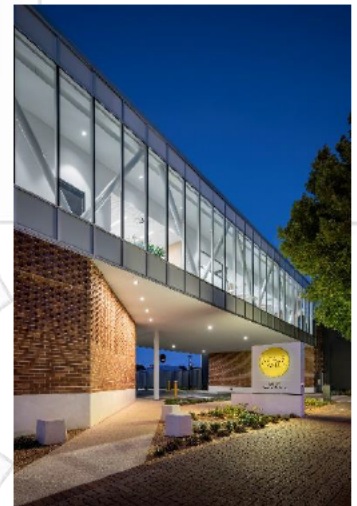


# PLANNING SYSTEM IMPLEMENTATION REVIEW



Expert Panel for the Planning System Implementation  
Review

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Submission issued November 2022  
South Australian Chapter



Australian  
Institute of  
Architects

## ABOUT US

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The Australian Institute of Architects (Institute) is the peak body for the architectural profession in Australia. It is an independent, national member organisation with around 13,000 members across Australia and overseas. The Institute exists to advance the interests of members, their professional standards and contemporary practice, and expand and advocate for the value of architects and architecture to the sustainable growth of our communities, economy and culture.

Architects are a key component of Australia's \$100 billion built environment sector and there are around 13,500 architectural businesses in Australia with around 40,000 employees. Approximately 25,000 people in the labour force hold architectural qualifications (Bachelor degree or higher) and architectural services in Australia in 2017-18 had revenue of \$6.1 billion and generated \$1.1 billion of profit.

The Institute actively works to maintain and improve the quality of our built environment by promoting better, responsible and environmental design.

## PURPOSE

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- This submission is made by the Australian Institute of Architects (the Institute) in response to the Invitation for Deputation from the Expert Panel for the Planning System Implementation Review (Panel).
- At the time of this submission the Institute National President is Shannon Battisson FRAIA, and the SA Chapter President is Anthony Coupe RAIA. The Acting Chief Executive Officer is Barry Whitmore.

## CONTACT DETAILS

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## COVER PHOTO

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The Australian Institute of Architects' SA Chapter recipient of 2021 SA Architecture Medal and the Keith Neighbour Award for Commercial Architecture. Meals on Wheels SA Head Office. JPE Design Studio.

Photographer: David Sievers.

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# 1 INTRODUCTION

The Institute generally support the State's *Planning System Implementation Review* and aims to “ensure a more liveable, competitive and sustainable long-term growth strategy for Greater Adelaide and the regions”<sup>1</sup>. The Institute conditionally supports the Panel's proposed reforms presented under the three discussion papers: *e-Planning System and PlanSA website Reform Options*, *Planning, Development and Infrastructure Act 2017 Reform Options* and *Planning and Design Code Reform Options*.

The Institute presents suggested improvements and expansion of review around themes of:

- Focus on design quality and performance – Architects place a high value on good design and innovation. Good outcomes require greater articulation of design principles<sup>2</sup> within the *Planning and Design Code*, and further support via appropriate Guidelines. Design Review Panels are supported and mandated in all jurisdictions in South Australia.
- Heritage – Architects place a high value on State and Local heritage places. There has been a recent history of several significant heritage places being demolished or put at risk of demolition in South Australia<sup>3</sup>. Developments impacting heritage sites and/or historic areas should always be deferred to the Heritage SA. We agree that “the listing of (and assessment of impact on) heritage places is arguably a matter that sits best with heritage experts (as opposed to planning professionals)”<sup>4</sup>.
- Sustainability, planning for green infrastructure and decarbonisation of the built environment – Architects deem Climate Change action as critical. A planning system focussed on appropriate density of urban and suburban development to reduce urban sprawl, manage heat island effect, respond to stormwater and address transport and connectivity is vital in ensuring South Australia's low carbon future.
- Identifiable risks and unintended consequences associated with the Accredited Professionals Scheme – lack of diversity, pressure on panels and extensive delegation of discretionary powers.
- Confidence and consistency of the planning framework and application in built form outcomes.

We recommend the Planning Review to prioritise quality long-term investments in the built environment, not just speed of assessment and administrative efficiencies. We look forward to continuing to support the South Australian government to ensure the best practical outcome that can achieve the aims of the planning reform.

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<sup>1</sup> [https://plan.sa.gov.au/planning\\_review#:~:text=System%20Implementation%20Review-During%20the%20March%202022%20State%20Election%2C%20an%20election%20commitment%20was,term%20growth%20strategy%20for%20Greater](https://plan.sa.gov.au/planning_review#:~:text=System%20Implementation%20Review-During%20the%20March%202022%20State%20Election%2C%20an%20election%20commitment%20was,term%20growth%20strategy%20for%20Greater)

<sup>2</sup> Refer: Government of South Australia, Office for Design and Architecture SA, 2017 *Principles of Good Design*

<sup>3</sup> Examples include Gawler Train Shed, The Waite Gatehouse, The State Bank of South Australia building on Pirie Street and most recently the Thebarton Police Barracks.

<sup>4</sup> Refer page 39 of the Discussion Paper – *Planning, Development and Infrastructure Act 2016 Reform Options*.

