23 January 2023
Our ref: 5857996

Mr John Stimson
Presiding Member
Expert Panel
Planning System Implementation Review

via email: DTI.PlanningReview@sa.gov.au

Dear Mr Stimson

Planning System Implementation Review

Thank you for the opportunity to provide comment on the Planning System Implementation Review of the *Planning, Development and Infrastructure Act 2016* (the Act), the Planning and Design Code (the Code) and related instruments and the ePlanning system including the PlanSA website.

Please find attached our detailed submission in response to the review, the outline of which was considered and approved by Council at its meeting held 8 November 2022. In addition, we have also attached our responses to the Expert Panel's Discussion Paper questions and a further letter prepared in conjunction with a number of growth area councils in relation to Infrastructure Schemes.

We have been actively involved throughout the planning reforms providing expert commentary, analysis and review of the many and varied discussion papers, draft Code policies and planning strategies that have informed the Code. A number of key issues we have identified in the attached submission were raised prior to the operation of the Act and commencement of the Code.

In March 2022 we wrote to the new Premier of South Australia, the Leader of the Opposition and the Local Government Association to advocate our support for a comprehensive review of the Act and the Code.

Our letter noted concerns of how the new planning system has resulted in a loss of community voices in its decision-making process; for Council's desire to return appeal rights for representors to the Environment, Resources and Development Court; for an increase in elected member representation on Council Assessment Panels; an increase in tree protection; an increase in protection of local heritage places and historic areas; and the preservation of neighbourhood character through consideration of appropriate design principles.

We are pleased to see this review being undertaken as it captures many of the issues and concerns we had previously identified.

Of particular note, our community are calling for us to continue our commitment to respond to the impacts of climate change, reduce emissions and build community resilience. A strong response to climate change and a focus on sustainability is key to maintaining liveability in our city, managing risks and reducing future costs.

The City of Onkaparinga recognises that sustainable outcomes make resilient communities as evident in our Climate Change Response Plan 2022–27, Goal 1: Climate Smart Neighbourhoods:

Our streets, suburbs and townships are designed, built and maintained to respond to our local climate and to create places that are safe and great to live in.

Accordingly, our submission is influenced by our ethos to ensure our community is represented, is informed and has the opportunity to be heard in matters that directly affect them. We look forward to further opportunities to provide our detailed comments on such matters that reflect the feedback of our Council and community.

Should you have any questions or wish to discuss the matters raised above further, please contact Renée Mitchell, Director Planning and Regulatory Services on [redacted] (Trudi Charlton – Executive Assistant), or mobile [redacted] or email [redacted].

Yours sincerely

[redacted]

Julia Grant
Acting Chief Executive Officer

Attach 1: City of Onkaparinga Submission on the Planning System Implementation Review January 2023
Attach 2: City of Onkaparinga, Responses to Discussion Papers Questions
Attach 3: City of Onkaparinga, Combined Council comments to the Expert Panel on Infrastructure Schemes

SUBMISSION TO THE EXPERT PANEL'S PLANNING SYSTEM IMPLEMENTATION REVIEW		
30 JANUARY 2023		
OPERATIONAL		
Key issue	**Issue / Discussion**	**Recommendation**
Accreditation scheme	It is a condition of accreditation that an accredited professional undertake a prescribed amount of Continuing Professional Development (CPD) set out in Schedule 1 in the proceeding 12-month period. It has been suggested that persons holding accreditation at multiple levels need to obtain the cumulative total of CPD units.	Cap the maximum points required at 20. The conditions for full Level 1 accreditation should also be reviewed - i.e. the requirement to undertake a number of assignments (case studies/essays) is of little value and fails to educate on the issues that are relevant to an Assessment Manager. Review the nature, timing and extent of work required, with consideration for the qualifications and years of experience of the Assessment Manager. A Level 1 Accredited Professional should automatically cover all lower levels including Level 2 with the legislation amended accordingly.
	We are concerned with the privacy of a Level 1 staff member's personal details (ie address details) which should not be recorded on the public register.	Review and adjust the level of information published on the Plan SA portal.
	Regulation 30 specifies when an accredited professional may not act, specifically that Accredited Level 1 professionals cannot determine council-lodged applications.	Review and amend the unintended consequence of this regulation (i.e. that local government Assessment Managers cannot determine their own council's development applications).
Fees	We seek further clarification around the charging of building fees for class 10 structures.	Further clarity on the charging of compliance fees for multiple class 10 structures on one site. Further clarification around estimated fees and councils' ability to estimate fees
	Ability to charge on-costs of structural engineering referrals for building rules assessment. Currently most referrals are costing council more than the value of the application fees.	Include in the fee regulations the ability to on-charge the whole or a percentage of the costs of any structural engineering referrals.

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	Council resolved to include in this submission concerns that during the assessment process, an applicant can submit (or be requested to submitted via request for further information) a technical report in support of their application. The concern relates to the perception that the applicant can 'buy' a report recommendation from their consultant to suit their desired outcome.	Consider introducing legislation that when a development application requires a technical report such as traffic, arborist, or noise that the report be procured by the relevant authority (council / assessment manager) and be subsequently reimbursed by the applicant to ensure the provision of independent technical advice.
	Introduction of retrospective compliance/assessment fees. This is to cover additional inspection / assessment time and enforcement.	Introduce a retrospective development application fee.
	Council considers that the costs of the e-planning and SA Planning Portal have been shifted onto councils. With a reduction in the level of income that council receives from development applications and the necessary increase in resources and on-going costs to compensate for additional operation, this issue must be reviewed. These monies to the State Government are not commensurate to the loss of the lodgement fee and e-planning levy, in addition to the other costs associated with the new system.	Costs of the Portal should be borne by the State. Review of fees and charges should be undertaken with consideration being given to the lodgment fee currently being paid to the State Government being paid to the relevant council.
	We note the recommendation by Stefan Caddy-Retalic, the Belder et al report, May 2022, that a restructure in the fees and bonds that council can leverage for regulated/significant trees is needed, including giving council the ability to charge an assessment fee for applications to undertake works on protected trees and apply penalties for illegal works.	Consider recommendations made in the University of Adelaide's report entitled "Urban Tree Protection in Australia", May 2022.
Inspection Regime	Review of the Practice Directions 8 and 9: current inspection requirements for Class 1 building is 66%; Class 10 pools is 100% and Class 2-9s is 90%. Class 2-9 inspection requirements are too generic and should be split into buildings of high risk to buildings of low risk.	Increase Class 1 inspections to 75%. Class 2-9 buildings to be split into area size, with: 100% of buildings greater than 2000m^2; 80% of buildings between 500m^2 and 2000m^2; and 50% for buildings under 500m^2, including farm buildings.
	Expiations for concealment of works were removed in the changeover from Development Act to PDI Act. This removed a valuable tool for councils when builders cover works where issues have been identified. This should be reintroduced to provide an additional tool to use in conjunction with other enforcement methods.	Re-introduction of expiation powers for concealment of works within mandatory timeframes.
	It is currently a requirement under Regulation 93 to notify of commencement and completion for all building works including class 10	Mandatory building notifications have been a requirement placed on applications since the now repealed Development Act. Removing the requirement to notify

	buildings. This is time-consuming for all parties when no inspection is mandated for this class type (noting that pools are required to be inspected under PD 8).	commencement and completion of class 10 buildings (other than class 10 b pools) will reduce administrative time for both the builders/ owners and council staff. Council will still maintain the ability to include commencement / completion notifications as they require.
	Notification of inspections should only occur through the portal. This will require a legislative change.	Notifications of inspections should only occur through the portal.
	Mandatory building notifications in the portal can be entered with an activity date in the future. We are currently experiencing notifications for works occurring two months in advance. In some instances, we are attending site and works have not been completed and no renotification submitted.	Restrict the input of activity dates relating to mandatory notifications to five days in advance or introduce an expiation fee for works notified but not duly completed as per the notification provided.
Reporting	The current reporting system and system indicators are not enabling accurate data analysis or reporting to be provided to councils and this has implications for budgeting and resource management. Councils pay a significant annual fee but this does not appear to be proportionate to the value of service provided, particularly via the lack of reporting capability. The reporting available is limited and there is a lack of important measurables in the system, such as being able to extrapolate the total number of dwellings that have been approved within our council area, or the inability to be able to determine how many applications for the removal of regulated trees have been approved. This is considered vital for councils to be able to determine the effectiveness of the Code policy for their area, in assisting with work load management and resourcing, and being able to determine the success or otherwise of the effectiveness of the Code in being able to achieve the State Planning Policies and objectives. Improved reporting and the ability to create our own reports by utilising information that can be derived from the Portal is important for council to allow us to allocate staff, review budgets and provide updates to Council on the various mechanisms of the development assessment process.	Review the annual fee that is paid by councils, which should be commensurate with the value/costs of works now being undertaken by council. Improve reporting and the ability for councils to create our own reports.
	Currently the DAP has several predefined reports. While this has improved greatly since March 2021, the system does not enable us to create our own reports for further data analysis and yearly comparisons, nor specific	Improved reporting and ability to create our own reports, comprising our selected data to obtain information we require.

	reporting to Council on particular issues. The reliability and accuracy of the data that can be sourced from the system cannot be relied upon which, in turn, has potential impact on our budgeting and resource provisions. New queries arise and we are very restricted in what information can be provided. Council has had to alter its reporting as we are unable to do comparisons with those reports created prior to March 2021. While the DAP has created similar reports, the answers are very different depending on the queries raised. These predetermined queries raise concerns on the integrity of the returned data.	Require the following: • ability to write, edit and schedule our own reports • actions/task report, and • all underlying data in existing reports to be available.
	Building reports through the DAP do not easily enable basic information to be provided: information such as council inspections notified vs inspected; ESP register; swimming pool inspection status etc.	Refinement required on information that can be sourced through the DAP. Requirement that inspections data must <u>only</u> be provided through the portal.
	Section 7 DAP Extract The Section 7 DAP Extract confuses the wider community relating to the Question: *Is there a tree or stand of trees declared to be a significant tree or trees **in** the Planning and Design Code*? and references Part 10 for more information with: *Open the Online Planning and Design Code to browse the full Code and Part 10 - Significant Trees for more information.* We typically respond to this question as "Unknown" - as by definition of the Planning and Design Code there may be Regulated or Significant trees on site.	Amend the Extract question to ensure that the recipient of the Section 7 understands that while the property may not have a tree listed on a 'Significant tree register" there may still be a regulated or significant tree on the property that requires approval before tree damaging activity occurs.

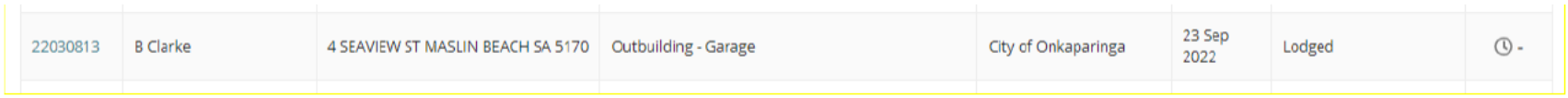
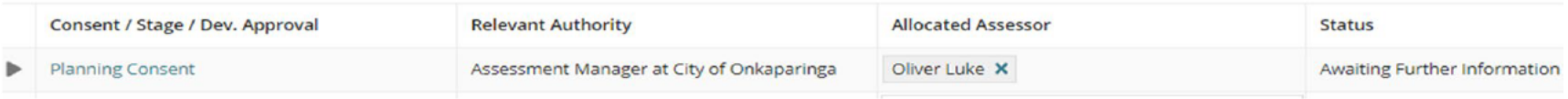
Portal

We acknowledge the regular and various portal enhancements that have occurred and the rectification of some of the inefficiencies of the online planning application and data management system. However, we still hold concerns regarding the specific operation, efficiency and usability of the portal. Council regularly receive complaints from the general public regarding the difficulty in navigating the system. Without a full understanding of the development process, manoeuvring through the online portal and ability to view relevant applications and their details is proving difficult for the general public.

The digitalisation of the state planning system has brought many benefits but some technical inefficiencies remain which require resolution to ensure that 'stop-the-clock' functions and appropriate assessment time frames can still be maintained. The portal is rigid and does not allow for the path of applications to change as the assessment changes or further

information is obtained. Similarly, there is a lack of or limited list of specific land use 'elements' or development pathways listed on the portal to enable the user to more accurately describe their proposed development.		
Portal	<u>Development 'Elements'</u> Selection of land use 'elements' is limiting and fails to encapsulate other development and works that still are considered as development such as 'decks', 'excavation and filling of land', and 'conservation works'. This simplifies determination of assessment pathways.	Review, refine and expand land use categories and building 'elements' for lodgement of applications and categorisation of development pathways.
	<u>Public access to documents</u> Community expectations for transparency in the planning process is regularly raised by our community. The system must be easy to navigate. Public access to documents within the portal can be addressed by implementing appropriate risk management systems and mechanisms to avoid compromise to the Copyright Act (e.g. locking of documents to read only, inability to print or download copies of documents). However, this should be subject to appropriate disclaimers, and formal request via application accompanied with the reasons for the request for copies of documents, including the upfront payment of a fee and proof of identity.	Improvement to document management is required Consider options of locking of documents to read only or inability to print or download copies of documents. However, this should be subject to appropriate disclaimers, highlighting reasons for the request of copies of documents, including the upfront payment of a fee and proof of identity.
	We have welcomed the new online platforms available for operation of the new planning system. However, for ease of use and access to supporting documents and fact sheets, an identifiable 'bubble' with hyperlink should be located on the front access page to enable practitioners but also the general public to be able to access the list of Fact Sheets that are available. Their current listing under 'resources' is misguided and navigation is sometimes difficult.	Review design, functionality and set up of front access page to Plan SA by customising and incorporating more specific identification or 'navigation' accessibility tools ('bubbles') to highlight and link to the more common features of the operating systems, including particular features of the Code, Regional Plans, Fact Sheets, lodgement of Development Applications, Forms and SAPPA etc.
	Greater clarity is sought confirming the relationship between the PDI Act and the State Records Act, Copyright Act and FOI Act. There does not appear to be consistency across all councils and a clear, mandated process is necessary.	Require clarity in confirming the relationship and obligations between the PDI Act and the State Records Act, Copyright Act and FOI Act.
	Applicants continue to send emails and correspondence outside the portal.	Include a function that enables applicants to send a response (e.g. registers emails) that automatically saves the response in the portal.

