

16 December 2022

Expert Panel
GPO Box 1815
Adelaide SA 5001

Email: DTI.PlanningReview@sa.gov.au

To whom it may concern,

Re: Planning System Implementation Review

Thank you for the opportunity to provide feedback on the Planning System Implementation Review (the Review).

The Office for Design and Architecture SA (ODASA) promotes the value of good design and believes that every new development has the potential to improve our quality of life, attract investment and reduce our impact on the environment. The ODASA team is led by the Government Architect and has expertise in architecture, landscape architecture, urban design and urban planning.

We understand that the focus areas of this Review are:

- *Planning, Development and Infrastructure Act 2016* (PDI Act)
- Planning and Design Code and related instruments, as they relate to infill policy, trees, character, heritage, and car parking
- ePlanning system
- PlanSA website

The following submission responds to the questions asked by the Expert Panel (the Panel) in the series of discussion papers. It is also noted that the Panel welcomes feedback on other relevant matters, which we have provided in relation to:

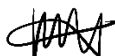
- Acknowledgement of First Nations Cultures
- Local Design Review
- Exempting Referrals to the Government Architect
- Planning and Development Fund
- Climate Smart Environments
- Over-height Development
- Affordable Housing
- Design Standards/Guidelines

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We commend and thank the Panel for undertaking this review and would welcome the opportunity to discuss our submission with you in more detail.

Yours sincerely,



Kirsteen Mackay
South Australian Government Architect



Response to Discussion Papers

The following sections respond to questions asked by the Panel in the series of discussion papers.

Planning, Development and Infrastructure Act 2016

Public notifications and appeals

Question 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)?*

ODASA feedback:

- In our view, mandatory participation in State or Local Design Review could form part of any alternative planning review process to provide an independent assessment of the design merits of a development proposal of a particular type or nature.

Accredited Professionals

Question 3: *Would there be any adverse effects to Building Accredited Professionals if they were no longer permitted to assess applications for planning consent?*

ODASA feedback:

- To support high-quality design outcomes, we recommend that Accredited Professionals issuing planning consents have a suitable level of design understanding.
- To this end, planning assessments by Building Accredited Professionals may not be appropriate for projects requiring an assessment of design merit.
- To ensure delivery of high-quality design outcomes, we encourage participation in design-specific professional development and training for all Accredited Professionals.
- We also recognise the potential value and contribution of Registered Architects in planning decision-making and encourage consideration of opportunities to support and encourage their registration as Accredited Professionals (this may include mutual recognition).

Impact Assessed Development

Question 1: *What are the implications of the determination of an Impact Assessed (Declared) Development being subject to a whole-of-Government process?*

ODASA feedback:

- In our view, Impact Assessed Development of State Significance (as declared by the Minister) should be the subject of rigorous assessment processes that includes genuine and meaningful cross-government engagement.
- This would include early and ongoing engagement with PLUS Pre-lodgement/State Design Review.

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- A mandatory referral to the Government Architect could also be considered for projects with built environment and/or public realm impacts to provide independent and expert design advice to the Minister on design matters.

Infrastructure Schemes

Question 3: Are there alternative mechanisms to the infrastructure schemes that facilitate growth and development with well-coordinated and efficiently delivered essential infrastructure?

ODASA feedback:

- We recommend early engagement with ODASA for Government-led projects to ensure the timely consideration of urban design, public realm, and landscape outcomes with appropriate funding allocation.
- ODASA welcomes the opportunity to provide advice to the Minister and Scheme Coordinator when considering a proposal to initiate a scheme, and as part of the review and preparation stages of the detailed scheme.
- This advice may be in relation to high-level urban design outcomes such as public realm, precinct wide connectivity, land use mix and activation, public open space, Water Sensitive Urban Design (WSUD), and Environmentally Sustainable Design (ESD).

Local Heritage in the PDI Act

Question 1: 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)?

Question 2: What would be the implications of sections 67(4) and 67(5) of the PDI Act being commenced?

ODASA feedback:

- We recognise the significant value of specialist heritage professionals who have a detailed knowledge of heritage values, cultural heritage management, legislation, and the specific characteristics of a local area.
- We also recognise the potential value in consolidating heritage related policy and data, strengthening the relationship between State and Local heritage and clarifying definitions of 'character' versus 'heritage' issues.
- Additionally, we recognise the potential value in a consistent approach to assessment and decision-making relating to State and Local heritage at a State-wide level.
- We recognise potential issues with decision-making regarding designation of heritage, character or preservation zones/subzones being determined by landowners and recommend independent and transparent assessment processes that consider broader public and community benefits.
- We are interested in understanding how Local heritage advice would be administered, including through PLUS Pre-lodgement and statutory/non-statutory referrals, to inform State Commission Assessment Panel (SCAP) decision-making.

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Deemed Consents

Question 1: Do you feel the deemed consent provisions under the PDI Act are effective?

ODASA feedback:

- In our view, deemed consents could be useful for significant masterplan developments where statutory frameworks are developed to ensure ongoing commitment to high quality development outcomes.

Question 2: 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?

ODASA feedback:

- In our view, if Accredited Professionals had the remit to issue final development consents, it is critical that they have a suitable level of design expertise to ensure delivery of high-quality design outcomes that meet the expectations of policy.
- To this end, we recognise the benefit of design-specific professional development and training for all Accredited Professionals to support informed decision-making.
- We also recommend independent and transparent processes throughout all assessment processes.

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Planning and Design Code

Heritage and Character

Question 1: In relation to prong two [of the State Planning Commission's character and heritage reform package] pertaining to Character Area Statements, in the current system, what is and is not working, and are there gaps and/or deficiencies?