## 2 DETAILED RESPONSE

### 2.1 Discussion Paper: *e-Planning System and the PlanSA website Reform Options*

We reference our submission in response to the *Miscellaneous Technical Enhancement Code Amendment*,<sup>5</sup> dated October 2022, as appended, which addresses many operability issues recommended for review.

The recommendations made in the discussion paper are generally supported. The Institute makes the following comments in relation to the discussion points:

**Website Redesign** – any improvements to the website to improve navigation and accessibility are supported.

**Mobile Application** – any enhancement that can be made to accessibility is supported.

**Online Submission Forms** – providing flexibility for applicants who do not use the system regularly is supported. The proposal to send email alerts and updates regarding applications is strongly supported for applications submitted inside and outside the PlanSA Login, with the current system requiring applicants to log into the portal to ascertain whether action is required. This is time consuming, and risks delays in processing approvals.

Improvement in the submission process through the ability to retain key information and utilise predictive selections is also supported.

**Authority Data Management** – The ability of relevant authorities to manage data is supported provided this does not compromise the referral of relevant matters. Amendments to existing approvals that required referral in their initial assessment need to be checked by the referral body to ensure that the changes are subject to appropriate expertise. Buildings are complex and a wholistic consideration is required to prevent unforeseen impacts resulting from what appear to be minor changes. For example, reduction in the depth of fins on the façade of a building may be perceived as having aesthetic impact only but are also likely to affect the thermal performance of the building, which may have been a consideration during design review.

**Inspection Clocks** – any enhancement of the independent review and oversight of built outcomes is supported. The challenge will be to determine when inspections are required for projects that do not fall within the highly formulaic structure of project home construction.

**Collection of lodgement fee at submission** – Payment of fees on lodgement is supported and reflects the process prior to the implementation of the current planning system. Locking in the Code provisions at the time of lodgement is considered to be

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<sup>5</sup> <https://www.architecture.com.au/advocacy-news/policy-submissions>

advantageous, as it provides certainty regarding the requirements against which the assessment will be made.

Institute members have reported that the time taken between submission of an application and verification can be a matter of several weeks, and in rare occasions, months. Code amendments that occur in this time may require revision of the proposed development. The Institute notes that Councils appear to be delaying verification to manage workload and staff shortages, with requests for additional information and payment of fees also being exploited to further delay the assessment once the clock has started.

**Combined Verification and Assessment Processes** – allowing concurrent verification and assessment should be allowed for DTS applications only. This should exclude applications that are deemed to be suitable for a DTS assessment on the basis that they have one or more minor amendments.

The lack of definition of what constitutes a minor amendment and the cumulative impact of more than one minor amendment risks significant adverse outcomes not anticipated by the Code and needs to be reviewed.

**Automatic Issue of Decision Notification Form** – This is supported. Currently, if assessment of an application exceeds the statutory time-period, the applicant needs to apply for a DTS consent. In practice, applicants are reluctant to do, making the time clock ineffective. Payment of fees is currently being used as a mechanism for pausing the assessment clock so it would appear unlikely that an approval would be granted before fees are paid. Non-payment should be set up as a hold point preventing a decision notification form being issued.

**Building Notification through PlanSA** – Receipt and management of building notifications through the Portal is supported providing it results in improved efficiency for all stakeholders. Institute members reported that they were contacting Council staff in relation to planning applications to circumvent the limitations of the Portal. Until these limitations are addressed, mandating application through the Portal will not deter applicants from making direct contact with Council staff.

**Remove Building Consent Verification** – Verification of applications for building consent should be maintained, to ensure that the application for building consent is consistent with the approved planning documents. Variation of constructed outcomes is already an issue, with no penalties for undertaking variations without approval appearing to occur. Further relaxation of the system would increase the risk of unapproved variations.

It is acknowledged that the current process of verification has resulted in application assessment delays, assumably due to resourcing limitations. The planning framework will require ongoing proven and verified substantiation within the application process to ensure its integrity is not compromised. Integrity of the process is critical to ensuring confidence in the planning system by applicants / the development industry and the community



**Concurrent Planning and Building Assessment** – This is supported and would provide efficiencies for small projects and projects where standardised design and construction methodology apply.

The Institute also notes that there have been issues with applications that require building assessment only. Initially the system would not permit application for building assessment without planning assessment having been applied for and granted. We understand that this has now been addressed.

**Automatic Assessment Checks for DTS Applications** – This is supported provided for DTS applications only. Applications that are deemed to be suitable for a DTS assessment on the basis that they have one or more minor amendments must be excluded from any form of automated assessment.

**3D Modelling for Development Application Tracker and Public Notification** – This is supported to assist the community, applicants, and assessment authorities in understanding the impact of proposed developments. This level of information, combined with the proposed Subscription service improvements, such as the inclusion of automatically generated alerts, is highly encouraged as it will enhance public confidence. The cost of generating digital models needs to be considered when determining which applications this requirement would apply to.

**Augmented Reality Mobile Application** – This is supported but is not considered a priority until the review of the system as it currently exists is fully implemented.

The effectiveness of the SA Planning System was impacted by the limitations presented by the initial funding. Lack of resourcing has been identified by the Institute as a barrier to implementation of amendments required to fully implement the System as described in the PDI Act, with features such as Design Guides, Local Design Review and preparation of Overlay Statements with yet to be written or requiring significant further development. Much of this work needs to be undertaken by Councils, who receive significantly less income from applications under the new system.