	Timeframes for getting applications to CAP for notified applications is unreasonable. Applications that are pending resolution at a CAP meeting must be held waiting for the next available CAP meeting date, but this time is not factored into the assessment time frames - a 'stop-the -clock' function should be considered.	Increase timeframes for applications that must be assessed by a Council Assessment Panel. Our suggestion is a further two weeks.
	<u>Ease of Use</u> The portal remains a difficult system for the lay person to use for information purposes. Councils often copy documents into our own systems as a work around for ease of access and record keeping/maintenance. Other functionality issues include the ability to register emails, given this is a primary source of communication between applicants and council and particularly important for record maintenance. These concerns are also held and reiterated by the SA ERD Court regarding the unreliability of the portal, the difficulty in navigating the portal, 'browsing' the Code is not practical and that the electronic version of the Code provisions is unreliable, noting the recent comments by the ERD Court Commissioner in Evanston South Pty Ltd v Town of Gawler Assessment Panel (2022): *"Contrary to the Objects of the Act, the digital planning system is not simple and easily understood"* .	Review user functionality of portal. Educate applicants to lodge plans into the portal one at a time (eg separate site plan and elevations). Timeframes need to be more clearly identified to applicants. Improve process for applicants to direct documents to correct consent type (eg truss calculations to Building Consent documents) . Need to be able to register emails received against the relevant application number. The 'For your Action' list has building DAs that are not for Building. Note recent concerns raised by the ERD Court reiterating concerns and identifying the failures of the Code in interpreting policy.
	The minor variations tasks are very confusing in the portal. When minor variations to the building consent are lodged, they still go to the assessing planner and it is unclear what tasks need to be completed.	Review functionality. Review minor variations workflow and provide information guide.
	The functionality of reordering conditions is poor and should include an edit function so that the description of a condition can be amended.	Inclusion of an edit function so condition descriptions can be amended.
	In conditions when selecting "other" it should be possible to name it so it can be identified when there is more than one other type condition.	Review functionality.

	The portal records timing via a day clock function meaning that if an applicant submits a DA at 11.59pm then at 12.01am the following day, we have already lost one full assessment day.	Review the time keeping function such that it goes according to 24-hour clock function such that you do not lose a full day within the space of one minute.
	It would be sensible in Accepted or DTS to ensure that setback requirements are consistent with building code requirements, that is, a shed 100mm off a boundary can be Accepted in some zones.	Ensure setback requirements for all developments that might be considered as DTS or Accepted to accord with the current requirements under the Building Code.
	The details of the status of an application needs to be consistent across all views, eg on the home screens the status of a DA says this:	Review functionality. Ensure the actual status of an application is visible without having to investigate the full application.
		
	On the view for the application it shows the actual status as this:	
		
Portal	<u>Submission of Information</u> It is fundamental that all information required for completion of an application and a development's completion, including inspection outcomes, timeframes, appeal information and determinations etc should be provided on the portal. For the portal to operate efficiently as a sole resource for information, this is fundamental.	Review functionality.
Time Frames	Where an application is more complex, the system still only allows one RFI to be sent. The provision of information under the first RFI may mean that additional information is required, noting applicants do not fully respond or trigger further details by their response. 10 days is an inadequate time to send an RFI as this fails to provide sufficient time for internal referrals when dealing with more complex applications.	Review RFI process and timeframes to enable additional RFIs to be sent when required based on the nature and pathway of the application. Improve workflows and ability to respond to new information. Enable opportunity for more than one opportunity to request further information, particularly for more complex applications where it is more likely that additional information would be required after referrals have been undertaken.

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	As per above, the current system does not consider complexity of development applications. For example, a group dwelling scheme comprising 25 dwellings has the same timeframe allocation for assessment as a verandah. The 20 day provision for assessment of complex applications is inadequate and does not always allow negotiation / discussions to resolve particular matters with the application.	Review length of assessment time provisions. 20 days may be appropriate for a Class 1 or 10 application, but an increased timeframe should be provided for proposals over a certain $ value, over a certain height or over a certain floor area (require analysis of what the different trigger should be). $ value trigger is problematic as applicants are likely to underestimate $ value if it means a lesser assessment timeframe.
	The verification process can be very time consuming and is essentially a pre-assessment. Given the lack of information often submitted by applicants, the process should prohibit applications being lodged onto the portal until such time as all relevant Schedule 8 information is provided.	A suitable education process or check box system for applicants should be available at lodgement. This combined with improved intuitiveness regarding provision of appropriate information on the portal to deny applicants the ability to lodge an application without all relevant information is essential.
	The verification process can be complicated, particularly for the larger, more detailed applications. The five day timeframe is too onerous. Council is required to accurately input the correct pathways and information required for assessment, but this unfortunately takes considerable time. An initial assessment is required in many instances to ensure that the verification is done correctly. The five days does not indicate the level of work that is required to undertake this task. There would be substantial benefit in extending the verification time frames, perhaps to 10 business days, to enable reasonable initial review of applications. This additional time would assist with allocation of applications and provide sufficient time allotted for the relevant planning/building officer to undertake verification. Also, in the event that it is obvious that planning consent would not be granted there is no opportunity for staff to contact the applicant to advise of this situation early via any general correspondence at the verification stage. The opportunity for them to withdraw their proposal prior to payment of fees should be permitted. This service provides better customer service for council.	Review five day timeframe for applications other than those that are Class 1 and 10 etc.

POLICY

Key issue	Discussion	Recommendation
Infill Policy Council remains concerned about the cumulative impacts of infill development on our existing suburbs and the implications this may have for our infrastructure and services. Issues include stormwater management, loss of tree canopy due to increased dwelling densities that are supported and encouraged by the Code, the prevalence of onstreet carparking and the loss of adequate and usable private open space areas. It is considered that the Code policy should be re-evaluated to consider these factors and refine policy to ensure that existing character and resulting impacts are minimised.		
Infill Policy	The Code promotes infill development, but the design, impacts and management of infill development should be addressed more thoroughly in the Code. We have increasing concerns of infill development's impact on existing infrastructure (eg stormwater management) without an ability to seek contribution towards upgrades costs.	Particular regard to policies addressing design, protection of streetscape and landscape, neighbourhood character and local context. Expansion of existing Code policy is required for existing services/infrastructure systems. Consider developer contributions to fund the improvement of local infrastructure and assets and off-set to address pressures on existing infrastructure and services.
	Increasing tree canopy and decreasing the heat island effect is essential in infill areas. Code policy weakens the opportunity for the planting of additional trees and landscaping by the implementation of the Urban Tree Canopy Overlay.	Reconsider application of the off-set scheme and increase amount paid into the fund to discourage applicants from taking the .easier option in lieu of retaining trees on infill sites. Consideration of the benefits that usable urban green spaces make to better balance the challenges faced when considering housing for the community
	It must be determined whether the areas that are identified for further infill development have the service and infrastructure capacity to sustain further development. The following factors (but not only), should be considered for infill development: • must be strategically located • infrastructure must be coordinated • tree/canopy cover and protection/provision • must be sustainable.	Improve strategic implementation of policy and consideration of design impacts of infill.
	Infill development also has the potential to impact negatively on local heritage within an area, and clear policies and frameworks for decision making are required where heritage conservation must be considered	Strengthen the policy provisions relating to the Historic Area Overlays and design criteria for new built form within these areas of notable character.

	alongside other objectives in pursuit of infill targets. It is imperative that the Code provide robust design policy, to ensure that opportunities for improving streetscapes and areas in ways that can benefit local heritage places and incentivise their restoration and use, can be used.	
	We seek additional infill policy context to address the locality and prevailing character of an area.	Strengthen the provisions relating to prevailing allotment pattern/character, particularly in established areas.
Design There is a lack of detailed or nuanced policy and design guidance within the Code. Current Code policy fails to consider the desired future development form, context and architectural detail of an area in order to achieve positive development outcomes. This is particularly relevant in our Historic Areas and townships, which display very different character and design attributes to inner city urban areas. In addition, the lack of detailed policy guidance for design not only reduces the level of certainty that can be provided for our community but also for developers from an investment perspective and for infrastructure providers from a forward planning perspective. Interpretation of policy in the Code is extremely subjective and open to interpretation due to its generic nature and grammatical construction. This can result in vastly different views and results in a lack of consistency across other councils and the state. Good quality design does not need to be costly but should be well articulated in the Code for use in the planning and assessment stage of development.		
Design	We consider there is a lack of detailed and nuanced policy and design guidance throughout the Code, it seems to lack strength in seeking good design outcomes. We appreciate that policy is subjective and open to interpretation due to its generic nature however, the relevant Performance Outcomes do not reference the relationship between the various elements that contribute in some way to the overall character of a location. The Code has minimal policies seeking good quality design and refusal of an application would be difficult based on the existing provisions.	A higher standard than currently proposed in the Code is required for design features and to encourage design quality and good design outcomes. Review and strengthen design policies in all zones and/or within the 'Design in Urban Areas' General module by incorporating additional policy around specific building design elements such as: • roof span, pitch • side setbacks of dwellings • building height including fascia levels, eaves heights, ridge heights • materials • fine grain details such as plinths, rendered bands and moulding etc • colour schemes • solid/void ratios • street frontage widths

		• require guidance on fencing – type, material, orientation, height, spacing of pickets, permeability etc particularly in a Historic Area.
	Code policy does not consider an area's future development form, context and detail to achieve positive development outcomes as previously sought in Desired Character Statements.	Provide forward-facing policy to determine the 'vision' for an area.
	Code policy surrounding the impact of development on the public realm should be strengthened.	Design Standards for public infrastructure which, while provided for in the PDI Act, have not been addressed through the Code or Practice Directions.
	<u>Local Design Review Scheme</u> Council, at present, has determined not to have a local design review panel, preferring to provide 'in-house' design advice through our Urban Designer and Heritage Architect on an 'as needs basis'. We note most applications do not warrant the scale and costs of establishing a Local Design Review Scheme. In addition, the voluntary nature verses the lodgement costs and relative expense of the scheme is unlikely to be taken up by applicants, particularly private residents, for advice and therefore will not resolve the concerns and design issues if this cannot be legally applied. To be effective, we consider there is a need to make the scheme mandatory within the Code and applied via triggers relating to specific criteria on a 'user-pay service'.	Review the discretionary nature of the Local Design Review Scheme. Ensure mandatory nature within the Code - this could take a similar process to the Schedule 9 referral process. Alternatively, mandate those land uses that are to be considered by the local design review panel based on development type and scale, and provide specific criteria to trigger the need for referral or those that will be used to identify them. Review costs of the scheme.
	<u>Concept Plans</u> Concept plans should be broader in their application than just identifying key infrastructure. They should also include land use, pedestrian connections, key movement corridors, interface buffers and vistas to be retained.	Reconsider application of concept plans within the Code and ability to recognise local context and character.
	<u>Sloping Land</u> Where land is sloping, low density allotments should be provided. A prescribed minimum allotment size is a sound, long standing planning tool to 'set the scene' that recognises existing land characteristics and allotment configuration and encourages space for trees and vegetation around	Introduce split level design controls for subdivision into the Code. Introduce TNVs for development involving significant land division such as in the Master Planned Neighbourhood Zone. Prepare a definition for 'sloping land' to trigger additional planning controls.

	buildings. It also allows the community and developers to know and have clear expectations of development outcomes. Development on sloping land adds constraints to the provision of water storage tanks in high bushfire risk areas, provision of waste control systems where there is no sewer, and the management of retaining wall heights is proving difficult. With minimum site area requirements of the General Neighbourhood Zones, the policy is inadequate to manage density provisions and the resultant issues. It is also recommended that split level design controls for subdivision be introduced into the Code for 'sloping' areas.	

Character

We see the removal of Desired Character Statements from planning policy as one of the biggest losses in the transition to the Code.

The City of Onkaparinga previously had a variety of zones and policy areas that applied to a diverse range of suburbs and towns, including our historic townships like Clarendon and Willunga through to established and newer suburbs such as Morphett Vale and Seaford Meadows. Through the Code, we now find applying a one size fits all standardised approach does not truly reflect the individual character of these areas, which are unique in their land use pattern, built form, settlement and setting, historic features and local contextual detail.

We seek policy that defines the character and context of an area and which provides instructive provisions that will assist during assessment. Key guidance for future development is required that can be used as an integral planning assessment 'tool' to assist council in delivering appropriate development outcomes in our suburbs, townships and areas of unique historic character.

These statements, which stemmed from extensive community consultation and council investment over many years, helped to define the historic and current character of an area, provided guidance for future development and assisted council officers in the development assessment process. The current lack of forward-facing policies will inevitably result in a loss of vision for our local areas, which will ultimately affect the character and amenity, noting that character cannot be limited to just one individual element or feature in isolation.