ODASA feedback:

- In our view, the opportunity exists to review Character Area Statements, with the view to providing consistent and clear guidelines for designers and applicants.
- Additionally, these Statements should be prepared by specialist consultants with detailed knowledge of a local area, as well as detailed contextual analysis.
- We note that Character Area Statements, policy, and guidance material should avoid encouraging reproduction of period detailing and articulation or deter applicants from considering appropriate contemporary interpretations and design responses, from both architectural and landscape perspectives.
- Additionally, Character Area Statements, policy and guidance material should avoid limiting opportunities for alternative infill development outcomes supporting housing diversity or deter applicants from considering alternative innovative infill development that demonstrates an appropriate contextual fit.
- We support development of design guidelines (including precedent examples) that assist designers and applicants in understanding key built form characteristics and how to respond to them.
- We recommend linking guiding documents to Character Area Statement Tables in the Code to ensure they are readily accessible (noting guidelines exist on the PlanSA website but are not easy to locate).
- Revised Character Area Statements could also contemplate prioritising design outcomes through weighted criteria.

Question 2: Noting the Panel's recommendations to the Minister on prongs one (1) and two (2) of the Commission's proposal, are there additional approaches available for enhancing character areas?

ODASA feedback:

- In our view, the opportunity exists to strengthen the requirement for applicants within Character Areas to submit a contextual analysis and response with their development application.
- This could support delivery of the policy intent and inform a meaningful and site-specific response to the established character of the immediate streetscape.
- Requiring certain development proposal within Heritage and Character areas to undergo Local Design Review, where the council has established a design review panel under the Local Design Review Scheme, could be a consideration for supporting contextual design outcomes in these areas.
- The opportunity also exists to support informed decision making through a referral process to a Local Heritage Advisor.

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- An ongoing review of as-built developments delivered under the policy/Character Area Statements may assist in refining, clarifying, and strengthening policy to address any shortcomings and ensure enhancement of character areas.

Question 3: *What are your views on introducing a development assessment pathway to only allow for demolition of a building in a Character Area (and Historic Area) once a replacement building has been approved?*

Question 4: *What difficulties do you think this assessment pathway may pose? How could those difficulties be overcome?*

ODASA feedback:

- We typically advocate for the retention of character and heritage listed buildings as these places often make a positive contribution to a streetscape's quality.
- In our view, demolition of character and heritage listed buildings should not occur prior to the commencement of building works to prevent the unnecessary loss of this fabric should a development not progress.
- It is also noted that a development approval does not guarantee a project will proceed, which should be a considering factor in the wording of any condition(s) relating to timing for demolition.
- We note demolition of State and Local heritage listed places, can be contemplated in relation to '*the structural condition of the building and risk to safety*' (State and Local Heritage) and '*the structural integrity/condition and the ability to economically restore*' (Historic Areas).
- We recommend additional guidance be developed for determining structural condition, and to ensure this is informed by independent and expert advice and that risks are mitigated for potential negligence by building owners.
- We also recommend consideration be given to mandating a referral to a Local Heritage Advisor regarding any proposed demolition works to ensure informed decision-making.

Tree Policy

Tree Canopy

Question 3: *What are the implications of master planned/greenfield development areas also being required to ensure at least one (1) tree is planted per new dwelling, in addition to the existing provision of public reserves/parks?*

Question 4: *If this policy was introduced, what are your thoughts relating to the potential requirement to plant a tree to the rear of a dwelling site as an option?*

ODASA feedback

- We support the Panel's view that master planned/greenfield developments should require at least one tree to be planted within each dwelling site.
- We typically advocate for a mandatory tree to be located at the front of the site due to the positive contribution to the public realm, shading of footpaths and on-street car parking, and the incentive for residents to provide additional tree planting at the rear of the site for shading and amenity.
- Should mandatory tree planting at the rear of the site be allowed, we would

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recommend undertaking analysis of allotment sizes, building footprints and setback dimensions to ensure sufficient deep soil areas are provided.

- We also recommend preparation of additional guidance material in relation to soil volume and spatial requirements to ensure sufficient space for tree root growth and canopy spread, to ensure longevity for each tree and to mitigate property damage risk and/or debris spread to neighbouring properties.
- Additionally, we recommend ongoing monitoring/auditing of mandatory tree planting to ensure retention, maintenance and care by property owners, and clarification of consequences for mandatory tree removal/death.

Our experience through the PLUS Pre-lodgement/Design Review process has also highlighted the following issues in relation to tree planting:

- The location and suitability of deep soil planting areas (access to natural light, proximity to structure/footings, constrained deep soil dimensions).
- Tree size and species (small to medium tree species specified that offer limited tree canopy contribution).
- Locating landscaping/trees above ground (podium roof level, balconies/terraces, roof level), which present challenges in relation to structure, maintenance, soil volumes.
- Planting occurring in pots/planters rather than in-ground may limit growth.
- Landscaping/trees proposed above basements presenting challenges in relation to soil volume and structure.
- Insufficient consideration of ongoing maintenance requirements for landscape elements (including irrigation).
- Micro-climate considerations (including drought tolerance).

To this end, we recommend consideration of the following:

- Review of deep soil area/tree canopy policy for large/consolidated sites (including those designated as 'Significant' or 'Catalyst') to support delivery of tree canopy coverage in high density areas.
- Evaluation of the adequacy of mandatory open space provisions (noting the 12.5% open space requirement was implemented in the late 1960's during a time when infill development was less common, and density was significantly lower at approximately 6-7 dwellings units per hectare).
- Strategic review of open space infrastructure requirements to support existing and future high-density areas, with the view to providing high-quality open space and aligning with tree canopy targets.
- Linking guiding documents to landscape policy in the Code to ensure they are readily accessible (including the Green Adelaide/State Planning Commission 'Adelaide Garden Guide for New Homes').
- Developing additional guidelines for deep soil area planting and tree planting (including dimension/volume requirements and location to optimise growth, and precedent examples).
- Undertake site coverage and setback design testing to determine optimal requirements for private open space, deep soil zones and areas of permeable landscape.
- Explore opportunities for additional policy relating to vertical and/or rooftop greening.