**Accessibility through Mobile Applications** – This has been addressed previously.

**Centralised builder's database** - the Institute supports the proposal to create a centralised database to increase efficiency of applications. However, it opposes open access to business addresses and contacts. It is important that privacy of businesses is not compromised, and that risk of identity theft is minimised. Systems for performing this should therefore be similar to those used by other registration boards with details limited to name, Australian Statistical Geography Standard Suburbs (ASGS) and Localities and registration type. They should not permit data harvesting and include measures such as reCAPTCHA to prevent this from occurring.

### **Additional Considerations**

Based upon consultation with our members, who frequently represent the applicants within the planning system, further additional considerations are as outlined below.

1. Refined submission process: the Institute supports the proposed changes. Further recommendations to improve efficiencies include:
  - a. Ability for applicant (or applicant's representative) to initiate lodgement of revised / additional documentation. The system currently requires the initiation for lodgement via Council staff, often resulting in additional communication outside the e-portal between applicant and planner. This appears to be addressed in recent amendments to the Portal.
  - b. Ability to send large files via hyperlink/share-file system. Frequently file size and internet bandwidth has presented members with technical difficulties within the e-portal.
  - c. Ability to manage and process staged applications. Many members have identified the inability of the e-Planning System to issue multiple building consent forms for each stage of development. This required significant communication between applicant and planner outside the e-portal, and often multiple applications for each stage of development within the system.
2. In instances where the Architect lodges an application on behalf of a client (or applicant), the system defaults to listing the Architect as the applicant. The e-Planning System needs to accurately differentiate the applicant from the applicant's agent to ensure alignment with associated liabilities.
3. Minor Amendments -

## **2.2 Discussion Paper: *Planning, Development and Infrastructure Act 2016 Reform Options***

### **Public Notifications and Appeals**

To encourage community confidence in the planning framework, mandatory public notification for developments that fail to meet the planning rules is supported. The definition of failure requires certainty and thus it is recommended that instances be workshopped with industry to ensure broad consideration of intended outcome and minimisation of unintended consequences.

The Institute generally supports intermediary appeals processes outside of the court system, such as the Council Assessment Panels (CAP) appeals pathway. In practice, CAP membership is comprised of accredited professionals (Planning Level 2) under the Accredited Professionals Scheme. As further discussed below, the Scheme presents many unintended consequences, two of which, are the limited diversity of membership within the panel and limited effective 'pool' of accredited professionals.

Since the Scheme's inception, the effect of membership on CAP is a reduction gender diversity and professional diversity. Professions which have declined in representation include architects, lawyers, environmental scientists, engineers, landscape architects, and heritage consultants.

Diversity of membership of CAP is necessary to ensure broad expertise and understanding of a range development types and regional conditions, and resultant heterogeneity of our built environment. Homogeneity in urban settings does not adequately reflect the social and economic complexity of our State, with its diverse



urban areas. Heterogeneity leads to more sustainable urbanities, with greater ability to anticipate future changes in existing environments.<sup>6</sup>

### Accredited Professionals Scheme

The Accredited Professionals Scheme, as discussed, has resulted in a reduction in participation and diversity since its inception. The unintended consequences in this reduction have been increased pressure on CAPs, the engagement of planning professionals by local authorities via indirect (contract) arrangements, and a risk of over-delegation of assessment to non-accredited employees.

The *Planning and Design Code* is reliant upon the discretionary interpretation of many aspects of the planning framework by the accredited professionals within the relevant authorities. In practice, the relevant authority (local council) defers this discretion to an accredited planner, frequently engaged on a contract basis. Such an arrangement presents several unintended risks:

- Potential conflicts of interests of the accredited professionals who may be undertaking work on behalf of both applicants and relevant authorities. While we understand that conflicts of interest must be declared, the perception of partiality can be difficult to counter,
- Potential inconsistency of the interpretation of the Planning and Design Code due to deferral of discretionary interpretation by relevant authorities to multiple accredited professionals, with varied levels of experience and expertise, resulting with inequity of application of the Code.
- Risk to accredited professionals making determinations outside of their expertise and Professional Indemnity Insurance coverage.
- Risk, during times of disproportionate resources to assessments within mandated time periods, of over-delegation of 'minor assessments' to non-accredited employees (e.g., minor amendments).

The 'contracting out' of discretionary powers has potential of creating poor perception of the system by the community with ambiguous consumer protection pathways; the system requires better transparency to ensure community confidence is preserved into the future.

Lack of skills diversity in the Accredited Professionals Scheme is also of concern, with registered architects currently making up under 5% of accredited professionals (Planning Level 2). From discussion with members, the current lack of engagement by architects can be attributed to:

- The cost and administrative load associated with becoming an Accredited Professional, with the annual fee being only slightly less than that for architectural registration, and the duplication of recording of CPD.
- Being subject to a second disciplinary process in addition to that delivered through the Architectural Practice Act.