We also note the addition of some zone quantitative policy expressed as Technical and Numeric Variations (TNVs) but these cannot express the variations in contextual criteria like side boundary setbacks and building separation, for example across our various suburbs.

As there are currently no Character Areas within the City of Onkaparinga; council would be very supportive of new Character Area Overlays and Character Statements and/or new subzones for the City of Onkaparinga to reflect local context through policy. Based on the structure of the Code, these levers can provide additional guidance for unique or local differences between the primary zone and an area which warrants the need for additional policy and spatial identification for an area. Local character should be a core element that the Code must refer to with policy articulated through descriptive statements which are responsive to change but ensuring our built environment is managed into the future.

Council has recently had discussions with PLUS and is now preparing a Proposal to Initiate for the rezoning of McLaren Vale township to ensure the planning policies for the township are contemporary and appropriate in guiding future development. We have recently undertaken a wide-ranging consultation process and have determined key recommendations which will form the basis for a Code Amendment.

We have identified that a key policy gap is the ability to provide for the nuances of the township that make the character of McLaren Vale valued by the community. We are investigating the application of the Character Area Overlay (among other policy levers) with the ability to frame planning policy around the key character attributes that we wish to protect and enhance. We therefore support the Commission's initiative to support council to better understand the current situation and provide any guidance material to assist in the addition of policy content to address identified gaps or deficiencies.		
Character	Performance outcomes are more generic and can be difficult to interpret due to lack of substance and they do not reference the relationship between the various elements that contribute in some way to the overall character. Alternatively, 'tailor made' sub-zones would be beneficial for council to address the true local context of specific areas through policy. Based on the structure of the Code, a subzone can be created where additional guidance can be provided for unique or local differences between the primary zone and an area which warrants the need for additional policy, and spatial identification for an area.	Increase nuanced policy to the Code. Include more detailed physical and architectural design parameters within the Code. Include descriptive statements and performance outcomes that acknowledge built form elements, architectural detailing, materials, landscaping etc. Provide wider scope and use of subzones with targeted policy for specific areas of our suburbs to consider local context, detail and character.
	<u>Historic Area/Character Area Statements</u> Code policy and Character Area Statements translate some of the elements that describe existing development within our suburbs, but these also do not appropriately address character. We consider that current Code policy, including Character Area Statements, fails to provide clear guidance as to what design elements **new** development should incorporate so it is **not** currently articulated how an area should evolve over time. Alternatively, we could also investigate bespoke sub-zones to provide envisaged development outcomes and reasonable protection through policy for enhancing character areas, particularly for some of our townships or character areas where the Character Area/Historic Overlay may not apply.	Require forward-facing HAS and CAS to replace previous Desired Character Statements and reflect policy objectives of policy areas, precincts and concept plans. Ensure that HAS/CAS guidelines have Code status for assessment of our historic areas (discussed in more detail below) Consider bespoke policy via more liberal use of subzones.
	The General Neighbourhood Zone, which has been applied to large areas of our council, does not enable council the opportunity to provide localised policy with TNVs or, as previously, with Desired Character Statements.	Based on the extensive work that was undertaken with our General Residential DPA gazetted in 2017, we recommend incorporation of TNVs to cater for our suburbs/areas without sewer, within the Medium or High Bushfire Risk Areas, or within areas with undulating, steep topography.
	Section 66(3) of the PDI Act refers to the only spatial layers that can be used for assessment with these being zones, subzones and overlays. We consider that this should also include TNVs as these are also spatially applied within	Ensure consistency of legislation and policy.

	the Code. While we note reference to the application of local variations in specified circumstances by the variation of a technical or numeric requirement specified within the Code, we seek further clarification on this disconnect between the Code and the Act.	
	We support the Commission and PLUS updating guidance material to assist in undertaking Code Amendments and assessment of development within Historic and Character Area Overlay areas that includes the Heritage in Transition Practitioner Guide, the Historic Area Overlay Design Advisory Guidelines and the Character Area Overlay Design Advisory Guidelines. The guidelines documents are supported but there is no mandatory provision for their enforcement of their guidance. We recommend guideline documents or their details to be consolidated into the Code and therefore be mandatory to provide greater ease of application and negotiation with applicants.	Ensure that Historic Area Statements and Character Area Statements guidelines are referenced in the Code and /or have statutory status for assessment purposes.
	We note the suggestions by the Expert Panel and support the introduction of demolition control provisions within Character Areas. However, we recommend that the nomenclature of Character Areas and Historic Areas is kept distinct to reflect the historical significance of the areas.	Amend the nomenclature of Character Areas and Historic Areas and maintain their distinction to reflect the historical significance of the areas.

Trees

We reiterate our concerns regarding current tree protection policy and the dire need for inclusion of best practice tree protection standards.

It is evident that there is weakness in the regulated and significant tree legislation in South Australia when compared to other states and there is substantial evidence to inform the State Government that change to the current planning policy is required for the assessment of regulated and significant tree legislation. A recent University of Adelaide study has shown that in most other Australian jurisdictions the default position is that 'trees ARE protected unless…' while in SA the default is 'trees ARE NOT protected UNLESS…'. This shows that a paradigm shift in relation to the protection of trees is required if we are to meet or exceed tree canopy targets identified in our strategic planning documents.

The City of Onkaparinga considers urban greening and the retention of tree canopy cover a priority as climate change impacts increase. Council has previously advocated for the return of the pre-2011 levels of tree protection in the *Development Act 1993* and further amendments to the current tree policies, as it has become evident across the state and metropolitan area that the measures introduced to help protect trees, particularly on private land, have been eroded over time.

The Code facilitates more intensive development and increased site coverage due to increased density provisions, but this is also at the expense of vegetative and green cover. It further supports development at the expense of tree removal by virtue of the current policy that applies.

Due to the number of exemptions in the Regulations, including the 30% pruning exemption, current tree removal numbers are increasing. Current regulatory policy within the Regulations is not considered appropriate and requires a substantial rethink in terms of what qualities a tree must present before it can be considered as a regulated tree. The

language surrounding definitions and intent is poorly formed creating inconsistencies in assessment and there is duplication of policy with no clear differentiation between meaning. In other words, Code policy should support or reflect the quantitative criteria from the Regulations. The assessment criteria are considered as core tree protection elements which constitute best practice tree protection.		
Trees	Planners regularly seek advice from arborists during the development assessment process for the removal of regulated trees. The qualifications of arborists should therefore be mandated in the legislation to ensure that arborists hold a specific level of accreditation to perform an appropriate review and assessment of a tree with the appropriate qualifications, technical skills, knowledge and experience.	Recommend that a Certificate 1V in Arboriculture as the minimum qualification for arborist to prepare and submit applications to council.
	Regulation 3F (1) to (3) of the PDI Regulations 2017 reference the criteria for trees to be declared regulated or significant. However, this may be open to interpretation resulting in a lack of consistency during assessment and adequate protection for our trees. Current Code policy is subjective in nature, which has further reduced the effectiveness of our tree protection legislation. Language surrounding definitions and intent is poorly formed creating inconsistencies in assessment and there is duplication of policy with no clear differentiation between meaning.	Note and adopt recommendations and assessment criteria from the recent work undertaken by the State Planning Commission and documented in the following: University of Adelaide report on "*Urban Tree Protection in Australia – Review of Regulatory Matters"* *"Open Space and Trees Project – part 1A (Arborist Review)," April 2022.* Require increased efforts to influence increased canopy cover on private property.
	The number of exemptions in the Regulations has resulted in significant reduction in tree protection and it being easier to remove notable trees that contribute to tree canopy. Defining the distinguishing elements of trees requiring assessment should be a fundamental feature for assessment. Currently, the process is flawed with the exemptions weakening the protection of trees. For example: • The exemption for removing a tree within 10m of a dwelling or a swimming pool does not factor in if this relates solely to the subject land that the tree is located on or neighbouring properties. • We question why the species of *Agonis flexuosa* is an exemption even though this type of tree would not meet the requirements for retention if assessed for removal. It is also not a species of tree that is native to South Australia.	Reconsider the list of exemptions in legislation (e.g. high bushfire areas, proximity to buildings, addition of notable tree species even if non-native subject to meeting specific criteria similar to National Trust classification criteria). Utilisation of tree height and crown width as an additional threshold for assessment of trees. Recommendations in the above reports both indicate that the removal of a regulated tree within 10m of a building should be justified by submission of an impact assessment which should be obtained from suitably qualified expert (civil engineer, etc) confirming potential damage to a building or need for removal. Review the exemption rule for the removal of a tree if in proximity to a dwelling. Clarify where the distance measurement should be taken from and if affects the subject site only or includes structures / trees on adjoining sites.

		Precise wording and definition of terms used within policy and legislation is required. Examples of this should include 'canopy', 'crown', 'material risk', 'trunk', 'circumference', 'special circumstances', 'urgent work' and 'root damage' for ease of application during the assessment process. This also reflects recent case law. Recognition of many exotic trees that are currently not protected by law as these contribute to cooling our suburbs. Apply a climate-ready tree species list to legislation. Practice Direction or Guideline be produced by the State Planning Commission to assist with when special circumstances apply. Alternatively, the legislation should be amended to be clearer and help to ensure that expert advice is provided when appropriate.
	Trees and green cover should be encouraged within open car parks and non-residential land uses to contribute towards objectives of reducing the heat island effect in non-residential areas	Expand tree and green cover policy for public car parks and non-residential land uses.
	Code policy in respect of trees is specifically tailored to new infill areas or relies on street trees alone in specified zones. However, tree planting policies do not apply to the Master Planned Neighbourhood Zone and Housing Diversity Neighbourhood Zone where green cover and reducing the heat island effect is of particular importance. However, within these zones, building setbacks encouraged via the Code are small and would prevent establishment and planting of a tree that would provide a reasonable green canopy which also does not interfere with the structural stability of the dwelling. With current planning policy encouraging smaller allotments, council is concerned that they are not able to still achieve the required level of tree planting per dwelling that is expected.	Require spatial expansion of Urban Tree Canopy Overlay. Consider minimum soft landscaping and tree planting within BEPs. Consider tree planting location and species requirements to be nominated within the Code suitable for site context and building form/construction. Include legislative protection for newly planted trees in new developments to ensure their health and life span.
	Policy should encourage protection of trees on both public and private land. For example, there is no consistency for assessment between public and private school sites. This policy inconsistency must become a fair and reasonable process for all and should be required for agencies of the State Government such as the Department of Education.	Reconsider current exemption of tree removal for public schools and DIT-owned land.

	Integration of planting with capital projects. Identifying trees and landscaping opportunities at the start of an infrastructure project, rather than as an afterthought or retrofit will provide long-term benefits and support more sustainable built outcomes.	Early planting and landscaping of projects to achieve improved efficiencies/outcomes in infrastructure provision.
	'Dead' trees still contribute to existing ecosystems and have habitat value and should be considered.	Consider removal of 'dead' trees in the same manner as how the Native Vegetation Act determines these.
	There are no Schedule 8 requirements for the provision of accompanying information with the submission of an application for tree removal or pruning.	Mandate Schedule 8 requirements for tree damaging activity applications including requirements for arborist reports, photographic evidence, reasons for tree removal, details of tree being removed including tree species, age, height, extent of pruning, replanting proposed or contribution to Urban Tree Fund as a last resort etc.
	Currently there is no limitation in the legislation that restricts the number of times a regulated tree can be pruned up to 30% each time. This can be detrimental to the stability, visual appearance and health of the tree. Concerns relating to the cumulative impacts of repeated pruning must be considered. Therefore, policy should be amended to ensure that pruning does not adversely affect or impact the health or appearance of the tree.	Clarification sought on cumulative pruning or number of occurrences this can be undertaken in a particular period – what is considered as 'material risk'? Mandatory compliance with Australian Standards for Pruning – AS4373-2007. Increase penalties for unlawful tree damaging activity. Require an arborist report advising of the health and structural integrity of the tree and process management of pruning of a regulated tree.
	Mandatory and reasonable precautionary measures to ensure a regulated tree's ongoing health, longevity and reasonable growing conditions for perpetuity should be considered via condition of approval.	Encourage mandatory legislation for the protection of a regulated tree during construction such as erection of signage that identifies a TPZ, temporary protective fencing at edge of TPZ to restrict access, restricting earthworks, prohibiting storage of materials or pouring of solvents, paint, concrete etc within the TPZ, and restricting vehicle movement within TPZ etc.
	<u>Urban Tree Fund</u> The fee of $150 for each replacement tree not planted fails to act as a deterrent for removal, nor accurately reflects the value of the tree removed. Similarly, council should be exempt from requiring payment into the tree fund as this constitutes removal of their own asset. We note the Expert Panel's suggestion of raising the off-set fee. We support this in principle as this may result in an increase in people who will elect to	Increase Urban Tree Fund payments commensurate with the value of a tree as determined by a State Government nominated tree valuation methodology. This must include the cost of the replacement tree planting and its ongoing maintenance into the future, which must be at the applicant's cost Review the requirement for the number of replacement tree plantings commensurate to size/scale of development or site.

	plant a tree instead. However, we suggest that specific parameters should be considered to ensure the ongoing life span of the tree. Further that the cost of ongoing maintenance such as watering and formative pruning (for at least three years) should be included in this calculation.	Replacement trees (where appropriately sited) should also be capable of achieving the same minimum height when mature and selected to suit their environment and location. Removal of requirement for councils to pay into the off-set fund for the removal of a street tree which is their asset.
	<u>*Native Vegetation Act 1991*</u> The current relationship between the *Native Vegetation Act 1991* and the *Planning, Development and Infrastructure Act 2016* regulated tree regime is complex, complicated and difficult to understand and apply. While we support the greater interaction between the *Native Vegetation Act 1991* and the PDI Act and welcome the direction of Levels 3 and 4 clearances, there remains significant confusion on the application of the policy under both Acts. This remains problematic for not only councils to interpret but also the layperson to interpret the relationship between the two Acts for Levels 1 and 2 clearances. It is also concerning that it is left to the discretion of the applicant to determine if the proposal constitutes 'native' vegetation clearance. Our council comprises large areas of native vegetation, including that situated on the roadside. Therefore, greater clarification is required for determining which approvals are required under each Act. The following comments are also provided: *Confusion about clearance within 20 metres of a dwelling: -* Clearance permitted within the 20 metre zone from a dwelling is now very confusing. There are two Regulations under the *Native Vegetation Act 1991* that allow clearance, as follows: • Regulation 8(1) -Vegetation within 10m of existing building. This allows removal of any native vegetation within 10m of a building (not just a dwelling), with no limitation of tree size. The Regulation does not include vegetation on the River Murray floodplain, or vegetation that would be cleared in connection with the subdivision of land (in any area in which the Act applies).	Simplification and clarification of this scheme supports the conservation and protection of native vegetation but to not make it easier for regulated and significant trees to be removed. Applicants must consult a suitably qualified expert to determine categorisation of proposed vegetation clearance. Clarification of relationship between the two Acts and responsibilities in relation to each regime.