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Tree Protections

Question 5: *What are the implications of reducing the minimum circumference for regulated and significant tree protections?*

Question 6: *What are the implications of introducing a height protection threshold, to assist in meeting canopy targets?*

Question 7: *What are the implications of introducing a crown spread protection, to assist in meeting canopy targets?*

Question 8: *What are the implications of introducing species - based tree protections?*

- We suggest considering extending and increasing the Regulated and Significant Tree Overlay to include all South Australian towns (at a minimum, all larger regional towns).
- We acknowledge that the Panel does not intend to make any specific recommendations on whether minimum tree trunk circumference should be reduced, or whether minimum tree canopy span or canopy height protections should be introduced, and that a significant economic analysis is required to assess the implications of these protections. However, we recommend that the scope brief for work on this economic analysis must have careful consideration to ensure a balanced review without bias towards either tree removal or tree protection.
- We support the Research Report findings that minimum circumference for regulated and significant tree protections should be reduced, and support tree protections that introduce tree height, tree canopy span, and tree species.
- We also support the Research Report recommendations for the development of a standardised tree valuation template to be used by all arborists to better represent the value of an existing tree in its environment, as opposed to simply the cost of planting a new tree. This would also enable the value of smaller non-regulated and non-significant trees to be captured and assessed based on their merits.
- We acknowledge that additional arboriculture resources would be required to undertake these functions.

Distance from Development

Question 9: *Currently you can remove a protected tree (excluding *Agonis flexuosa* (Willow Myrtle) or *Eucalyptus* (any tree of the genus) if it is within ten (10) metres of a dwelling or swimming pool. What are the implications of reducing this distance?*

Question 10: *What are the implications of revising the circumstances when it would be permissible to permit a protected tree to be removed (i.e., not only when it is within the proximity of a major structure, and/or poses a threat to safety and/or infrastructure)?*

ODASA feedback

- We support further investigation into reducing or refining the circumstances that are deemed 'triggers' for removing a protected tree based on its proximity to better align with approaches used in other jurisdictions. It is currently unclear why 10 metres from structures and pools was chosen as the distance within which significant trees can be removed.

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- We note the Panel's recommendation for an economic analysis on a possible reduction in offset distance triggers. We suggest careful consideration in the preparation of the scope brief for this economic analysis to ensure a balanced analysis is undertaken.
- We suggest encouraging retention of existing trees through a requirement for applicants to demonstrate that the removal of a significant or regulated tree is a 'last resort' option as part of their development application (supported by a report by a suitably qualified arborist).
- The Panel may wish to consider supporting the establishment of a Government Arborist service (similar to the Local Heritage Advisory service) to support independent and transparent assessment processes and to inform decision-making (this could also include a referrals process).

Urban Tree Canopy Off Set Scheme

Question 11: What are the implications of increasing the fee for payment into the Off-set scheme?

Question 12: If the fee was increased, what are your thoughts about aligning the fee with the actual cost to a council of delivering (and maintaining) a tree, noting that this would result in differing costs in different locations?

Question 13: What are the implications of increasing the off -set fees for the removal or regulated or significant trees?

ODASA feedback

- We are concerned by off-set schemes that remove requirements for tree planting and compromise the ability to meet tree canopy targets.
- We agree with the Panel and the reports prepared for the Commission noting that the current offset fees for the removal of Regulated and Significant trees are inadequate.
- We recently undertook an independent tree planting cost estimate and have determined that a realistic figure for the supply, installation, and 12 months establishment costs for a single 1.5 metre tall tree is significantly higher than the \$156.00 prescribed in the *Planning, Development and Infrastructure (Fees) Notice 2022*. Our independent cost estimate for planting a single amenity tree 1.5 metre tall is \$1020.00, including the supply, installation and 12 months establishment.
- We note that payment rates for off-sets should include project management and other salary costs, including the design, set-out and management of on-site delivery and maintenance, and traffic management and underground service location if planting occurs on streets. We also note that payment rates should be indexed annually to ensure the payment rate per tree keeps up with inflation, and these items should be considered to reflect the true costs of on-ground works.
- It is unclear if an increase in the offset ratios of 2:1 and 3:1 are being considered for the replacement of regulated or significant trees, or if these ratios are still considered appropriate. It is also unclear if replacement trees planted are audited to ensure their health and survival or if penalties apply for the removal or destruction of replacement trees.
- We also query the \$300 (small tree) current offset scheme rate, which does not equate to the cost of replanting or encourage planting of trees.

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Public Realm Tree Planting

Question 14: Should the criteria within the Planning and Development Fund application assessment process give greater weighting to the provision of increased tree canopy?

ODASA feedback

- In principle, we support a greater weighting on tree canopy cover within the assessment criteria of the Planning and Development Fund.
- We recommend undertaking an analysis to determine how changing assessment weightings based on potential tree canopy would affect funding outcomes for Planning and Development Fund applications.

Infill Policy

Code Policy

Question 1: Do you think the existing design guidelines for infill development are sufficient? Why or why not?

ODASA feedback

- In our view, the opportunity exists to review and refine infill development design guidelines to encourage alternative, varied, and contemporary design outcomes that achieve an appropriate contextual response.
- We also encourage further consideration of site-specific characteristics such as orientation, topography, and established trees/landscape to support good environmental outcomes.
- Additionally, we recommend undertaking an analysis (including case studies) of approved and as-built infill developments delivered under the Code to understand the effectiveness of the existing design guidelines.
- We also encourage development of additional evidence-based guidelines, prepared by built environment experts, to support delivery of high-quality infill development, which include illustrations of various techniques to positively achieve performance outcomes, as well as some deemed to satisfy solutions.
- All guidelines should also consider cost, constructability, and ESD outcomes.