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<sup>6</sup> Schreurs, G. "Resilience in Homogeneous versus Heterogeneous Urban Waterfronts: The Case of New York City", University of Minnesota Press, Volume 12, Issue 2, Fall 2020, pp 58-81. Available: <https://muse.jhu.edu/article/798403>

- The reduction of matters being considered by CAPs, as compared with the previous DAP system, which reduces engagement and limits sitting fees, making recovery of the cost of participation doubtful
- High levels of activity in the architectural sector over the past 2 ½ years

Architects are highly qualified AQF Level 9 university-trained professionals who are registered with the Architectural Practice Board of South Australia. The *Architectural Practice Act 2009 (SA)* mandates the registration process for Architects, who hold mandatory Professional Indemnity insurance cover, adhere to a Code of Conduct, are subject to a disciplinary procedure and comply with an audited Continuing Professional Development (CPD) requirement.

Architectural registration has already been recognised as being equivalent to the requirements of the Accredited Professionals Scheme. However, this does not currently exempt architects from being subject to a significant level of regulatory duplication if they register as accredited professionals.

To increase participation, architects should automatically be granted status as a Planning Level 2 Accredited Professional, with those architects wishing to participate submitting an expression of interest prior to being included on the APS register. All compliance and administrative requirements would be met by the APBSA from that point forward. This would remove the current duplication and minimise administrative costs for PLUS and the architects involved.

We recommend the concurrent review of the Accredited Professional Scheme to ensure long-term sustainability and success. Genuine mutual recognition within the scheme will assist in mitigating diversity issues. Shortages of qualified planning staff currently experienced by local councils in South Australia requires further consideration. This should include reinstatement of an undergraduate qualification in statutory planning within South Australia to address the skills shortage.

While we understand that education for planners is beyond the remit of the Expert Panel, the skills shortage, combined with the relatively low number of planners who are signing up to be accredited professionals, place the robustness and reputation of the system at risk.

### **Impact Assessed Development**

Determination of Impact Assessed (Declared) Development requires urgent review. Recent decision by Government such as the new Women's and Children's Hospital (nWCH) Project call into question the rigour and supportability of the current process. This project was not subject to a whole-of-Government process, with DEW being noticeably absent from the site selection review undertaken prior to public announcement.

We acknowledge that this occurred prior to development assessment. However, as the PDI Act 2016 does not require formal consultation with other Ministers, a full Cabinet Submission or approval by the Governor, it creates an environment where projects are more likely to be proposed without comprehensive and holistic consideration of all aspects of the development impact. It also creates an environment which calls into doubt the impartiality of these decisions.

The recommendation of the Selection Committee into the Kangaroo Island Port application regarding amendment of Section 115 of the Act is strongly supported by the Institute. Major developments are significant investments in the future of South Australia and result in major impacts on the amenity, environment, culture, economic sustainability and functionality of our State.

Impact Assessed Development should be subject to independent and rigorous review to prevent Government being perceived as acting with disregard of the planning system. When this occurs, it erodes public confidence and encourages private development to challenge the need to comply. The number of private development applications that are significantly in variance with the Code indicate that compliance is already considered as optional.

### Infrastructure Schemes

The Institute supports implementation of a robust framework to provide clarity regarding infrastructure requirements and the mechanisms by which they will be realised. The summary of the methodology used for the pilot program is comprehensive and incorporates consideration of community requirements, funding, co-ordination and governance, which is required to deliver a system as complex as a new community. Forward planning by agencies such as Infrastructure SA should be responsible for creating a long-term framework to inform and support large scale development.

The impact of inadequate infrastructure planning can be seen in the significant growth of Mount Barker, where re-zoning enabled residential development that doubles the population, without any provision for additional education, health, recreation, transport, or other infrastructure. The cost to the community to deliver these essential facilities is now significantly higher than if they had been planned for in the initial re-zoning process.

The development of Burton in the 1990s is another example of insufficient infrastructure planning. In this instance allowance was made for local retail development but there was no mechanism to ensure that these facilities were delivered. The consequence was that the shopping precinct was not constructed. For a considerable period following the initial development, residents were purchasing basic food items from the primary school canteen, as there was no public transport connection to existing shopping precincts, and many did not have access to a car during the day. This presented significant supervision and safety issues for the school.

### Local Heritage in the PDI Act

Architects place a high value on heritage places and the processes to ensure their appropriate listing, management, protection, and assessment in future developments. As identified by the Panel, the planning framework currently presents uncertainty for developers/architects and the community concerns as evidenced by various project controversies in the media.

As outlined in our submission in response to the *Miscellaneous Technical Enhancement Code Amendment*,<sup>7</sup> current assessment of development applications

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<sup>7</sup> <https://www.architecture.com.au/advocacy-news/policy-submissions>

including heritage places/areas or historic areas are compromised for the following reasons:

- Relevant authorities (or local councils) often do not have access to professional heritage or historian expertise.
- The authorities often defer their discretionary powers to accredited planning professionals who lack the expertise to provide an opinion as to:
  - o Which building or part of building “is not in keeping with the features of identified heritage value in the State Heritage Area in which the building is situated”.
  - o Which building or part of building is not keeping with the historic attributes identified in the Historic Area Statement applicable to the area in which the building is situated.”
- The risk of the impact of potential misinterpretation of the heritage value and/or historic attributes resulting in demolition of a heritage/historically relevant place significantly outweighs any potential administrative and time benefits of circumventing referral the appropriate heritage authority nominated in the Heritage Places Act in all instances.