	• Regulation 9(1)(17) - Fire prevention and control. This applies both within 20 metres of a dwelling and for fence line fuel breaks, however it is clearance within 20m of a dwelling that is the area of concern. Any native vegetation within 20 metres of a dwelling can be removed under this Regulation, except for large trees, with a circumference of 2m or more, measured at 1m above the base of the tree (ie trees of regulated or significant size). These are considered under another Regulation - Regulation 9(2)(19) Fire prevention and control (large trees). Removal of large trees within the 20 metre zone of a dwelling require approval from the Chief Officer of the CFS, who must also have regard to any applicable bushfire management plan. This identifies an existing conflict between these two Regulations and it does not just occur within the *Native Vegetation Act 1991*. We then need to consider high and medium bushfire zones, where regulated/significant trees can be removed without approval within 20 metres of a dwelling, except this does not include regulated/significant sized trees that are protected under the *Native Vegetation Act 1991.* The justification for removal of regulated/significant trees within 20 metres of a dwelling should be reviewed, given that trees themselves are often not considered to pose a high bushfire risk in this zone. If this were reduced to 10 metres, it would be consistent with Regulation 8(1) under the *Native Vegetation Act 1991*. *Confusion about when trees of regulated/significant tree size are also protected under Native Vegetation Act 1991:* The PDI Act implies that regulated/significant trees that are also *Native Vegetation Act 1991*protected, are exempt from requiring a development application if they also require approval for removal under the *Native Vegetation Act 1991*. This is open to varying interpretations, particularly as a native veg tree may be exempt from *Native Vegetation Act 1991* approvals via one of the Regulations of the Native Vegetation Regulations 2017 which does not require 'approval' for removal. Despite this, it depends on the **reason** for removal as to whether this exemption from the PDI Act applies. Our understanding of the intent is that such a tree would be protected under the *Native Vegetation Act 1991* first and foremost, and if native vegetation approval is required for removal of	

	the tree (and approval is granted), secondary approval under the PDI Act would not be needed. However, the tree would be considered both native vegetation and a regulated/significant tree up until the point at which native vegetation clearance approval was granted; at which time the DA would not be required. However, if the tree was exempt under the *Native Vegetation Act 1991* (with no approval required), then the DA process would still apply. So, to conclude that the tree is not a regulated/significant tree just because it is protected under the *Native Vegetation Act 1991*would not be correct. This needs to be clarified.	
Trees	Clarification is required where a regulated tree removal is sought by the neighbour and therefore who maintains a replacement tree.	Require clarification of where a replacement tree is required to be planted where the applicant is the neighbour. Require clarification on maintenance responsibility for the replacement tree where adjoining owner is the applicant.
	<u>Economic Value</u> Trees are an important urban asset. Policy capturing the economic value of trees is used interstate and upheld in the court system with calculation of a tree's amenity value using a range of criteria including its life expectancy, size, rarity, importance in the landscape and presence of other trees. Adoption of a similar system could ensure that trees are valued as important community assets and we welcome the same approach through the Code. Council has previously recommended that a recognised tree evaluation method should be adopted, such as the Revised Burnley Method which can be used for calculating the monetary replacement value of a regulated or significant tree (except perhaps where the tree represents an unacceptable risk).	Consider assessment and valuation of trees and adaptive policy that considers the economic role that they play within the landscape/streetscape. Consider trees as an economic asset and use a tree evaluation method such as the Revised Burnley Method.
	We welcome the recent release of the "*Adelaide Garden Guide for New Homes*" document. This is an extremely valuable resource for planning practitioners and the community to communicate best practice design-based scenarios and to	Incorporate (key aspects of) or mandate the reference to this document into the Code or introduce policy into the Code that is reflective of the desired outcomes and best practice recommendations.

	assist in raising the level of tree planting and landscaping outcomes delivered in small scale residential infill developments. However, this document sits beside the Code and by virtue of the Urban Tree Canopy Overlay, would not apply to all zones of the council area if implemented. We consider that the guidelines can potentially provide direction for real improvement to Code policy. Further consideration is needed to establish how this may be managed to ensure that the Code provides greater mandatory direction of these initiatives for the planting of trees and landscaping in a residential setting early in the development assessment process.	
	As it is stipulated in the Code Performance Outcome 3.5 of the General Module for Transport, Access and Parking, council generally seeks the recommended 2 metre minimum clearance distance from existing street trees for the construction of a new crossover provided by DTS/DPF 3.5(b)(ii) which states: "*2m or more from the base of the trunk of a street tree unless consent is provided from the tree owner for a lesser distance".* However, this has created additional issues where crossovers are sited within the Structure Root Zone. The crossover works and infrastructure can often create damage to important structural roots of the tree which in turn affects the longevity and life span of the tree, but the ability to refuse an application cannot be justified by existing policy. By approval of a new dwelling proposal, this pre-empts the damage to the tree, to the extent that the tree may require removal. While the tree may not be a regulated tree, it may still be of sound health as a street tree that contributes to the streetscape and canopy which has taken years to establish.	Mandate and review appropriate policy within the Code that ensures the protection of existing street trees.
Heritage Council has actively supported the advocacy efforts of GAROC, the LGA and other councils to consider the deficiencies of the current heritage protection related policy to ensure the historic fabric of our city and townships are protected. We also wish to reiterate our comments made in our submissions on the Code prior to its implementation. We are continuing to experience more complications during the development assessment process in our heritage areas and items given the need to consider a number of overlays, including the Historic Area Overlays and the Local and State Heritage Place Overlays, in conjunction with the need to refer to two separate guideline documents that sit beside the		

Code (Character and Historic Area Overlay Design Advisory Guidelines developed under Section 66(5) of the Planning, Development Infrastructure Act 2016 (PDI Act) and the Style Identification Advisory Guidelines). We question the suitability and success of the more generic performance outcomes, while ensuring the ease of which they are interpreted, as they remain open to interpretation by lack of substance and do not reference the relationship between the various elements that contribute in some way to the overall township character. The Desired and Performance Outcomes that apply for our historic areas and towns and their relevant Historic Area and Character Area Statements fall well short of providing the same comprehensive policy guidance, context and detail, compared to the policy in the former Development Plan Desired Character Statements and accompanying concept plans, policy areas and precincts. This has resulted in a loss of planning direction and vision for our local areas. Policy is not framed to consider how an area is to evolve over time. We note the SPC's initiatives (via letter dated 19 October 2022) and refer to the three recommendations of the Commission below:		
Heritage	<u>Demolition by Neglect</u> To protect the local heritage stock, there is a need for strong deterrents and disincentives to the illegal demolition or allowing a local heritage place to fall into disrepair. Wilful neglect as a means to attaining demolition approval still occurs and should also be strongly discouraged. Recent findings of Council's Local Heritage Review have identified a number of heritage places which were found to be deteriorating without any commitment from the owners to restore/repair the structures. These deteriorating local heritage places still have significant value as a ruin and their role they play within the streetscape and locality. For example, a recent development application for demolition of a local heritage place has been considered and refused. Unfortunately, in response, the owner has let the local heritage place fall into disrepair. This wilful neglect as a means to attaining demolition approval should be discouraged. A review of the penalties applied in this situation to act as a deterrent should form part of the broader Act and Code review.	To have a section within the PDI Act that provides enforcement and penalty rights to the relevant authority. For example, the *Victorian Planning and Environment Amendment Act 2021* – Sec 6B – Heritage Buildings. Consider requirement of Heritage Impact Assessment or economic Viability Report to determine whether a property is uninhabitable and 'irredeemably beyond repair'.
	<u>Lack of Forward-Facing policy</u> Historic Area Statements translate some of the elements that describe existing development within Historic Areas. However, they do not provide clear guidance as to what design elements new development should incorporate and how an area is to evolve over time (as was the case with Historic Conservation Areas).	Require forward-facing HAS and CAS to replace former Desired Character Statements and reflect policy objectives of policy areas, precincts and concept plans.

	While we note the addition of zone quantitative policy that has been expressed as Technical and Numeric Variations (TNVs) and the application of these for our townships, the TNVs cannot express the variations in contextual criteria like side boundary setbacks and building separation, for example, across the various suburbs.	
	The guidelines documents are supported but there is no mandatory provision for their enforcement of their guidance. While enabling easier negotiation with applicants and greater ease of application, the accompanying design guidance should be embedded into the Code.	Guideline documents or details to be consolidated into the Code and made mandatory. Incorporate reference to the Design Guidelines in the Code.
	<u>Subjective nature of policy</u> Current Code policy is considered difficult to interpret, subjective and lacks consistency in some cases. Greater clarity in the intent is sought including clarity in the terminology used such as 'irredeemably beyond repair' and 'contextual design approach'. PO 6.1(b) refers to the heritage place being both an unacceptable risk to public or private safety and uninhabitable and beyond repair. PO 6.1(b) does not include a test for economic viability, but it must be proven that the building is 'irredeemably beyond repair'. Improvement to the wording of each policy is essential to ensure consistent interpretation and use of planning policies. To determine 'irredeemably beyond repair', it should be a mandatory requirement that a Heritage Impact Assessment be submitted with all demolition applications for local heritage places or an economic viability report for justification of this performance outcome where it is being relied upon.	Review of terminology and wording used in the Code including addition of definitions of 'irredeemably beyond repair' and 'unhabitable'. Include more detailed physical and architectural design parameters in the Code. Incorporate the following suggested addition to PO 6.1: *(c) A heritage impact statement is required demonstrating heritage value of the Local Heritage Place and its contribution to the heritage values of the area and how well the theme is represented.*
	We refer to PO 3.1 of the Historic Area Overlay which states: *Alterations and additions complement the subject building, employ a <u>contextual design approach</u> and are sites to ensure they do not dominate the primary façade.*	Mandate a 'design context report' for each proposal under the Code early in the design phase to support and reflect the Historic Area Overlay Design Advisory Guidelines and Style Identification Advisory Guidelines within the Historic Area Overlay. Refine wording and intent of policies within the overlays.

	Should additions not satisfy the DTS criteria (3.1), a performance assessed pathway would apply. Therefore, what constitutes a 'contextual design approach' when guidance provided in the Code around the design and architectural detailing is more generic? Reference to the Design Guidelines is the only means to determine what is suitable and what may constitute a 'contextual design approach'. Further, this PO is only supported by a DTS/DPF that references additions within the roof space of a dwelling and not alterations and additions that are external to the existing building. We also hold concerns that the uptake of a detailed 'Contextual Design Analysis' of the locality is purely voluntary, albeit it can assist in achieving the development outcomes that are consistent with those sought by the Overlays. Council cannot legally require an applicant to undertake this, despite the benefits it may offer in the preliminary or early stages of an application.	
	According to Code, the definition of development for a local heritage place is: *"…any work (including painting) that could materially affect the heritage value of the place (including, in the case of a tree, any tree-damaging activity)."* This means that a Development Application and appropriate supporting information is required for works that affect the heritage value of the place. In most instances, limited information is provided with a development application. This necessitates a request for information which is restricted to only one opportunity and is constrained by time due to limited days provided for assessment. This also impedes the opportunity to gauge the impact on heritage value and for carefully considered heritage outcomes.	Mandate provision of further details and supporting documents for building works in Schedule 8 of the PDI Regulations.
	The policy associated with the Heritage Adjacency Overlays lacks strength and is open to interpretation.	Refine intent of policies within the overlays.
	<u>Infill development</u>	Strengthen the provisions relating to prevailing allotment pattern/character as a tool to refuse an application that is under-sized.