Question 2: Do you think there would be benefit in exploring alternative forms of infill development? If not, why not? If yes, what types of infill development do you think would be suitable in South Australia?

ODASA feedback

- We support the exploration of alternative forms of infill development, noting the importance of place-specific outcomes that respond to local environmental conditions and the local context, particularly in transitional, character and historic areas.
- We recommend undertaking an analysis (including case studies) to understand infill development outcomes in different jurisdictions (within Australia and internationally).

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Strategic Planning

Question 3: What are the best mechanisms for ensuring good strategic alignment between regional plans and how the policies of the Code are applied spatially?

Question 4: What should the different roles and responsibilities of State and local government and the private sector be in undertaking strategic planning?

ODASA feedback

- ODASA welcomes the opportunity contribute to strategic planning, particularly in relation to high-level urban design outcomes, such as public realm, precinct-wide connectivity, land use mix, activation, public open space, WSUD and ESD.

Car Parking Policy

Code Policy

Question 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.

Question 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?

Question 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?

Question 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?

ODASA feedback

- We recommend car parking rates be spatially applied, for example, to support transit-oriented developments.
- A recent built example is the [Nightingale housing development](#) in Bowden, which provides no private car parking spaces as the development is located within close proximity to tram, bus, and train transport options and active transport infrastructure.
- In principle, we support the approach for parking dispensations based on proximity to public transport.
- We recommend undertaking analysis of car parking requirements for different land use mixes (e.g., student accommodation and serviced apartments) and opportunities for shared car parking arrangements (commercial and residential).

Question 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?

ODASA feedback

- It is noted that two on-site car parking spaces may require a significant amount of hard surface treatment/driveway space, which negatively impacts the ability to deliver soft landscaping and tree planting.

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- Additionally, there may be a desire to include open carport structures at the front of properties, rather than integrating garaging into the built form.
- If two cars were to be accommodated externally (uncovered), consideration may be given to including a requirement for permeable paving to mitigate the impact of hard surfaces.
- In our view, a site-specific approach to car parking provision could also be considered, taking into account proximity to public transport and active transport options.

Design Guidelines

Question 6: What are the implications of developing a design guideline or fact sheet related to off-street car parking?

ODASA feedback

- We support development of design guidelines relating to off-street car parking that includes consideration of:
 - Minimum garage dimensions to allow for storage (e.g., bins, bicycles, and large items) and sufficient movement around parked cars (noting this may reduce demand for on-street parking).
 - Adaptability of car parking spaces (multi-storey car parking levels/structures and individual garages), including infrastructure/size/internal floor to ceiling heights.
 - Consideration of WSUD and tree canopy cover in the design of car parking and driveway design.

Electric Vehicles

Question 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?

Question 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?

ODASA feedback

- In our view, charging stations should be identified as a form of development as their placement can negatively impact the public realm and universal accessibility.
- We understand there are currently potential fire, safety and cost issues associated with EV charging infrastructure within enclosed car parking structures and suggest investigating further.
- Notwithstanding this, we typically recommend provision for future EV infrastructure as part of a base build.
- With the anticipated increase in requirements for on-street EV charging infrastructure, we recommend reviewing EV charging innovations, for example multi-functional infrastructure/poles (street lighting, CCTV and EV charging in one unit), pop-up charging stations and wireless charging to inform policy.

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Car Parking Off-Set Schemes

Question 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)?

Question 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?

ODASA feedback

- We typically advocate for active transport options to support healthy lifestyles and reduce private vehicle traffic and parking requirements.
- To this end, we recognise the potential benefit of utilising a car parking off-set scheme to fund active transport infrastructure, such as cycling and walking connections and shared-use paths.
- We also recognise the potential impact of large-scale car parking structures in relation to built form, public realm, activation, residential amenity, and movement (pedestrians, cyclists and vehicles), which requires careful management.
- Notwithstanding, we encourage development of integrated precinct-wide solutions to traffic and car parking.

Commission Prepared Design Standards

Question 11: Do you think there would be benefit from the Commission preparing local road Design Standards?

ODASA feedback

- We recognise the potential value of design standards for local roads, with a focus on high-quality public realm outcomes that support walking and cycling as convenient, safe, and comfortable transport modes.
- Design standards may include guidance on appropriate footpath widths, consolidated/minimised vehicle crossovers, traffic calming interventions, prioritising universal design and accessibility, cycling infrastructure, and reducing clutter/hazards.
- ODASA welcomes the opportunity to contribute to design standards including urban design outcomes, WSUD, integrated tree planting/landscaping to support urban tree canopy, pedestrian amenity and safety.
- We also recommend engaging a suitable expert with an understanding of active movement prioritisation.

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e-Planning System

Question 1: Is the PlanSA website easy to use?

Question 2: What improvements to the PlanSA design would you make to enhance its usability?

ODASA feedback

- The location of the links to the Planning and Design Code and SAPPA on the PlanSA website could be located in a more prominent position (i.e., at the top of the page).
- We also recommend consideration of the following additional functions on the DAP referral page:
 - Automated calendar for calculating business days to provide date and close of business time for referrals and RFI due dates.
 - Automated email notification when an RFI response documentation has been uploaded by the applicant.
 - Automated updated referral due date if the application is put on hold
 - Confirmation of the actual referral due date on the referral summary page (updated to reflect any RFIs etc.)
 - The ability for referral agencies to upload advice regarding Reserve Matters/Condition to the DAP (post Planning Consent).

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Additional Considerations

Acknowledgement of First Nations Cultures

The formal recognition of Aboriginal and Torres Strait Islander peoples in relevant legislation is an important step towards reconciliation and relationship building.