We therefore agree that “the listing of (and assessment of impact on) heritage places is arguably a matter that sits best with heritage experts (as opposed to planning professionals)”.<sup>8</sup> Developments impacting heritage sites and/or historic areas should always be deferred to the appropriate heritage authority. This is currently complicated by State Heritage and Local Heritage being subject to different legislation. This Institute strongly supports incorporating local heritage provisions into the Heritage Places Act. This would improve the quality and veracity of decision making in relation to heritage places. It would also greatly improve the system for nominating and assessing places for local heritage listing, The transfer of local heritage matters to the Heritage Places Act would need to be supported by appropriate resourcing for Heritage SA and the SA Heritage Council.

In addition, the Institute believes that introduction of sections 67(4) and 67(5) into the PDI Act would result in a diminution of local heritage protection. However, application of heritage policy, as noted by the Expert Panel, is not a popularity contest, and should not be compromised by the introduction of these sections.

Local heritage listing does impose additional development controls, but the implications of local listing are largely misunderstood by the community, which results in building owners frequently opposing listing. The statement by Hon Dennis Hood MLC, in the Expert Panel documents, that ‘aging properties are unable to be demolished and/or renovated because of their heritage listing.’ is erroneous. Listed properties are subject to demolition control but can be renovated within the framework provided by heritage policy. Where a property is locally listed, this primarily affects the street facing façade and does not impact on the works undertaken to the remainder of the place. Heritage policy is one of many considerations that informs development and is no more or less restrictive than other forms of development control.

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<sup>8</sup> Refer page 39 of the Discussion Paper – *Planning, Development and Infrastructure Act 2016 Reform Options*.

What is discussed less often is that all buildings are a depreciating asset regardless of age, and that property values rise in response to the access to services, employment, infrastructure, and amenity available in the locality. In addition, land size, landscape features, the social profile of the area, real estate trends, and the quality and maintenance of the property influence its value. Heritage policy generally supports property value through the retention of character and landscape qualities that contribute to the amenity of a locality<sup>9</sup>. Development of information to support owners understand heritage policy is suggested to alleviate the unhelpful preconceptions surrounding heritage listing.

We note and support the statement included in the Discussion Paper on page 4.

*Legislate to require that proposed demolitions of State Heritage sites be subject to full public consultation and a public report from the SA Heritage Council.*

We add that this should apply to all levels of development, including Impact Assessed Development.

### Deemed Consents

The Institute re-iterates previously identified risks with automation of deemed consents and/or removal of building consent verification process. This is particularly relevant given the shortage of planners, which makes meeting the prescribed time for processing approvals problematic.

Resourcing issues impacting the operation of the planning system in the intended manner should not place the quality of decision making under threat. Buildings exist for a long time, and the future quality of our built and natural environment should not be risked for the short-term expediency of deemed consents.

A balanced approach is required to ensure consideration of time for application assessments does not compromise the integrity of the assessment process.

## 2.3 Discussion Paper: *Planning and Design Code Reform Options*

### Character and Heritage

As noted, the Institute and its members place a high value on the preservation of state and local heritage places. We reiterate that developments impacting heritage sites and/or historic areas should always be deferred to the appropriate heritage authority nominated in the *Heritage Places Act 1993 (SA)*.

We support the reforms as presented:

**Elevation of Character Areas to Historic Areas** – The transition of heritage provisions regarding contributory items to the new planning system was not well managed and caused significant community concern. Ongoing development pressure in established areas, which

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<sup>9</sup> [https://www.environment.act.gov.au/\\_data/assets/pdf\\_file/0007/1062259/Heritage-Factsheets-Impact-of-Heritage-listing-on-residential-property-values.pdf](https://www.environment.act.gov.au/_data/assets/pdf_file/0007/1062259/Heritage-Factsheets-Impact-of-Heritage-listing-on-residential-property-values.pdf)

is significantly changing their character, is exacerbating these concerns. Elevation of relevant Character Areas to Historic Areas would assist in alleviating these issues, although this would be severely compromised should sections 67(4) and 67(5) be introduced.

**Character Area Statement Updates** – We recommend the review of existing Character/Historic/Heritage Area Statements to provide consistent and robust frameworks for applicants and assessment staff. The current Statements vary greatly and provide limited certainty to the community that valued features of a local area will be protected.

For example, materials requirements may be left blank, or specify ‘*stone and brick*’, without stipulating which of the many stone and brick types are appropriate. Statements should include clear direction such as ‘*standard size red brick*’, or ‘*randomly coursed local limestone with raised ribbon pointing*’. Without this level of information, glazed bricks or stone tiles could be reasonably interpreted as appropriate.

Similarly, the architectural styles section may state that ‘*pitched roofs with eaves*’ are typical in the area. However, without information about the roof form – skillion, gable or hip – or the roof pitch and materials, there is insufficient detail to ensure that the existing character will be maintained. In both examples the constructed outcome may be at serious variance with the existing character of the area..

Development of additional graphic material to support the written Statements is also recommended. This will assist in interpretation of terminology and understanding of the desired intent for development in areas subject to Character/Historic/Heritage Overlays.