	Infill development also has the potential to impact negatively on local heritage within an area, and clear policies and frameworks for decision making are required where heritage conservation must be considered alongside other objectives in pursuit of infill targets. Concern regarding the policy for new dwelling design, minimum allotment size and context in association with land divisions in our historic townships is of concern. The replacement dwelling may meet the DTS criteria or relevant Performance Outcome, however the context of the locality and whether the land division meets the prevailing character of the area is not adequately addressed by Code policy. By default, the existing character of the area is now beginning to be altered.	Policy provided in the Historic Area Overlay that provides specific guidance and recognition in relation to allotment pattern.
	<u>Aboriginal Heritage</u> The deliberate omission from the Code for the early consideration of cultural heritage is of concern. Ideally, relevant information should be considered much earlier in the development assessment process to avoid unnecessary delays or, more importantly, prevent outcomes that impact negatively on Aboriginal heritage.	Consideration of Aboriginal Heritage as an overlay that acknowledges that a development is in proximity to a known cultural heritage site. Noting the sensitivities surrounding this issue, the overlay can trigger a referral to the Department for Aboriginal Affairs, not unlike that used for Native Vegetation Overlay where a referral is triggered for assessment under the Native Vegetation Act. This referral need not be public or visible to the relevant authority assessing the application. It can be used where properties which are sited within a certain distance from known sites can be assessed/reviewed in order to protect the cultural significance of the area.
The following commentary is provided on the Expert Panel's suggestions and three different 'prongs' for the consideration of heritage.		
Heritage	<u>Prong 2 – Character Area Statement Updates</u> We note the Expert Panel's suggestion for the review and update of Character Area/Historic Area Statements. We support an increased focus on the design elements and themes of importance for these areas. There are currently no Character Areas within the City of Onkaparinga. Notwithstanding this, we welcome these suggestions, which could be of benefit to our existing seven Historic Areas and other areas where we consider that the character of an area should be recognised and protected. However, these updated statements should include 'forward facing' controls for new development which provide a stronger focus on design and	Review spatial application of the overlays but include forward-facing policy. Implementation of subzones with policy tailored for character areas.

	locally responsive assessment policy, and not just enhanced descriptions of existing character. These updates must be developed to support how our townships can evolve over time to aid improved liveability, sensitive and complementary development and encourage investment. We would support further work undertaken for Code Amendments to provide this 'forward facing' policy that would achieve the following: • to determine the 'vision' for an area • provide guidance for desired future development form, context and detail to achieve positive development outcomes in any designated area • require forward-facing Historic Area Statements and Character Area Statements to replace former Desired Character Statements that reflect policy objectives of policy areas, precincts and concept plans • ensure that Historic Area Statements and Character Area Statements guidelines have Code status for assessment. Alternatively, tailor made subzones could be implemented to provide envisaged development outcomes and reasonable protection through policy for enhancing the character areas, particularly for some of our townships or character areas where the overlay does not apply.	
	<u>Prong 3 – Demolition in Character Areas</u> We note the Panel's question concerning demolition controls in Character Areas (<u>Prong 3</u>) We support the lodgement of a replacement building at the time of demolition of a building within a Character Area if it does not contribute to loss of character of that area. However, we consider that the focus must remain on the existing heritage building, its integrity and role that it plays within its locality. This suggestion appears to place emphasis on the replacement dwelling and not the demolition, which is what should be controlled, and this sends a confusing message to the community that the replacement dwelling is acceptable. There is a distinct difference between 'character' and 'heritage' and policy must consider this for those areas that may not be contained	Consideration of the legal requirements to enforce construction of a new dwelling. Increase emphasis of assessment on the actual demolition of the existing heritage building as a priority, before consideration of a replacement dwelling is assessed.

	within the heritage overlay but displays unique character which should be recognised. Further, there is no guarantee that the approved replacement dwelling will be constructed despite its approval in advance. In some instances, not every application is acted upon. This would then allow demolition of the heritage item and the site could be sold or remain vacant. Without a legal mechanism to enforce the construction of the replacement dwelling in its place, this would not be workable. We support the process for assessment of the replacement dwelling against the CAS, but it is essential that the assessment and merit for demolition is considered first and foremost.	
	<u>Schedule 8</u> In some instances, minimal information is provided with applications supporting the demolition or partial demolition of local heritage structures/historic buildings and how they might be conserved or how to gauge heritage impact. This has necessitated a request for information where there is only one opportunity, which is constrained by time. This in turn impedes the opportunity for carefully considered heritage outcomes. This is based in the context of the definition of development for local heritage places which states: *"in relation to a local heritage place—any work (including painting) that could materially affect the heritage value of the place (including, in the case of a tree, any tree-damaging activity) specified by the Planning and Design Code for the purposes of this paragraph (whether in relation to local heritage places generally or in relation to the particular local heritage place)".* As a consequence, mandatory documentation is required at the verification stage for initial heritage assessment. At times, many applications are being verified when perhaps they should not be.	Mandate provision of further details and supporting documents for building works affecting a historic building/local heritage place in Schedule 8 of the PDI Regulations.
Car Parking		

Infill development has steadily grown in the City of Onkaparinga and a key issue experienced in these areas is an increase in onstreet parking. Infill development sees smaller allotments, many of which have narrower road frontages which reduce opportunities for offstreet parking. There is a significant concern within our communities who see this as impacting on the amenity of their neighbourhoods in terms of the number of vehicles parked on streets, and the dominance of parking and driveways on streetscapes. The Code includes a reduction in onsite parking requirements from our former Development Plan and furthermore, considers onstreet parking in the calculation. Community sentiment indicates that current residential parking rates are not adequate to sufficiently cater for residents, particularly for infill development. Infill development within our more established suburbs has exacerbated the existing issues experienced and has resulted in conflicts with street movement, safety, accessibility and convenience in many instances. New land divisions internal road widths permitted under the Regulations (see Reg Part 9(6)(81) are also comparatively narrower at 12.4m and are not considered adequate compared to council's preferred width of 14.2m which allows room for a footpath, parking either side and maintains a clear 3m carriage way to cater for access for emergency services and larger vehicles such as the rubbish truck. This reduced capacity for vehicle parking and limitations on accessibility in our newer suburbs due to the current on-site and on-road standards remains a common source for concern amongst Council's community. Car ownership data sourced from the most recent Census indicates that despite the concentration of density around our centres, there has not been a reduction in car ownership. This will therefore not overcome the negative impacts on surrounding residents. Similarly, with an increase in population growth, there is a correlation with an increase in private vehicle ownership. The increasing number of private vehicles competing for road and parking space and the anticipated population growth (identified in Council's Onkaparinga Local Area Plan), shows there is a priority need in our outer and growth suburbs to address the car parking issues. Access to efficient public transport services is not well catered for in our outer suburbs and rural townships such as Sellicks Beach, McLaren Vale and Willunga. These areas are heavily reliant on infrequent buses that travel in a circuitous route and which serve as their only public transport. Therefore, policy mechanisms are needed to assist council to manage these deficiencies in a strategic manner for the benefit of the whole community. The Code also allows a reduction in the provision of onsite car parking for affordable housing. This is problematic in our outer suburbs such as Sellicks Beach, which is poorly serviced by public transport, retail services and is not near a centre. Such discounts should not be applied in the outer suburbs where there remains high reliance on vehicles. Further, the fact that a dwelling is purchased through the affordable housing scheme does not necessarily reduce the likelihood of the occupier(s) owning a car. The lack of parking space will continue to be an issue when the dwelling is then resold outside of the affordable housing scheme. We note the questions raised by the Expert Panel relating to the provision of car parking and the applicability of the car parking rates now in the Code. As mentioned, we do not support further dispensations in onsite car parking provision within our suburbs. While reduced rates for inner city areas may be considered feasible due to the proximity to transport corridors, services, employment and public transport routes, there is a very different situation occurring in the outer suburbs. As our community is already concerned with the lack of parking and traffic congestion derived from onstreet parking, further reducing the minimum onsite parking rate is therefore not appropriate.		
Car Parking	<u>Off-Street Carparking</u> Performance Outcome and DTS/DPF 5.1 of the Transport, Access and Parking module states the following: *"Development provides a number of car parking spaces on-site at a rate no less than the amount calculated using one of the following, whichever is relevant:*	Review application of car parking rates strategically, including consideration for those areas that are not well serviced by transport corridors and regular public transport services for the benefit of the whole community. Reconsider the current rates and appropriateness for residential development including onstreet parking within the assessment as being appropriate.

	1. *Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements* 2. *Transport, Access and Parking Table 2 - Off-Street Vehicle Parking Requirements in Designated Areas* 3. *if located in an area where a lawfully established carparking fund operates, the number of spaces calculated under (a) or (b) less the number of spaces offset by contribution to the fund."* We note the Expert Panel's suggestion for the consideration of reduced car parking rates. As mentioned, we hold concerns for our outer suburbs where access to efficient public transport services is not well catered for. We do not support reduced parking rates for these suburbs.	Include stronger design policy within the Code to support high quality infill development within our existing urban areas. Ensure that development policy considers existing and desired future context of place. Reduced car parking rates should only be applied to a proportion of affordable housing dwellings in a development and the distance required from a centre or public transport stop reduced. Review relevance and criteria for the development of an overlay applied over some activity centres or inner-city areas with reduced parking rates.
	Performance Outcome 7.2 of the Design in Urban Areas module states: "*Vehicle parking areas appropriately located, designed and constructed to minimise impacts on adjacent sensitive receivers through measures such as ensuring they are attractively developed and landscaped, screen fenced and the like."* We question what is considered "appropriately located, designed and constructed". There is no corresponding DTS criteria to provide a baseline for assessment purposes. This is subjective and requires amendment.	Apply DTS criteria to provide at least a minimum baseline for assessment purposes Review and refine DTS/DPF 5.1 of the Transport, Access and Parking module in the Code. Reference the relevant Australian Standards in the Code. Apply usable maximum internal garage dimension criteria that serves all dwellings (where the roller door does not conflict with the width of the structure and restrict its use).
	<u>Electric Vehicles (EVs)</u> We note the Expert Panel's reference to the regulation of EV charging stations and support the view that these should be considered development. As part of the State Government's investment in electric vehicles and wider climate change action plans and State Planning Policies, the installation of electric vehicle charging stations are becoming increasingly important to help the community embrace electric vehicles and transition away from fossil fuels. We consider it is important that policy measures be integrated into the Code to ensure that the allocation of the charging stations are convenient	Introduce Performance Assessed pathways for EV infrastructure in historic and character areas and for heritage places. Explore dedicated design criteria for electric vehicle infrastructure and charging points into the Code relating to the following: • location • visibility/visual prominence • proliferation • lighting • ancillary structures • weather protection

	and publicly accessible within car parking areas and private residential properties. In most instances they should be categorised as development.	• site gradient • hours of access • safety and potential hazards • wall mounted or free-standing • number of dedicated parking bays • space beyond front of the bay/manoeuvrability • placement of charging hardware • CPTED principles • Accessibility.
	The Affordable Housing Overlay introduces policy concessions relating to car parking requirements. This is not supported in our outer suburbs where they are irregularly serviced by public transport and proximity to activity centres is limited. This contrasts with the inner-city suburbs of Adelaide. A further reduction in onsite parking is not supported. The reduction of onsite parking in the short term is unlikely to increase the usage of other forms of transport without improvement to transport infrastructure and service provision.	It is recommended that the spatial application of the overlay be strategically considered.
Sustainability and Climate Resilience	We note that there is policy concerning sustainability and climate change outcomes in the Code, however we remain concerned that the policy is limited and lacks strength in its application. Sustainability or environmental features and policy relating to urban heat island effects or climate change remain open to interpretation. Policy must also be strengthened to promote sustainable built form and environments, particularly on private land. The Code provides the perfect mechanism to introduce an integrated assessment rating tool, particularly for our greenfield sites, whereby a climate resilience/ecological performance-based assessment tool can be implemented early in the assessment process, such as a developer acquiring a Green Star Communities (or equivalent) rating. Concerns are held regarding the application of Performance Outcomes 4.1, 4.2 and 4.3 in the General Section for 'Design in Urban Areas' under Environmental Performance.	Refinement of Deemed to Satisfy standards to improve understanding of what the Performance Outcomes mean for development where it is called up during assessment Introduction of an appropriate rating tool with criteria for assessment translated into the Code's design and performance requirements to provide valuable guidance to applicants/developers to measure and monitor successful sustainable development (eg Green Star Communities rating). Recommend that developers demonstrate how a proposed development would mitigate any heat island effect utilising recent LiDAR heat mapping (perhaps as an overlay). DEW has recommended a standardised approach by utilising an ESD performance framework and assessment tool being introduced into the Code.

	These Performance Outcomes are limited to elements of the building, and not applicable regarding the wider development elements such as Water Sensitive Urban Design outcomes, tree canopy etc. This means these developments are only able to be assessed regarding these Performance Outcomes; if they can show that they meet these requirements then they can be Deemed to Satisfy. However, this assessment relies on a level of competency by proponents and assessors as to what these 'Performance Outcomes' actually mean and whether the proposed development and any expert advice provided 'performs' adequately to meet the 'Performance Outcome'. Additionally, to reduce the heat island effect in the higher density infill areas, there is a need to ensure that trees are planted on not only public land but private land too. There should be an increased focus on this in Code policy.	This could be beneficial in achieving consistent outcomes across the state and ensure ongoing monitoring Current policy on cumulative impacts of infill development and its sustainability should be reviewed and monitored with appropriate targets and controls established. Embed green infrastructure (eg WSUD) into the design of public spaces and buildings into the Code.
	Accepted and DTS dwellings are resulting in dwellings being approved that have no regard to the orientation of the site.	Review DTS criteria to ensure living spaces are sited to provide good passive design outcomes. Embed land division principles into the Code that ensures that allotments are orientated to maximise solar orientation and improve correlation with future built form outcomes. DEW's recommendation for a performance-based assessment to quantify a development's sustainability and climate resilience against specific criteria should be considered.
Hazards	<u>Hazards (Bushfire - High Risk)</u> DAs that are not sited in the High Bushfire Area do not need a referral to the CFS. There are however very specific policies that need to be considered within the Code. Council staff are not qualified to determine if the provisions are met.	Review of the referral requirements, or guidelines are provided, on how these applications should be assessed.
	<u>Hazards (Bushfire - Medium Risk) and Hazards (Bushfire - High Risk)</u> We reiterate our concerns regarding the conflict with the provisions of the Ministerial Building Standard Requirements MBS 008 — Designated Bushfire Prone Areas — Additional Requirements.	Consider spatial application of the Hazard Overlays for ease of application during assessment process.