Aboriginal peoples and their knowledges and expertise can ensure the PDI Act genuinely meets its primary objective 'to support and enhance the State's liveability and prosperity in ways that are ecologically sustainable and meet the needs and expectations, and reflect the diversity, of the State's communities' (section 12(1)). The inclusion of Aboriginal peoples in the PDI Act will also contemporise South Australia's planning legislation with other jurisdictions.

In Queensland, section 5 of the *Planning Act 2016 (Qld)* states that 'an entity that performs a function under this Act must perform the function in a way that advances the purpose of this Act.' Subsection 5(2) lists ways to advance the purposes of the Act and was amended in 2016 to include 'valuing, protecting and promoting Aboriginal and Torres Strait Islander knowledge, culture and tradition' (s.5(2)(d)).

A similar approach could be taken in the PDI Act by establishing a new sub-clause under the 'Objects of Act' in section 12(2), or by establishing a new 'Principle of Good Planning' under section 14. These sections provide guidance on interpreting the PDI Act and must be given regard through planning instruments and by anyone operating under the PDI Act. The recognition and protection of Aboriginal knowledges and cultures should apply equally to planning decisions irrespective of native title applications or determinations, or protection of heritage sites under the *Aboriginal Heritage Act 1988*.

We believe that this change will provide strong and clear statutory leverage for planners, engagement professionals, policy writers, decision-makers and allied professionals to perform their functions, while valuing, protecting and promoting First Nations cultures. It will remain important for the industry to continue to upskill to ensure engagement practices and outcomes are respectfully undertaken.

It is recommended that the Panel engage with Aboriginal organisations and/or the Queensland Department of State Development, Infrastructure, Local Government and Planning to discuss opportunities for further recognition of Aboriginal peoples through the PDI Act. These discussions may assist with understanding needs and expectations of Aboriginal communities, and the resources that are required to ensure equitable participation.

Information about the Queensland example can be found here:

- pages 20 and 21 of the [Planning Act 2016 \(Qld\)](https://legislation.qld.gov.au) (legislation.qld.gov.au)
- <https://aiatsis.gov.au/ntpd-resource/577>

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Local Design Review

Design Review in South Australia is a pre-lodgement service that supports high-quality design outcomes, improves access to independent design expertise and assists with informed decision-making during development assessment.

During Design Review, an independent panel of built environment experts (such as architects, landscape architects and urban designers) review the design quality of a development proposal before it is lodged for assessment. The panel provides their design advice to the proponent to assist with design development and to the relevant authority for consideration during development assessment.

State Design Review has operated successfully in South Australia since 2011 and is currently available to larger-scale development proposals that are assessed by the State Commission Assessment Panel and referred to the Government Architect.

The [Local Design Review Scheme](#) (the LDR Scheme) is established by the Minister for Planning under section 121 of the PDI Act and provides a consistent state-wide approach for councils to recruit their own design panel and provide Design Review for locally assessed development proposals.

Since coming into effect in February 2022, no council has opted into the LDR Scheme.

Our ongoing engagement with councils and the Local Government Association of South Australia (LGA) suggests that although the benefits of Local Design Review are understood, councils are reluctant to opt into the LDR Scheme because it relies too heavily on the voluntary participation of proponents. The voluntary nature of the LDR Scheme is an outcome of section 121(2) of the PDI Act, which states 'a person who is considering the undertaking of development to which this section applies may apply to a design panel for advice'.

The Panel may wish to enable a legislative environment where certain development proposals are required to participate in Local Design Review. In New South Wales certain development proposals are required to undergo Local Design Review where:

- a) the local government has established a Local Design Review panel, and
- b) an environmental planning instrument, such as a state environmental planning policy (SEPP) or a local environmental plan stipulates Design Review.

A similar approach could be taken in South Australia by removing section 121(2) of the PDI Act. A council participating in the LDR Scheme could then nominate classes of development for mandatory and/or voluntary Local Design Review via the [application process already established](#), which requires approval from the Chief Executive of the Department for Trade and Investment. Criteria for determining mandatory classes of development is recommended and should be contextually appropriate.

Information about the New South Wales example can be found [here](#) (Government Architect NSW, p. 5).

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Exempting Referrals to the Government Architect

We have previously advocated for amending the Design Overlay within the Planning and Design Code to no longer exempt the referral of variations to approved planning applications (variations) to the Government Architect (GA) or Associate Government Architect (AGA), where the original application was given development authorisation or previously referred to the GA or AGA.

Sections 12 and 14 of the PDI Act recognise the importance of high-quality design and require the planning system to support high-quality design. State Planning Policy Two, entitled Design Quality, is established under section 59 of the Act and outlines design quality as a matter of State interest.

The referral to the GA or AGA supports the intent of the Act and State Planning Policies by providing the State Commission Assessment Panel (SCAP) with independent and expert design advice to assist with their informed, balanced and objective assessment of the following larger-scale development applications listed in the Design Overlay:

- a) development within the area of the overlay located within the Corporation of the City of Adelaide where the total amount to be applied to any work, when all stages of the development are completed, exceeds \$10,000,000; and
- b) development within the area of the overlay located within the City of Port Adelaide Enfield where the total amount to be applied to any work, when all stages of the development are completed, exceeds \$3,000,000; and
- c) development within all other areas of the overlay that involves the erection or construction of a building that exceeds 4 building levels.

We believe that any exemption to this referral conflicts with the intent of the Act and State Planning Policies.

We acknowledge that the recent Miscellaneous Technical Enhancements Code Amendment sought to address this matter by enabling the SCAP to determine whether a variation is 'minor in nature or would not warrant a referral when considering the purpose of the referral'. However, we note that development applications can be changed incrementally through multiple minor variations. This can result in approvals, and ultimately built outcomes, that are significantly inconsistent with the original application referred to, and potentially supported by, the GA or AGA. Further, there is no requirement for the SCAP membership to include an architect or design expert, which may result in situations where determining what is 'minor' in relation to design quality and the assessment of variations occurs without adequate design expertise and independent expert design advice.