**Enhanced demolition controls in Character Areas** – removing the ability to demolish a building in a Character and Historic Areas before the replacement development has been approved is supported. This needs to be informed by the improvement in the Character and Historic Area Statements, so that there is an effective framework for the assessment of what ‘*in keeping with the character or historic value of the area*’ really means. Ideally, assessment of whether the proposed development meets the intent of the Statement would be undertaken by an architect through the local design review scheme.

### Tree Policy

There is widespread community support for maintaining trees and increasing canopy cover in South Australia, and this is equally supported by the Institute.

We identify a number of inconsistencies and shortfalls of the existing Tree Policy and identified review proposals:

1. The 30-Year Plan for Greater Adelaide<sup>10</sup> sets targets for canopy covers in South Australia, aiming to increase canopy cover by 20%.<sup>11</sup> However, there is no baseline percentage of canopy cover defined for various neighbourhoods. Neighbourhoods with less than 10% existing tree canopy will need to introduce a minimum amount of canopy cover to ensure impact to reduce the heat island effect.

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<sup>10</sup> <https://livingadelaide.sa.gov.au/>

<sup>11</sup> <https://www.odasa.sa.gov.au/wp-content/uploads/Green-Adelaide-A-New-Approach-to-Managing-Our-Urban-Environment.pdf>



2. The exacerbation of tree loss is jointly due to the approved landscape provisions for developments through planning system and lack of audit and penalties for damage to or removal of trees during construction.
3. Acceptable removal of particular species conflicts with the intent of the policy.
4. Permissible removal of trees within proximity to ancillary development (e.g., swimming pools) conflicts with the intent of the policy. This exemption applies regardless of whether the adjacent structure is currently in use or whether the tree predates construction of the adjacent structure.
5. Maintenance issues for new buildings not considered in the planning framework and design often resulting in the unintended consequence of removal of trees. For example, construction of a two story building with box gutters under existing trees which produce significant quantities of leaf litter. We recommend the development of Design Guidelines to address this issue.
6. Mandating a tree per SOU development is generally supported. The Institute also commends the guidance provided regarding adequate provision to ensure best success for survival of the tree (i.e., root zones, core soil depth, etc).
7. Minimum size for lots needs to be reviewed to allow option for trees. The Urban Tree Canopy Off Set Scheme is inadequate, with the financial contribution being significantly less than the real cost of purchasing, planting and maintaining a tree in the public realm. In addition, there is also no mechanism to ensure that trees being planted in public spaces will be located near the properties being granted the exemption, so that any mitigation of environmental conditions may not occur where it is most needed

The Institute suggested the following be considered:

- Increase in protection for existing trees, including incentives for retaining trees. (Note: this could be combined with local Council incentives for maintaining trees such as that established by Unley Council.)
- That the tree offset scheme does not apply where small lots are approved as part of a small-scale subdivision – two or three for one – in an existing developed area, as there is an unacceptable risk that public planting will not occur in close proximity. The Institute commends DEW and PLUS for the *‘Adelaide Home Garden Guide for New Homes’* to support owners plan, select and maintain their gardens.
- Where small lots are developed as part of a larger subdivision, a requirement that the street plan include wider verges to enable the planting of trees in areas where exemptions for tree planting on the SOU allotment may be applied for.
- Inclusion of a requirement for all at grade carparks to be planted with shade trees and paved with a permeable material to facilitate establishment and ongoing water requirements.
- Requirement for public realm projects, including transport infrastructure, to include landscaping that will provide a minimum 20% tree canopy cover.

This will assist in addressing the ongoing societal costs of lack of canopy.

### Infill Policy

Infill development is a source of ongoing community concern. It is significantly changing the character and quality of existing areas and is placing pressure on landscape and tree cover, existing social infrastructure, stormwater management and

parking. A combination of smaller site area and increased house size is compounding the impact of infill development, with many small-scale developments replacing one family home with two or more significantly larger family homes.

Smaller sites are often promoted as supporting housing diversity and improving housing affordability. However, diversity and affordability are not being achieved in many cases, with standardised residential offerings restricting consumer choice. Lack of design expertise in the residential sector limits innovation and quality outcomes.

The Institute recommends that Government invest in pilot projects to demonstrate the opportunities for development on small sites. This would provide exemplars for private developers and the community. Development of medium density design guidance documents is also recommended.

Damian Madigan's research into alternative models for infill development, which informs the *Raising the Bar on Residential Infill in the Planning and Design Code*, is commended. Development of additional design guidelines as suggested by the Expert Panel and referenced in the PDI Act is also strongly supported.

**Existing Guidelines for Infill Development** – The Institute does not consider the existing guidelines to be sufficient. They address some key deficiencies in existing infill development –

- Visibility of the primary entry
- Visual connection to the street from a habitable space
- A concealed area for bins storage

However, the mechanism for determining design features is ineffective and able to be applied in ways that detract from street appeal, because the resulting buildings are visually cluttered and incorporate excessive features and articulation. The guidelines provide no information regarding massing, proportion or facade composition and consequently have little ability to ensure quality design.