	We remain concerned that in the creation of new allotments, applicants are not considering dwelling design, siting and configuration, and location of water storage tanks to meet building compliance with MBS 008 concerning setbacks from boundaries for access to water supply/storage tanks and fittings, noting this is significantly impacted by allotment size and width, which is determined at land division stage. We note the impending Bushfire Code Amendment and will seek that the hazard overlays be appropriately placed and identify these issues.	
Affordable Housing It is evident that there are serious issues surrounding supply issues and access to affordable, appropriate housing within the state. The Code must be flexible and provide suitable planning policy that supports and enables delivery of affordable housing to assist with meeting the undersupply where appropriate. Council's ability to contribute to the supply of affordable housing has largely been limited to the delivery of Land Management Agreements (LMAs) within new land divisions, as LMAs have been the only legislatively mandated provision for 'affordable housing' and the principle mechanism for ensuring it is delivered in our council area.		
Affordable Housing	The apparent conflict with the *South Australian Housing Trust Regulations 2010* must be resolved. This is required given that the Code/legislation requires mandatory commitment for the provision of affordable housing secured via a legally binding agreement with council to enable compliance with the criteria set out in the SA Housing trust Regulations 2010. We note that there is some opportunity for councils to apply conditions to a consent, but this must be confirmed.	Confirm the relationship to the *South Australian Housing Trust Regulations 2010* in requiring need for a 'Legally Enforceable Obligation' being in place to ensure compliance with the relevant notice under Regulation 4 – Determination of Criteria for the Purposes of Affordable Housing.
	<u>Schedule 8</u> Code policy to facilitate affordable housing has limited effect. There is no mandatory requirement to ensure that this forms an integral part of a development application, nor it being designated on the proposed plans. This is a shortfall of Schedule 8. Evidence of an executed legal agreement with the SA Housing Authority under Regulation 4 of the *SA Housing Trust (General) Regulations 2010* must be provided for categorisation and determination of assessment pathways early in the assessment process. A legal agreement is fundamental to a DA with LMAs having previously been the only legislative and mandated provision for 'affordable housing'. They are the principle mechanism for ensuring it is delivered in our council area which are undertaken during the assessment process.	Amend Schedule 8 of the PDI Regulations to include mandatory provision of a legal agreement with the SA Housing Authority for all development applications purported to include 'affordable housing'.

	Subjective Policy Confusion surrounds the use of DTS/DPFs 1.2 and 3.1 as a means of ensuring affordable housing is provided. We note that DTS/DPFs are not mandatory requirements and only act as guides. The definition of 'affordable housing' is also loosely structured and only provides reference to Regulation 4 of the *SA Housing Trust Regulations 2010*. This has resulted in the policy being taken advantage of by developers and applicants due to the range of concessions offered by the Code and no mandatory relationship to the Code or PDI Act/Regs. There must be greater interaction with the *SA Housing Trust Regulations 2010* to ensure that there is a mandatory commitment by the applicant which is secured via a legally binding agreement with council.	Confirm the relationship to the *South Australian Housing Trust Regulations 2010* in requiring need for a 'Legally Enforceable Obligation' being in place to ensure compliance with the relevant notice under Regulation 4 – Determination of Criteria for the Purposes of Affordable Housing. Provide mandatory mechanism to ensure provision of and designation of affordable housing allotments/sites on land division plans, not just exceeding 20 allotments. Confirm if Affordable Housing obligations are secured through planning conditions or an LMA. This should be secured during the assessment process forming part of the application documentation and not after the development approval is granted. Confirm council's ability to enforce these provisions if policy is only a guide.
	We question the appropriateness of the proposed changes via the Miscellaneous Technical Enhancement Code Amendment regarding affordable housing provision under the Overlay. Suggested alterations to the Overlay must ensure compliance with all three criteria so wording should be 'and' and not 'or' as has been recommended: *(a) that comprises 20 or more dwellings or residential allotments and the development is intending to provide affordable housing or* *(b) where the applicant is seeking to access one or more of the planning concessions outlined in the Affordable Housing Overlay DTS 3.1, 3.2 or 4.1 or* *(c) that is described in the application documentation as including affordable housing of any number of dwellings or residential allotments.* Removal of the reference to the *South Australian Housing Trust Act 2010* and difficulty in being able to enforce the provision of affordable housing within a subdivision in excess of 20 allotments remains concerning.	Review making the affordable housing provision mandatory and early in the assessment process for the land division application and before certificate of approval is granted. Wording of the policy must remove discretion by removing 'or' and inserting 'and' between each option of a), b) or c)
	We note the general policy provisions contained within POs 3.1, 3.2 and 4.1 and support these concessions. However, the remaining policy is largely focussed on developments that exceed 20 or more dwellings. There is a lack of appropriate policy applicable for smaller developments for the population on low to moderate incomes.	Provision of policy for development proposals where there are fewer than 20 dwellings that can be considered as affordable housing – design provisions can be very different for a larger dwelling scheme. Example: DA 22040811 – 45 Elijah Street, Morphett Vale.

	There is significant opportunity to broaden the scope of the current policy. This is particularly relevant given the dire need for housing that is affordable and the homelessness issue that exists within the state.	This proposal is yet to be determined but concerns the construction of three dwellings and will be taking advantage of the concessions for affordable housing. Typically, if approved, a full Development Approval cannot be granted until such time that a formal or mandatory commitment from the applicant is provided. However, this will possibly be considered via a condition of consent with support of the SA Housing Authority; however the enforceability of this condition is uncertain, given it is not council's requirement.
	<u>Referrals</u> Confusion exists for when a referral is required to the SA Housing Authority. Council generally will not undertake a referral unless there is compliance with the provision of a legal agreement that aligns with criteria referred to in Regulation 4 of the *South Australian Housing Trust Act 2010* and subject to designation of its location on the application documents. Suggested wording and referral triggers remain subjective and still at the applicant's discretion by virtue of, for example, "*intending to provide*" followed by an 'or' between (a), (b) or (c). This does not guarantee an applicant's commitment. Currently an applicant does not need to describe this in their application documents and the referral trigger refers to "Development for the purposes of the provision of affordable housing". This statement lacks clear instruction.	Confirm requirements for referrals. Bring SA Housing Trust approval criteria into the Code providing a single, integrated and enforceable approval for affordable housing.
	<u>Spatial application</u> Concerns are held regarding the ability of the Affordable Housing Overlay to enforce provision of affordable housing in some areas of our council. We raise concerns for our outer areas that are currently under-provided with services (eg not connected to sewer) and facilities. They are also poorly serviced or do not have access to public transport. In these instances, the dispensations are not resulting in good development outcomes (e.g. limited car parking required for development in our outer suburbs where access to public transport and retail services is limited). Unreasonable impacts as a result of these additional concessions in these areas, such as Sellicks Beach, are of concern.	Strategically review the areas in which the overlay applies.

	<u>Housing Options</u> In most instances, the provision of any 'affordable housing' closely resembles typical housing options which is still linked to the availability of land and remains out of reach for many on lower incomes. Current planning policy lacks the flexibility to allow different types of dwellings from the standard housing stock. More flexible planning policy may need to be implemented in order to allow more certainty to social housing providers in creating a more diverse affordable housing stock.	Consider alternative forms of housing stock within current policy.
	With the PDI Act, it appears that affordable housing can now be secured through conditions of approval on a land division proposal. However, this becomes problematic if a specific area/site/allotment is not solely designated for this purpose on the plans submitted to the assessing authority. Without the site being nominated for this purpose, a condition of approval could be construed as 'ultra vires' or not valid despite the allotments being smaller in site area. This would not be a legally transferable condition to enable enforcement of this being delivered. As mentioned, a legal agreement is also fundamental to a DA, with LMAs having previously been the only legislative and mandated provision for 'affordable housing'. They are the principal mechanism for ensuring it is delivered in our council area which are undertaken during the assessment process. Appropriate conditions of approval are also required to enable enforcement.	Mandate nomination on application plans to progress affordable housing proposals.
Coastal Development	Impacts to coastal land from changing coastal conditions can result in changes to the land that are similar to the impacts of "development". The role of council in managing changes to coastal land due to changing environmental conditions is still relatively unclear. As climate-related coastal changes increase, this lack of clarity will continue.	Coastal planning policies to be based on state-wide modelling of 2050 and 2100 inundation and erosion hazards. State government to implement similar reforms to NSW, VIC and QLD with reviews to ensure improved interaction between Planning, Development and Infrastructure Act, Coast Protection Act, Harbors and Navigation Act, Crown Land Management Act and heritage legislation.

PROCEDURAL

Key issue	Discussion	Recommendation
Non-complying / restricted development Council appreciates that restricted development merely refers to an assessment pathway, however, the zones within the Code remain silent on land uses that are not envisaged. We note the Commission's position to the difference in how non-complying and restricted development are assessed, with the Code drafted to speak to the types of development that are envisaged, not what is discouraged or inappropriate. The reliance of the system on the Code being silent on development that is not envisaged or desired poses significant difficulties in the defence of developments that are the subject of refusal, dispute or appeal. We recognise that no policy or set of policies can ever address all possible scenarios that may arise. We also accept that at times, there must be exception to the intent of any policy or set of policies. That said, we have fundamental issues with how restricted development operates under the Code and Act and suggest that more specific policy guidance to support the defence of sound refusals or to guide undesirable proposals in the face of the inevitable exceptions to the rule argument is required. We suggest wording to the effect of: '*kinds of development not envisaged or desired for a zone, subzone or overlay should generally not be approved unless it is overwhelmingly shown to benefit the public interest or definitively support the desired outcomes*.' Wording of this nature would at least place some onus on proponents to demonstrate that the public interest would be served by a development. This situation further weakens the negotiating position of council and fails to provide any certainty or consistency in the decision-making process. This fundamental flaw of the Code has recently been reiterated by the ERD Court in Evanston South Pty Ltd v Town of Gawler Assessment Panel (2022) SAERDC14. This case identifies the lack of guidance for discrete land uses that do not fall within the narrow scope of intended forms of development in a zone by nature of the DOs and POs. This is of particular concern in our sensitive areas such as the Hills Face, Open Space, or Conservation Zones where many land uses can have serious implications on the sensitive character and ecosystems of these areas that need to be protected. With most land uses now performance assessed, flexibility is therefore required to respond to unusual or unique circumstances and emerging needs that may arise. Council must be provided with greater power to refuse those types of uses that would detrimentally affect the amenity of the surrounding area. By the nature of the Code structure, this also makes it difficult for the community to make sense of the 'rules' when the policy does not provide specific and direct guidelines or firm policy decision.		
Non-complying / restricted development	PDI Regulation 23(2)(b) enables council to comment on various matters. There is a 15-day timeframe for this and comment needs to come from the CEO. The combination of the short timeframe and fact that the letter needs to come from the CEO makes meeting this timeframe challenging particularly when internal referrals are required (note comment is required on matters such as traffic, waste management, stormwater etc; non-planning matters).	Provide delegation to the Assessment Managers to provide comment. Increase timeframe from 15 to 20 days.
	There is a lack of policy and guidance provided for practitioners to defend a refusal, dispute or appeal of an inappropriate land use that fails to align	Review and reintroduce specific planning parameters and assessment pathways to provide greater transparency to discretionary decisions and support to the

	with the primary objectives, or Desired Outcomes/Performance Outcomes of a zone. This leads to an inability to substantiate where the proposal is 'seriously at variance' as per Sec 107(2)(c) of the PDI Act. There are multiple interpretations as to how a Performance Outcome can be satisfied and the PO is not balanced by listing of land uses that should be restricted in certain areas. The parameters on which alternatives are to be judged also should be made clearer and more specific in their meaning, giving transparency to these discretionary decisions.	defence of sound refusals rather than reliance on silence to non-envisaged development proposals. Note the outcomes of the recent court case Evanston South Pty Ltd v Town of Gawler Assessment Panel (2022) SAERDC14 in reviewing the zone structure and application of POs and DOs in the Code.
Deemed Consent We note the process for the issuing of a deemed-consent notice where council has failed to decide within the regulated time for a development proposal (Sec 125 of the PDI Act). We also note that to overturn a deemed planning consent, the relevant authority must apply to the ERD Court for an order quashing it. The concept of deemed consent is problematic and does not encourage well considered decision making. Based on the reduced timeframes there are reduced opportunities for best practice outcomes to be negotiated and this will encourage a more adversarial assessment environment, at the expense of the best possible planning outcomes. They are placing unnecessary burden on the actual process of planning assessment. If the timeframes and process issues were resolved as detailed above then potentially there could be a deemed consent process. The combination of tight timeframes amd inability to do multiple RFIs if matters are not resolved, culminates in less time to assess an application.		
Deemed consent process	While there is nothing preventing an applicant from continuing to work with a relevant authority after the prescribed time to decide has expired, there is a reduced opportunity to strive for the more positive development outcomes. The combination of tight timeframes and inability to do multiple RFIs if matters are not resolved culminates in less time to assess an application. With added pressure to undertake public notification and internal referrals, more complex applications in particular, may suffer and the highest and best outcomes not be obtained.	Refine the deemed consent process including time frames for processing. Only consider this process for applications that are considered minor and straight forward. Consider a "Deemed refusal" instead for accepted and deemed to satisfy categories of development only.
Community voice/appeal rights	<u>Public Notification</u> We note that changes to public notification under the PDI Act has resulted in the loss of community participation in the decision-making process on developments that can directly affect them. It is at the assessment stage when something tangible is proposed, the community can better understand the proposal in comparison to planning policy. We have experienced where applications that have not required notification, but which have been presented to the CAP, have had the	Consideration of a two-tier system approach for public notification (similar to Category 2 and 3 public notification) – such as where a development proposed would only have the potential impact to the adjoining property (e.g. a garage exceeding the DTS length on the boundary) Review and reinstatement a level of third-party appeal rights for notifiable performance assessed applications (similar to Category 3 merit developments under the former Development Act).