We recommend removing this exemption altogether to help ensure design quality and intent is maintained through to construction. In practice, this would allow the GA or AGA to determine, in their expert opinion, the potential impact of a variation on design quality and provide appropriate advice to support the SCAP. Where the GA or AGA deem the impact of the variation minor in nature, a 'no comment' statement would be provided.

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Planning and Development Fund

The Planning and Development Fund (the Fund) provides the Minister for Planning the means to invest in strategic open space and public realm projects across South Australia.

Money paid into the Fund is derived from monetary payments in lieu of open space provision for development involving the division of land into 20 or fewer allotments and for strata and community titles. The Fund is expended in-line with provisions within the PDI Act and is administered by ODASA.

Fund Expenditure

Each year, an analysis of expenditure from the Fund is undertaken against section 195 of the PDI Act and Regulation 119 of the *Planning, Development and Infrastructure (General) Regulations 2017* (the PDI Regulations). The Minister for Planning is authorised to approve expenditure in accordance with this legislation.

To continue supporting the application of the Fund for strategic open space and public realm projects, the Panel may wish to consider whether a new strategic investment plan is prepared, reviewed by an independent body and endorsed by the Minister for Planning, to guide future direction of the Fund.

Open Space Contribution Scheme

The Open Space Contribution Scheme (the OSC Scheme) is established under section 198 of the PDI Act as the primary mechanism for receiving financial contributions into the Fund. The OSC Scheme provides that where an application for the division of land is lodged, a relevant authority may require an applicant to:

- provide up to 12.5% in area of the relevant land be vested in the council or Crown to be held as open space; or
- pay a monetary contribution to the Fund in lieu of providing open space.

Monetary contributions made under the OSC Scheme may act as an incentive for applicants to provide open space, rather than a monetary contribution and are either paid into special funds established by councils or paid into the Fund, depending on the number of allotments to be created by the land division. Fees resulting from the division of land into 20 or fewer allotments and for strata and community titles are paid into the Fund while over 20 allotments are paid to the relevant council.

Section 199 of the PDI Act stipulates the expansion of the types of buildings where a contribution to the Fund applies, including multi-unit buildings, whereby the State Planning Commission may require that the application make a contribution. To date no contributions under section 199 have been received.

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Over the years, payment into the Fund has fluctuated based on development activity across the state, while the legislation underpinning the OSC Scheme has remained largely the same. While infill development is significantly increasing, resulting in the substantial creation of new allotments and housing density, there are opportunities where the OSC Scheme could be further applied or strengthened under section 198 and 199 of the PDI Act, to continue providing accessibility to open space in areas of significant community growth.

In relation to the OSC Scheme, the Panel may wish to consider the following:

- Fee structure for monetary contributions
- Application of section 199, where no contributions have yet been received
- Multi-storey developments
 - whether multi-storey strata developments should be treated the same as conventional land division applications in respect to the 12.5% open space contribution.
- Reserve allotments and reserve buffers
 - a minimum size and dimension for reserve provision that are acceptable to provide meaningful recreational benefit.
 - the appropriate use and accessibility for reserve provision that meets the needs of community.
- Open space agreements
 - standard requirements be implemented, such as masterplans to create consistency and quality design outcomes.
- Waiver requests
 - where a waiver of the open space contribution has been requested, consider the delegation and criteria for assessing the request.
- Density and percentage of open space
 - the 30-Year Plan for Greater Adelaide 2017 Update defines 'high-density' as the creation of new allotments greater than 70 dwelling units per hectare. Evidence shows that high-density developments are occurring across the state.
 - evaluating whether the 12.5% provision of open space is adequate to support high-density areas and provide the community with necessary open space infrastructure. The 12.5% open space requirement was implemented in the late 1960's during a time when infill development was less common, and density was significantly lower (approximately 6-7 dwellings units per hectare).

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Climate-Smart Built Environments

We support progressing the South Australian Government's aims for a liveable and resilient State with net zero greenhouse emissions, with a focus on 'beyond compliance' development. We support a holistic pro-active response that considers behaviours as well as the natural and built environment and transport systems.

Key Climate Smart Built Environment considerations include:

- Flexible and adaptable buildings that allow for longevity (including aging in place).
- Retention and adaptation of existing buildings.
- Efficient building footprints.
- Green space and tree canopy cover.
- Integrated WSUD.
- Integrated and innovative ESD measures, including passive design principles.
- Robust, low carbon and sustainable materials that are locally sourced.
- High amenity and safe bike and pedestrian infrastructure and public transport.
- Walkable neighbourhoods with local community services.

Our experience in Pre-lodgement/Design Review has highlighted issues in relation to ESD, including:

- Ambitions for ESD outcomes being described through the Pre-lodgement, Design Review and Approval processes, however these are often indicative only and subject to further development and review through the next project stage.
- ESD ambitions being limited to minimum National Construction Code energy efficiency requirements.
- Reliance on performance glazing to manage solar loads.
- Non-site-specific design responses (including site configuration and response to orientation).
- Lack of consideration of the longevity and environmental performance of material selections.

In our view, the opportunity exists to refine and strengthen policy relating to climate-smart built environments. This may include:

- Strengthening requirements for documented commitments to ESD targets and certification being delivered by the scheme (tied to Planning Approval/Building Rules Consent).
- Clarification of expectations for 'substantial additional gains' in sustainability
- ESD expert review all sustainable design measures outlined in the Code to ensure best practice.
- Preparation of guidance material to support designers and applicants in relation to Climate Smart Built Environments and Circular Economy outcomes.