Many areas in South Australia that are valued for their visual character and amenity are comprised of houses that would not comply with the design feature requirements. These areas frequently have a restricted palette of materials, and a degree of uniformity of housing scale and style. Long established rules of proportion, solid to void ratio and material use informed design decisions and resulted in largely harmonious streetscape. Decorative features that provided individual expression and visual interest were restricted to parapets, veranda and roof trims and window surrounds. Depth and texture of materials played a large part in providing articulation and visual interest.

**Alternative Forms of Infill Development** – The Institute supports infill development where it is executed in a way that meaningfully responds to context, minimises environmental impact and provides genuine choice and diversity of housing stock. Investment in demonstration projects, as described above, is recommended to enhance community understanding of alternative infill models. Planning policy and financial models that better support community housing and other alternative housing options are also required to support housing diversity. Nightingale housing developments clearly demonstrate what can be achieved when these factors are addressed.

**Strategic Planning** – The Institute has no doubt that a range of housing typologies can be achieved on smaller allotments without compromising quality. There is significant precedent for this.

However, as previously stated innovation requires investment in quality design and community confidence needs to be gained through the ability to experience and understand alternative housing typologies. This requires genuine community engagement and construction of prototypes so people can experience alternative models first-hand.

### Car Parking Policy

Access to car parking is a recurring issue in Adelaide. The expectation that peak demand for parking will be met is widely held and impacts housing affordability, streetscape amenity, the environment and public health. The increased likelihood of adult children remaining in the family home, combined with the expectation that every adult with a licence will own their own car is a significant factor in parking congestion. Infill development resulting in smaller allotments further exacerbates the issue.

The Institute supports a measured and flexible approach to car parking. Increasing the current car parking requirements in the Code is not supported. Enabling lower levels of car parking in areas where walkable access to public transport or employment is possible is strongly supported. Improvement of cycling infrastructure and public transport is also recommended.

The need to provide covered parking, particularly on smaller allotments, is also questioned. What should be monitored is the conversion of soft landscape areas to provide additional on site parking, with penalties for non-compliance with this requirement of the Code.

Development of design guidance for off street car parking is supported as an integral component of the Infill Design Guidelines. Incorporation of allied site and landscape design considerations is welcomed.

Infrastructure for electric vehicles is clearly a growing requirement. Failure to provide for suitable infrastructure will result in undesirable outcomes, such as power cables from private properties extending into public spaces to charge vehicles parked on the street.

Uncontrolled provision of charging infrastructure may also result in stations being located in soft landscape areas, limiting movement space or other unintended outcomes. Consideration of how electrical vehicle infrastructure should be provided is recommended but the Institute notes that there will need to be flexibility in the policy to allow for emerging technology.

Carpark offset schemes are not supported. The Institute would prefer to see savings from lower provision of parking transferred to purchasers, providing more affordable housing options.

Preparation of local road Design Standards is not considered a priority by the Institute.

## 2.4 Design Quality, Design Review and Consistency of Built Form Outcomes

### Design Quality and Design Review

Design Quality is identified in the *Planning, Development and Infrastructure Act*, however, the Planning and Design Code and associated operational Guidelines do not adequately define or implement design quality within the planning framework. There is an opportunity for the Planning Review to refocus to design quality within the planning framework and provide best opportunities for great built environment outcomes

We recommend further revisions of the *Planning and Design Code* focussed on articulating the application of design principles within the planning framework and clear processes for the assessment of Performance Assessed Development.

The purpose of design principles, generally, is to establish a definition of ‘good design’ that can inform the design, review and assessment process for developments across the state. The Office for Design and Architecture has articulated the following Principles of Good Design<sup>12</sup>:

- Context
- Inclusive
- Durable
- Value
- Performance
- Sustainable

Based upon research undertaken by the collective effort of the Government Architects Network of Australia (GANA), the Institute identifies additional design principles that may further establish more concise definition of ‘good design’:

- Character
- Landscape
- Built form and scale
- Functionality and building quality
- Amenity
- Legibility
- Safety
- Community
- Aesthetics

The application of the design principles, diagrammed and explained via supplementary *Design Guidelines* targeted at different user groups (applicants, assessors and the community/consumers) will increase the legibility of and confidence in the planning framework.

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<sup>12</sup> Refer: Government of South Australia, Office for Design and Architecture SA, 2017 *Principles of Good Design*, available online: [https://www.odasa.sa.gov.au/wp-content/uploads/ODASA-Principles-of-Good-Design\\_2019-Update\\_WEB-FINAL.pdf](https://www.odasa.sa.gov.au/wp-content/uploads/ODASA-Principles-of-Good-Design_2019-Update_WEB-FINAL.pdf)

## Local Design Review -

The Institute supports the implementation of the Local Design Review Scheme (LDRS) in all applicable local governments. We also strongly urge amendment of the PDI Act to make the provision of the LDRS mandated across all South Australian Councils plus establishment of a LRDS Panel for development that is not located in a Council area. This would provide equity of access to all applicants across South Australia.

The Institute is aware that the LDRS has not been implemented by a single local authority to date. We understand that the voluntary nature of both the establishment of a LDRS and the engagement with the LDRS by applicants is resulting in Councils choosing to question the value of implementation. There is concern that applicants will generally not choose to engage with LDRS, rendering it a significant investment for limited benefit.