	community concern raised that due process has not been undertaken as they were not 'informed'. As a decision of council (or CAP) as the relevant authority can now not be backed by the ERD Court, there is no formal mechanism to manage the angst of community dissatisfaction with planning decisions. Given the loss of third-party appeal rights, council has now inadvertently been placed in the role of facilitating negotiations outside the planning scheme between applicants and neighbours. This often requires significant time and resources yet there is no statutory weight to any discussion or agreement reached.	
	<u>Community Engagement</u> Community engagement must not be limited to just involving the community in the development of strategy and policy. To have meaningful value it must extend to development assessment that directly affects individuals and the communities in which they live. It is only when a resident is likely to be directly affected or adversely impacted by a particular application that they often see or realise the need to become involved. It is unrealistic to expect most residents to become involved at the policy setting level. There are also shortcomings of the engagement process including timeframes, documentation and analysis.	Review, refinement and expansion of notification in the assessment process is required. Given the lack of notification and appeal rights, the process requires better guidance on how to manage complaints throughout the assessment process.
	<u>60m Public Notification</u> Public notification for more significant development proposals may not capture all affected property owners as impacts can extend beyond the 60-metre limit. Alternatively, it can be a more onerous process for more minor development proposals such as building to a common boundary which only affects an adjacent owner. Perhaps the scale of a development or even two-tiered notification system/categories can be reconsidered (ie equivalent of category 2/2a in the former system). This should be considered in the legislation.	Review of scale of development to determine extent of notification. This may require expansion of the 60-metre public notification limit for more significant development applications, as some land uses have greater impacts such as noise, light, visual, odour and dust which exceed this limit.

CAP Representation	Council has a desire for increased Elected Member representation on the CAP to better reflect the community in the development assessment process.	Recommend an increase in permitted Elected Member representation on the CAP. Recommend that all CAP independent members have planning qualifications or be appropriately qualified in allied fields where they can assist in the diversity of the panel.
Role of DTS/DPF We are concerned that the 'minimums' provided for in DTS have much less weight than under the former Development Plan. Given the emphasis on performance outcomes, there is a reduced emphasis on achieving DTS parameters. In addition, the generic and non-prescriptive nature of the Performance Outcomes, means variation in assessment prevails and does not reflect the community's understanding of desired outcomes for their suburb. An example is when the PO is considered to be satisfied, then minimum allotment sizes specified in a DTS provision do not need to be met – this is confusing to the community who understand a prescribed allotment size. We question how there will be consistency in the decision-making process due to the subjective nature of Code policy particularly when planning certifiers have the ability to allow unlimited minor variations or argue a much reduced allotment size is suitable simply because it achieves the setbacks and site coverage but has no regard to the prevailing and desired character of the area. We note our former Desired Character Statements provided the level of detail to ascertain the desired or preferred future character by the forward-facing policy and would greatly welcome their re-introduction.		
Role of DTS/DPF	Require clarity of baseline levels/standards and how a Performance Outcome can still be satisfied. A DTS criteria has less weight given the prescriptive nature of the POs.	Provide baseline standards and policy to demonstrate alignment with POs in the Code
TNVs	We have significant concern regarding the relationship and strength of a TNV between DTS/DPF and Performance Outcomes. The use of a minimum allotment size is a long-standing planning tool, easily understood by all particularly the lay person and general community. Allowing 'smaller' allotments than anticipated defeats the purpose of having any difference between zones, for example between the General Neighbourhood Zone (GNZ) and Housing Diversity Neighbourhood Zone (HDNZ). A GNZ does not contemplate allotments less than 300m² (for detached dwellings) yet the PO enables this, effectively undermining the zone's intent at establishing a baseline desired density and pattern and form of development. We highlight that allotment size is a 'density' tool that the community do understand and is referenced during engagement for planning reviews and Code Amendments. It undermines community confidence if an 'understood' density based around an allotment size is anticipated following a planning	Amend the Code to provide greater strength to TNVs in their role during an assessment.

	review or Code Amendment, and yet cannot be relied upon in the development assessment process.	
Building Envelope Plans	There is opportunity to provide additional planning parameters to consider best practice sustainable design policy for development assessment including solar orientation, nomination of window locations and building heights for example.	Increase planning parameters within the legislation for use of BEPs as part of the land division.
	Ideally, BEPs should be approved as part of the land division approval and not as a separate process after the planning consent has been issued. Preferably the timing of preparing a BEP for a site should be earlier in the planning process and prior to planning consent being issued. This assists in determining suitability of land for residential allotments – siteworks plans and earthworks may be altered after planning consent when formal engineering work has been undertaken thus restricting future usability or requiring substantial retaining for example.	Amend the process for enabling BEPs earlier within the planning process.
	There is a need for the Regulations to be amended that reference the CE of the AGD/PLUS. Currently, the legislation is loosely worded and could refer to the CE of any other agency or organisation where a BEP is required to be submitted and publishes on its portal.	Amend the PDI Regulations to clearly state that a BEP must be submitted to the CE of PLUS.
	We seek greater clarity surrounding what is considered a 'minor intrusion' to a BEP. Open structures are permitted to protrude beyond the relevant BEP – what is deemed as an acceptable protrusion? There is no governance on the number of protrusions permitted nor consideration of any variations that may occur when a private certifier considers changes as 'minor'.	Require clarity surrounding overall process including addition of assessment criteria to determine what constitutes a 'minor intrusion'.
	Should council deny a BEP proposal, we ask are there appeal rights for applicants (or the public) as they are determined after the planning consent?	Require clarity surrounding overall process.
	How are the BEPs recorded if not lodged on the portal and is there a fee? Who does the fee go to? If not, there are complications for lodging on the portal and who is the relevant authority for example (presumably the	Require clarity surrounding recording of BEPs on the portal and record keeping system.

	Assessment Manager)? How are these to be tracked or their progress followed if not initially loaded on the portal?	
	Require a statutory mechanism to enforce and consider variations to a BEP after a development approval has been issued etc. The process for amending a BEP is not specifically defined. Regulation 19A(2) refers to "an application for a variation of a BEP". What form does this take? How does a variation to a BEP get recognised if there is only the ability to email the CE of the AGD/PLUS? We question whether this would be also categorised as 'development' in its own right.	Evaluate the appropriate mechanisms to enable compliance and enforcement of variations to a BEP after a development approval has been granted. Provide clarity on the processing of variations to a BEP through the system and if they are to be categorised as 'development'.
	How are BEPs to be depicted on SAPPA? Identification should be simple and readily called up on the property or application search.	Consider review of how BEPs are revealed on SAPPA so that the lay person is made aware of these mechanisms.
	Lack of built form solar orientation criteria in Table 1 for an Accepted Development Classification Criteria. Given that consent for proposed allotments is required first, this means that the assessing authority has already considered the matter of allotment orientation, yet it is ignored in the built form.	Insert additional classification criteria to address solar orientation for built form.
	Council staff have previously recommended to PLUS that an Overlay would be a preferred mechanism which could be spatially shown on SAPPA. On use of this mechanism during a land division application an overlay would ensure that there is suitable policy that considers a wide range of criteria. In particular, consideration should be made to sustainable and environmental features of a design and in turn the ability to ensure reasonable compliance.	Reconsider a Building Envelope Overlay within the Code and utilising climate resilience/ecological performance criteria such as solar orientation, setbacks, planting areas etc.

Minor Variations

We seek greater clarification on minor variations. The lack of direction of what constitutes a "minor variation" creates uncertainty, is open to interpretation and can prove difficult to defend in a refusal of any variation. The Rules of Interpretation refers to variations that "generally meet" the corresponding Performance Outcome (PO). These terms are not defined and potentially introduce inconsistency when consideration of 'minor' is at the assessor's discretion during assessment.

We have further concern regarding the number of times that a variation can be undertaken where a Deemed to Satisfy (DTS) pathway is followed. This lack of clarity creates a system where a series of minor variations could be applied where ultimately the development application fails short in every DTS criteria. There does not appear to be a disincentive to prevent this occurring. Repeated requests and review against the originally approved plans for relatively minor issues is time consuming for assessment practitioners and can ultimately alter the initial application to a point where a new development application should be warranted. This should be avoided.

Minor variations	Without direction of what constitutes a "minor variation" in the legislation, this has created varying interpretations of the policy and has introduced inconsistency. Section 106(2) of the PDI Act enables an application to be assessed as DTS with one or more minor variations. This provision has created difficulties for council where multiple variations are being approved as minor, but which change the overall nature of the application or varying interpretations of the policy by certifiers when consideration of 'minor' is at the assessor's discretion during assessment. There is currently no regulation limiting the number of times that a variation can be undertaken where a Deemed to Satisfy (DTS) pathway is followed. This lack of clarity creates a system where a series of minor variations could be applied where ultimately the development application falls short in every DTS criteria. There does not appear to be a disincentive to prevent this occurring.	Consideration be given to the number of times a variation can occur under the DTS pathway before a performance assessed pathway should be applied. Alternatively, mandate that if an application fails to meet the DTS requirements, then it should always be assessed as a performance assessed development and cannot be considered as 'minor'.
Off-set and Infrastructure schemes	No Code mechanism has been provided to ensure infrastructure is coordinated, yet under the PDI Regulations schemes are available but not operational. On this basis council continues to use Infrastructure Deeds and Land Management Agreements to determine who is responsible for costs and delivery of new infrastructure, however this does not address coordination and staging often leaving council to accept suboptimal and temporary measures, resulting in additional costs and time in negotiating acceptable outcomes.	Review schemes noting the need of a mechanism to support development and to coordinate infrastructure provision outcomes prior to rezoning. Develop a Practice Direction on delivery of Infrastructure Schemes.
Role of policy outside the Code (SPPs, design guidelines, landscape guidelines)	The reliance on non-statutory guidelines, particularly for the protection of our heritage, landscaping, building design and for home garden design and improvement to green canopy on residential sites is problematic given the voluntary uptake of their recommendations and advice. We would be strongly supportive of a change to the policy wording that references these various guideline documents in the Code to provide greater mandatory strategic direction. Councils require effective design policy and guidance to enforce during the development assessment process and these documents, while extremely beneficial planning 'tools', should either be adapted or translated into the	Adapt design guidelines into Code policy or give them greater statutory weight.

	Code or introduce policy into the Code that is reflective of the design recommendations and outcomes to enable them to form an integral part of the assessment process.	
Re-establishing car parking scheme	Carparking funds established under the Development Act continue to operate as a legacy fund under Section 197 of the PDI Act. We have received legal advice that such funds can continue to operate, however they cannot be altered into a Section 197 fund without the need to first expend the contributions received and establish a new scheme and fund under Section 197 of the PDI Act. We suggest there needs to be better transitional legislation and guidance for how to amend existing carparking funds. The Expert Panel's reference to broadening the scope of how a council can use available carparking funds is supported.	Review the current carparking funds and their use under the new legislation. Provide guidance to the Act on how an existing fund can be amended to a new 'scheme' established under Section 197. Consider broadening the scope for use of street furniture, directional signage, streetscaping and landscaping within the carpark, improvement to footpaths, bicycle parking and shared paths.
Appeals against CAP/Assessment Manager	Council's Elected Members have determined to lobby for a return of the third-party rights of appeal similar to the former Category 3 rights of appeal. Community expectations of rights of appeal continue and the inability for staff to refer disgruntled third parties to the courts means staff are having to consider issues through political means or potential reviews on process grounds. Appeal rights have, in general, offered an opportunity for parties to fine tune consent conditions that result in better (or at the very least more acceptable to the third party) planning outcomes. Council has noted an increased level of community unease/resentment regarding the loss of these rights. As indicated recently by PLUS as part of their Minor Technical Enhancements Code Amendment, notification could be undertaken on a zone by zone basis. Exemptions from public notice may then be able to be considered in line with the Commission's established principles, consideration of specific land uses and in terms of what is a reasonable expectation based on potential impacts on a neighbour.	Review process to address concerns of rights of appeal for applications of particular assessment pathways.
Code Amendment Process	Concern relates to ensuring that community consultation is genuine on state-wide code amendments. Large scale amendments undertaken by the State Planning Commission require transparency and the reliance on councils to arrange and organise the engagement and address issues is of	Ensure community consultation is well targeted and provides adequate time for council to consider and report to Elected Members of local Councils.

	concern. Length and timing of engagement periods are important to ensure appropriate reporting times to Council and provision of feedback. This is particularly important where infrastructure considerations are part of the Code Amendment process as council is often ultimately responsible for infrastructure. Concern exists around private proponent led Code Amendments in relation to the community consultation process. Of particular concern is the process where the proponent is also running the engagement and also evaluating the response and preparing the 'what we have heard' report. As this amounts to significant detailed work before it gets to the Commission/PLUS for review of engagement adequacy, the likelihood of requiring further consultation would be reduced compared to a PLUS/Commission review of the engagement plan prior to consultation. Also, there is scope for real or perceived conflict of interest where the proponent is reviewing feedback, especially opposition to something they are proposing. This is heightened where amendments could result in increased yield and consequently financial gain.	It is recommended that PLUS/the Commission review/endorse engagement plans at a similar time to the Proposal to Initiate. It is recommended that PLUS manage the engagement process for private proponent Code Amendments, including the evaluation of feedback and preparation of 'what we have heard' reports.
Process of complaint against certifier	Councils have no formal responsibility nor resources to oversee privately assessed applications and we have continued to experience instances where developments have been privately certified, but the development did not satisfy important assessment criteria. We have previously provided examples of private certifiers exercising considerable discretion in the judgement of a 'minor' departure from the criteria. There are also occasions where plans are submitted for development approval by private certifiers and these are disputed by council. The only mechanism is via a formal complaints process. This is lengthy and complicated and often will take excessive time. It should be mandatory that an accompanying assessment report be provided with all applications determined by a private certifier demonstrating their reasons behind their decision of the application as Accepted or DTS. This would provide ability for council staff to undertake a review against relevant policy. This is also particularly useful for the assessment of 'minor variations' which have been assessed by private certifiers.	Simplify the complaints process. Introduction of an adjudicator or mediator for disputed issues or allow for relevant authority appeals (eg council appeal a private certifier consent). Ensure that building private certifiers undertake compliance checks as required by the Act to ensure that the building approval is consistent with the planning approval. Introduce mandatory assessment reports from the certifier demonstrating their assessment of an application or minor variation undertaken to determine DTS and Accepted pathways for applications.

