directors and it would be interesting to understand if the sector (or other individual councils) had seen this issue, or related issues, arise.

Separately, yet related, we are concerned that the performance of Assessment Managers has been subjected to intense scrutiny where there is frustration with the assessment process. This suggests there is a flaw in the 'relevant authority' hierarchy under the Act.

Continuing Professional Development (CPD) Points for Accredited Professionals

The costs and amount of training time required to maintain accreditation is seen as an impost in terms of the amount of time required per annum to achieve CPD points as well as the costs to individuals and councils to fund training needs. It is recommended that CPD points and re accreditation should be able to be obtained over a two-year period rather than on an annual basis. Training needs are substantial, and training is encouraged, but it is yet another stress that exists on accredited professionals. The above suggestions would reduce the current stresses associated with obtaining re accreditation and obtaining sufficient CPD points.