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Over-height Development

Planning policy allows for development exceeding building heights specified in the *Maximum Building Height (Levels) Technical and Numeric Variation* layer and the *Maximum Building Height (Metres) Technical and Numeric Variation* in the following instances:

- Capital City Zone
- Significant Development Sites
- Catalyst Sites

Capital City Zone

Performance Outcome 4.2

(a) *the development provides for the retention, conservation and reuse of a building that:*

(i) **is a State or local heritage place and the heritage values of the place will be maintained**

(j) *provides a notable positive contribution to the character of the local area*

or

(b) *the building incorporates measures that provide for **substantial additional gain in sustainability**, and it demonstrates at least four of the following are met:*

- (i) *the development provides an orderly transition up to an existing taller building or prescribed maximum height in an adjacent Zone or building height area on the Maximum Building Height (Levels) Technical and Numeric Variation layer and Maximum Building Height (Metres) Technical and Numeric Variation layer*
- (ii) *incorporates **high quality open space** that is universally accessible and directly connected to, and well integrated with, public realm areas of the street*
- (iii) *incorporates high quality, safe and secure, universally accessible pedestrian linkages that connect through the development site to the surrounding pedestrian network*
- (iv) *provides higher amenity through provision of private open space in excess of minimum requirements by 25 percent for at least 50 percent of dwellings*
- (v) *no on site car parking is provided*
- (vi) *at least 75% of the ground floor street fronts of the building are active frontages*
- (vii) *the building has frontage to a public road that abuts the Adelaide Park Lands;*
- (viii) *where the development includes housing, at least 15% of the dwellings are **affordable housing***
- (ix) *the impact on adjacent properties is no greater than a building of the maximum height on the Maximum Building Height (Levels) Technical and Numeric Variation layer and Maximum Building Height (Metres) Technical and Numeric Variation layer in relation to sunlight access and overlooking.*

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Our experience in Pre-lodgement/Design Review has highlighted issues in relation to development seeking to exceed maximum building heights, including:

- Lack of clarity regarding the State’s strategic vision for city form (i.e., tall buildings being developed in an ad hoc manner with airport height limits being a defining factor for building height and overall city form).
- Development outcomes compromising the values and/or setting of State or Local heritage listed places.
- Development outcomes impacting on high value character locations.
- The quantum of additional building height resulting in a significant variation to envisaged built form outcomes (i.e., developments seeking to double envisaged maximum height limit).
- Impacts of the quantum of over-height on car parking (i.e., above-ground car parking podium heights), traffic (number of additional vehicle movements impacting local street networks) and servicing (volume of waste and collection).
- Lack of clarity regarding a ‘*substantial additional gain*’ in sustainability (i.e., marginal, or no additional gains to minimum energy efficiency standards required by the NCC).
- Sustainability reports outlining potential ESD initiatives with no guarantees regarding what will be delivered.
- Location and quality of universally accessible open space (including size, soft landscaping extent, locating open space at podium roof level).
- Type and quality of affordable housing (one bedroom or studio apartments with limited private open space typically allocated to affordable housing offer which may not meet Renewal SA affordable housing needs)
- Status of new alternative affordable housing schemes such as built-to-rent, Land Lease Community model.

In our view, an opportunity exists to refine and strengthen policy relating to city form and additional building height. This may include:

- Review and definition of city form objectives.
- Limiting extent of allowable additional building height (Significant Development Site policy allows for an additional 30%).
- Review of policy hierarchy to strengthen emphasis on ESD outcomes, design quality and public realm contribution (in our view, achieving a ‘*substantial additional gain in sustainability*’ should be mandatory for all over-height development, rather than being optional).
- Acknowledging the elevation of heritage and character in the Code, we are concerned that this is a single criterion triggering the activation of over-height, without requirements to meet items noted in part (b) – in our view, this approach does not support delivery of exemplary development outcomes.
- Reconsideration of the inclusion of options (i.e., use of the word ‘or’)
- Undertaking an analysis of projects (lodged, approved and constructed) that include the retention/conservation/reuse of a State or Local heritage listed place to assess impacts on heritage fabric, setting, conservation works and activation) with input from Heritage SA and council’s Local Heritage Advisor.
- Review of inclusion of over-height policy in high value heritage character locations and/or providing additional guidance regarding acceptable development outcomes.

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- Development of additional guidance on ‘orderly transition up to an existing taller building’ (for example diagrams or digital modelling) to confirm policy intent.
- Clarification of expectations for ‘substantial additional gain’ in sustainability, informed by a sustainability consultant – we believe it would be beneficial to have a sustainability expert review all sustainable design measures outline in the Code to ensure best-practice.
- Clarification of expectations for universally accessible open space (this may include minimum size/percentage of site, location relative to street frontage, inclusion of deep soil planting, inclusion of tree canopy cover).
- Clarification of ‘*universally accessible*’ definition (DDA accessible versus publicly accessible).
- Further definition of ‘*affordable housing*’.
- Consultation with Renewal SA regarding ‘affordable’ apartment types and sizes.
- Requiring any above ground car parking to be adaptable to an active use.
- Development of guidance material in relation to over-height development.

Significant Development Sites

Performance Outcome 5.1

Consolidation of significant development sites (a site with a frontage over 25m to a primary road corridor and over 1500m² in area, which may include one or more allotments) to achieve increased development yield, provided that off-site impacts can be managed, and broader community benefit is achieved in terms of design quality, community services, affordable housing provision, or sustainability features

DTS/DPF 5.1

*Development on significant development sites (a site with a frontage over 25m to a primary road corridor and over 1500m² in area, which may include one or more allotments) up to **30% above** the maximum building height specified in DTS/DPF 3.1 (rounded to the nearest whole number) where it:*

- (a) incorporates the **retention, conservation and reuse of a building which is a listed heritage place** or an existing built form and context that positively contributes to the character of the local area*
- (b) includes more than 15% of dwellings as **affordable housing***
or
- (c) includes at least:*
 - (i) three of the following:*
 - A. **high quality open space that is universally accessible** and is directly connected to, and well integrated with, public realm areas of the street*
 - B. high quality, safe and secure, universally accessible pedestrian linkages that connect through the development site*
 - C. active uses are located on the public street frontages of the building, with any **above ground car parking** located behind*
 - D. a range of dwelling types that includes at least 10% of 3+ bedroom apartments*
 - E. a child care centre.*