In light of this, the Institute would also recommend that Councils define triggers that require an applicant to engage with the LDRS. These have been suggested in previous submissions and include:

- Any subdivision of existing property subject to any of the following Overlays: Affordable Housing; Character Area; Heritage Adjacency; Historic Area; Local Heritage Place; State Heritage Area; State Heritage Place
- All development within selected zones with significant impact and upscaling - e.g. urban corridor
- All projects over 3 storeys, in any zone
- All projects in any zone which requires a change of use away from selected uses (further discussion on uses but suggest residential, primary production, community as examples
- All projects in any zone which require performance-based assessment because design quality is a component of that assessment

Further resourcing, training and guidance is required to ensure local governments can successfully implement the LDRS.

### Consistency of built form outcomes

There are several inconsistencies which currently exist, in conflict with the planning framework.

The planning system offers limited remediation/penalty process in instances where as-built amendments (not approved) are constructed with detrimental outcomes. Examples include: shade structures not built, awnings reduced in depth, materials changed. The result is poorer quality and amenity of the built environment.

There is significant uncertainty for the community and developers with regards to yield, as prescribed in the planning scheme and as approved for development. There are increasingly abundant precedents of buildings approved that are considerably over-height. The effect is loss of confidence and certainty in the community and risk to developers, who often gamble with regards to height and yield assessment potential when purchasing a site.

A system of accountability is required to ensure certainty, consistency, and confidence of our planning system. Options for consideration may include post-construction audits, similarly to the Victorian model, or mandatory performance disclosure at point of sale, similar to the ACT model. We also recommend that where a project has been through a design review process that any amendments post approval are referred to the Design Review panel for consideration.

**One or More Minor Amendments** – The Institute questions the assessment of developments that have one or more minor amendments under the DTS pathway. We believe that this introduces an unacceptable risk of adverse outcomes and damages community confidence in the planning system.

Definition of what constitutes a minor amendment is not provided. It is left to the relevant authority to determine based largely on precedent. However, the Institute is aware of precedents where a 25% variation to the Code requirement has been deemed a minor amendment. This is unacceptable and is compounded where multiple minor amendments are allowed.

The Institute recommend that ‘minor’ be defined – for example as a +/- 5% range – and examples of what is deemed as a minor amendment to a development be provided to assist assessment staff. We also recommend that where amendments are related – for example allotment area and site coverage – that only one is permitted. This would limit the cumulative impact of multiple minor amendments.

We believe that these proposed amendments to the SA Planning system will provide increased certainty for applicants and provide clear parameters if dispute resolution is required. Applicants who consider that they have legitimate grounds for a variation to planning policy would be able to pursue this through a performance assessed pathway.

## 2.5 Broader Sustainability Review Requirement

Architects deem action in response to climate change as critical. Sustainability, planning for green infrastructure and decarbonisation of the built environment are necessary elements of this action.

The Institute advocates for a zero-carbon construction industry by 2030, as our built environment accounts for 39% of all carbon emissions, globally, with operational emissions accounting for 28%<sup>13</sup>. Members are actively committing to Carbon Neutral practices<sup>14</sup> and the Institute has also embarked on its own “Carbon Neutral” journey. The Institute has called on the Australian Government to establish a national plan towards zero carbon buildings by 2030 that can be supported and led where appropriate by state and local government.

Response to climate change presents as both a moral obligation and economic response to the ongoing, calculable costs of climate change. The Institute recommends the Panel undertake appropriate economic modelling of societal costs and per dwelling costs of

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<sup>13</sup> WorldGBC (2019). New report: the building and construction sector can reach net zero carbon emissions by 2050. Source: <https://www.worldgbc.org/news-media/WorldGBC-embodied-carbon-report-published>

<sup>14</sup> <https://www.architecture.com.au/about/carbonneutral>



climate change consequences within existing infill planning framework. The modelling needs to consider costs of urban heat island effect, isolation, loss of private open space, removal of trees, increased storm water runoff, reliance on active heating and cooling and embodied energy<sup>15</sup>.

Subsequently, further review the Planning and Design Code, focusing on design principles to recover identified costs may be developed with dual benefit of mitigation of climate change, and economic benefits to all South Australians.

Some key focus areas stemming from architectural practice and knowledge that may assist in shaping planning policy and building regulation policy to reduce emissions in the built environment sector include:

1. Requirement for life cycle assessments for all new buildings;
2. Focus on zero carbon operation of buildings;
3. Zero (or low carbon) construction methodology (including waste) and materials (which connects to incentivisation of new material industry e.g. green concrete, cross-laminated timber, and others);
4. A commitment to a zero-carbon construction industry via timely adoption of the National Construction Code (NCC) updates and stronger proactive advocacy with the ABCB Board to accelerate necessary regulation change to this effect;
5. Urban design and master planning focussed on higher density urban and suburban development to reduce urban sprawl, manage the heat island effect, respond to stormwater, address transport and connectivity.

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<sup>15</sup> Precedent of such cost analysis from Western Australia prepared for the Department of Planning, Lands and Heritage by SGS Economics and Planning, 2020, Wider costs of Medium Density Development, available online: <https://www.wa.gov.au/government/document-collections/medium-density-code>