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- (i) *three of the following:*
- A. **communal useable garden** integrated with the design of the building that covers the majority of a rooftop area supported by services that ensure ongoing maintenance
 - B. **living landscaped vertical surfaces of at least 50m²** supported by services that ensure ongoing maintenance
 - C. **passive heating and cooling design elements** including solar shading integrated into the building
 - D. *higher amenity through provision of private open space in excess of minimum requirements by 25% for at least 50% of dwellings.*

Our experience in Pre-lodgement/Design Review has highlighted issues in relation to Significant Development Sites, including:

- Location and quality of universally accessible open space (including size, soft landscaping extent, locating open space at podium roof level).
- Spatial implications of providing rooftop gardens versus solar arrays.
- Green walls being challenging to deliver due to South Australia's climate and their success being contingent on appropriate orientation, detailed design, and ongoing maintenance.
- Tension between effective integrated solar shading and encroachment beyond site boundaries.
- We support the inclusion of 30% metric that guides proponent on the accepted limits of additional building height.

In our view, there is an opportunity to refine and strengthen policy relating to Significant Development Sites. This may include:

- Review of inclusion of over-height policy in high value heritage character locations and/or providing additional guidance regarding acceptable development outcomes.
- Clarification of expectations for universally accessible open space (this may include minimum size/percentage of site, location relative to street frontage, inclusion of deep soil planting, inclusion of tree canopy cover to support 30-year Plan).
- Requirement for any above ground car parking to be adaptable to an active use.
- Strengthening requirements in relation to ESD outcomes.

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Catalyst Sites

City Living Zone (East Terrace Subzone), City Main Street Zone

PO 2.1

Development on catalyst sites (sites greater than 1500m² including one or more allotments) includes medium to high scale residential uses.

PO 2.3

*Development designed to respond to its context and **manage impacts in relation to building height**, building proportions and traffic impacts, and avoid land uses, or intensity of land uses, that adversely affect residential amenity*

PO 2.4

*Parts of a development on a catalyst site that exceed the maximum building height specified in the Building Height (Maximum Levels) Technical and Numeric Variation layer designed to **minimise visual impacts on adjacent sensitive uses**.*

Our experience in Pre-lodgement/Design Review has highlighted issues in relation to development on Catalyst sites, including:

- Lack of specific guidance on extent of allowable additional building height.
- Lack of specific guidance relating to the management of interface conditions, built form impacts and amenity impacts on neighbouring properties.
- In our view, the opportunity exists to align 'Catalyst' and 'Significant' site policy (including limiting the extent of allowable additional building height).

Built form transition

Our experience in Pre-lodgement/Design Review has highlighted issues in relation to built form transition, including:

- Over-height development being located adjacent zone boundaries to lower scale residential areas resulting in abrupt built form transitions.
- Lack of clear guidance regarding the interpretation of 'orderly transition up to an existing taller building or prescribed maximum height in an adjacent Zone or building height area...' in the Capital City Zone.
- Inconsistent application of the 30-degree/45-degree building envelope plane (particularly where zone boundary occurs in a roadway).

In our view, the opportunity exists to refine policy to support the intent for a transition in built form scale between new taller development outcomes and established low scale areas. To this end, we recommend consideration of the following:

- Review and definition of city form objectives.
- A site-specific approach to the application of over-height policy (including potential exclusion at zone boundaries to lower scale development).
- Preparation of additional guidance regarding the application of the 30-degree/45-degree building envelope plane.

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Affordable Housing

Our experience in the Pre-lodgement/Design Review process has highlighted issues in relation to affordable housing, including:

- Type and quality of affordable housing (one bedroom or studio apartments with limited private open space typically allocated to affordable housing offer which may not meet Renewal SA affordable housing needs.
- Status of new alternative affordable housing schemes such as built-to-rent, Land Lease Community model.
- Apartment designs limiting opportunities for adaptability and aging-in-place.

In our view, the opportunity exists to refine and strengthen policy relating to Affordable Housing. This may include:

- Clarifying the definition and expectations for the delivery of 'Affordable Housing'.
- Exploration of additional opportunities and strategies to deliver affordable housing that is of benefit to those most at risk, and with a variety of accommodation types responding to a broad range of community needs.
- Strengthening policy to support the strategic goal of providing affordable housing in all areas of the city and inner metro areas.
- Policy to support affordable housing diversity in a sensible and innovative manner that responds to the built form character of established residential areas.
- Consideration may be given to additional incentives (in addition to over-height criteria) to support delivery of a mix of affordable housing typologies.
- Preparation of design guidance on affordable housing options including precedents/examples.
- State and Local Design Review to support for Affordable Housing schemes.
- Investigating and developing policy and/or other mechanisms to support quality residential amenity in build-to-rent and student accommodation projects.

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Design Standards/Guidelines

We support the consideration given to the introduction of design guidelines to illustrate policy intent.

Examples of standards and guidelines supporting good design outcomes in other states include:

- Victoria State Government, Department for Environment, Land, Water and Planning
 - Better Apartment Design Standards
 - The 2021 Apartment Design Guidelines for Victoria
 - Urban Design Guidelines for Victoria
- New South Wales Government
 - State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SSEPP 65)
 - Better Placed – An integrated design policy for the built environment of New South Wales
- Western Australian Government, Design WA
 - State Planning Policy 7.0 – Design of the built environment
 - State Planning Policy 7.2 – Precinct Design
 - State Planning Policy 7.3 – Residential Design Codes
 - State Planning Policy 7.3 – Residential Design Codes – Apartments
 - Liveable Neighbourhoods

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