Enforcement – extend from 12 months to 24 months	Enforcement issues arising out of reasonably short time frame to issue notice before commencing more formal enforcement (Section 215). 24 months would provide council additional time to issue enforcement notices potentially reducing legal costs to the rate payer.	Extend enforcement under Section 213 from 12 to, for example, 24 months.
Demolition	As demolition within a Neighbourhood Zone does not require approval, we are seeing increasing instances of unauthorised street tree and vegetation removal to facilitate redevelopment of sites. We are also experiencing damage to council street infrastructure. Whilst council has no issue with not having development control over demolition, the lack of notification is resulting in issues and costs to council. Noting councils can no longer undertake footpath dilapidation reports prior to work commencing on site for developments, when there is damage to council infrastructure as we can no longer do this for demolition, the damage to council / service infrastructure occurs without knowing who caused the damage and/or having any dilapidation reports undertaken prior in order to successfully pursue action.	Require a declaration form to be submitted prior to demolition, including a photo.
Regulation 38 – regarding council officers doing work for council	Council officers are unable to undertake assessment work of council development applications. These are lodged by differing departments within the organisation. There is an exemption for the assessment of crown related applications for state government officers. The exemption should extend to council officers, returning assessment rights that existed under the previous Act.	Include council employees into exemptions under Regulation 28 of Authorised Officer Regulations.
Essential Safety Provisions	Currently operating two systems to obtain information regarding ESPs and annual returns. These include pre 2019 and post 2019. A central state database would make access to ESP forms for all stakeholders in this process and enable council to more readily monitor annual returns.	Central state database for ESPs.
Certificate of Occupancy	We note that the issuing of these is currently on hold until January 2024. Council supports the introduction of this legislation as it considers it to be an effective compliance method to ensure lifesaving conditions are met prior to occupancy.	Further clarity around the requirements of inspections of Class 1 dwellings (final inspections) with respect to issuing CoOs.

Schedule 8	We consider that most Schedule 8 requirements are sufficient. However, Certificates of Titles have been removed from mandatory information. The provisions of the CT alerts planning and building practitioners to the presence of information on the title including site area, Land Management Agreements, easements, Heritage Agreements etc which is critical information required to assist in the planning assessment. Similarly, there should be some mandatory requirements to support tree damaging activity development applications and also for applications where an applicant is purporting to construct affordable housing within a land division in excess of 20 allotments.	Amend Schedule 8 of the PDI Regulations to include the following: • Mandate provision of a Certificate of Title with a development application. • Mandate provision of further details and supporting documents for a tree damaging activity application. • Mandate provision of further details and supporting documents for building works affecting a historic building/local heritage place. • Mandatory provision of a legal agreement with the SA Housing Authority for all development applications purported to include 'affordable housing'.
Events on private and public land	There are differing approaches between councils on how to best manage special events. Clarification as to when events are considered to be 'development' needing approval, incorporating a change of land use or a variation to existing approvals/conditions.	Define if and when events are 'development' needing approval under the PDI Act, and with an appropriate process and assessment policy in the Code.
Noise Control	With the anticipated repealing of the current *Environment Protection (Noise) Policy 2007* and its replacement with the new *Environment Protection (Commercial and Industrial Noise) Policy 2022*, the Code should provide correct reference to the relevant act and associated guidelines. As the proposed new Commercial and Industrial Noise Policy will reflect nationwide standards and references the current planning legislation, it is only logical that this is reciprocated in the Code. This will ensure that Code policy references the noise legislation to achieve consistency across the state.	Reference the *Environment Protection (Commercial and industrial Noise) Policy 2022* and the *Indicative Noise Level Guidelines for the Environment Protection (Commercial and Industrial Noise) Policy 2022* to ensure alignment with best practice for measuring noise. Include in the Noise and Air Emissions and Interface Management Overlays: • a reference to the Interface Between Land Uses of the General module of the Code in PO 4.1. • reference PO 4.5 to align with the new noise policy and Liquor Licensing Act for outdoor dining and beer garden areas as DTS criteria. • Ensure DTS/DPF 4.6 is consistent with the Liquor Licensing Act.

CITY OF ONKAPARINGA: RESPONSE TO DISCUSSION PAPER QUESTIONS

Council's Development Policy, Planning, Development Support, Building and Development Compliance teams have reviewed the Expert Panel's Discussion Papers questions and provide the following responses.

DISCUSSION PAPER – PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016 REFORM OPTIONS

PUBLIC NOTIFICATION AND APPEAL RIGHTS

1. What type of applications are currently not notified that you think should be notified?

Variations to decisions that were previously notified; these are of particular concern where an application requiring public notification was undertaken and representations were received. With the implementation of the new Code, these variations may now be exempt from the notification process. An example of this is a change in the hours of operation or change in nature or function of a road.

We note notification is not required for any land division however there is substantial discrepancy between scale of land division applications. A land division for a one into two is treated in the same manner in terms of notification as a large lot division where there are greater impacts, which the community seek to have their views heard.

It is considered that third party appeal rights and notification should take on a similar form to the previous system.

2. What type of applications are currently notified that you think should not be notified?

Outbuildings (garages, verandahs, carports, sheds) which exceed the prescribed footprint, height or length however, the impact is localised only to only the adjoining property (eg a garage 12m in length on side boundary). We consider changes to the notification process is required where only the adjoining property is notified as it only affects them directly.

Two-storey dwelling additions to an existing two-storey dwelling currently requires public notification. Should the proposal align with all relevant assessment parameters such as overlooking / overshadowing / bulk and scale, this type of development should be exempt.

3. What, if any, difficulties have you experienced as a consequence of the notification requirements in the Code? Please advise the Panel of your experience and provide evidence to demonstrate how you were adversely affected.

We have experienced situations where applicants indicate they will erect the sign to satisfy public notification requirements, but then fail to do so. We have also had situations where the sign has fallen over and is then not visible.

We consider that under the Regulations, there should be consideration for a fine / expiation for not following the prescribed notification requirements.

In addition, the fact that the 'clock' does not stop during notification should be reconsidered.

We note in the Regulations, Division 3 Part 47, a notice must be made to the owner *or* occupier. We consider this should be 'AND'. By default, it is the landowner who receives notification however the 'occupiers' (eg tenants) are just as, if not more in some circumstances, affected by a proposal as the owners; alteration to the legislation may be required to redress this.

4. What, if any, difficulties have you experienced as a consequence of the pathways for appeal in the Code? Please advise the Panel of your experience and provide evidence to demonstrate how you were adversely affected.

The City of Onkaparinga's Council has advocated strongly for the return of appeal rights via a number of forums including the Local Government Association, the Greater Adelaide Regional Organisation of Councils and this independent review.

Under the PDI Act, the opportunity for local and nearby residents to appeal a decision has now been removed. Council's elected members have indicated that the role of council is now one of providing mediatory advice which is not a fair and equitable process. We have seen with the removal of long-standing appeal rights that the community is seeking alternative options such as judicial review and confirmation that due process of assessment has been undertaken.

Council's most significant example of the consequences of the removal of appeal rights was for a development application for a childcare centre within the residential area of Flagstaff Hill. Council incurred considerable cost (greater than $20,000) in undertaking legal reviews of the assessment and subsequent decision by Onkaparinga' s Council Assessment Panel. These reviews were determined to be required by Council's elected members after significant community tension, which have not dissipated over time.

It is our view that the option of appeal, whether utilised or not, provides an outlet and opportunity for aggrieved neighbours. Furthermore, it is our experience that the majority of third party appeals do not result in refused applications, but rather lead to the agreed adjustment of conditions, via the ERD Court conference process, that reduce a development's impact or appease an appellant's concerns. This provides for reasonable outcomes, in a fair and impartial setting, usually at minimal cost.

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)?**

We note that any review mechanism would need to have some statutory weight to alter a decision, impose conditions or be able to direct the return of a decision to the relevant authority for review. This is essentially the role of the ERD Court.

On this basis, council considers that the return of third party appeal rights is the best mechanism for community voice and involvement in the assessment process.

ACCREDITED PROFESSIONALS

6. Is there an expectation that only planning certifiers assess applications for planning consent and only building certifiers assess applications for building consent?

We support the position that only planning certifiers assess applications for planning consent and only building certifiers assess applications for building consent, noting we have observed building certifiers allocate the incorrect assessment pathway.

7. What would be the implications of only planning certifiers issuing planning consent?

We would suggest this would impact work options and workloads to planning and building certifiers. We do however note it removes the ability (which we support) of a building certifier to make

decisions on matter matters such as when considering applications for Accepted or DTS and having the ability to sign off with numerous minor variations.

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

Currently, Level 1 Building can undertake DTS assessments for a planning consent.

Given our position is that a building certifier should have a demonstrated level of experience of local government and a minimum standard of qualification in planning (eg Certificate 4 in Local Government Planning), we have no objection if Building Accredited Professionals no longer are permitted to assess applications for planning consent. This could be particularly relevant for applications which would take the Accepted or DTS pathways and noting our previous comment regarding minor variations.

IMPACT ASSESSED DEVELOPMENT

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

We consider this would trigger a much more rigorous assessment process with multiple state government agencies reviewing the proposal, with their expert opinion then being used to inform the decision-making process.

INFRASTRUCTURE SCHEMES

Please refer to council's detailed submission regarding infrastructure schemes.

10. **What do you see as barriers in establishing an infrastructure scheme under the PDI Act?**

While provision has been provided in the legislation for Infrastructure Schemes, these have proven to be extremely complex for council to initiate. We consider they should be initiated through the structure planning process and not via a rezoning process.

Councils are concerned that most of the decision making and control comes from the State Government when local government has the knowledge, links to the community and current and future ownership of most of the infrastructure. The schemes provide no guidance on where the upfront investments will come from. Separately, the schemes place considerable responsibility on the 'Scheme Coordinator' role, making this the subject of potential governance risk in conducting negotiations with more than one landowner/ developer.

The Scheme Coordinator approach may also lack the ability to involve key stakeholders (such as government agencies and/ or key utilities) to ensure timely deliverables.

11. **What improvements would you like to see to the infrastructure scheme provisions in the PDI Act?**

Council would like the definitions of infrastructure to be reviewed to incorporate open space and a broader definition of community infrastructure and services.

The Act should be amended to ensure structure planning of growth areas, with infrastructure designs and costings, occurs **prior** to the rezoning process. The Act needs to require that the State Government provides for an effective whole of government infrastructure coordination that aligns with Regional Plans, including funding mechanisms for infrastructure agencies. It is difficult for local

government to engage with infrastructure providers (eg SA Water, SAPN/ElectraNet, Department for Education) at the strategic planning and rezoning stages. Agencies need to be committed to providing services to facilitate and support development opportunities.

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

Our current approach is the use of Deeds and Infrastructure Agreements, anchored to affected properties by Land Management Agreements to require payment or to levy separate rates on properties once they reach a development trigger.

These schemes in themselves are complex and require individual tailoring of legal advice and agreements. They involve extensive staff resources in their administration, including providing advice on interpretation, the development of proposals, gaining cooperation of landowners and collection of payment or levying of the separate rates.

A whole of government approach, bringing key agencies into the planning process, would address the needs and expectations of State level agencies involved with amongst other matters, transport infrastructure, education, health and wellbeing, emergency services, environment, recreation and sport and of course local government.

The key facilitator of such a forum would be an empowered authority with a legislative scope to drive land use and infrastructure coordination.

LOCAL HERITAGE IN THE PDI ACT

13. What would be the implications of having the heritage process managed by heritage experts through the Heritage Places Act (rather than planners under the PDI Act)?

We do not support such an approach. The consideration of heritage elements within a development proposal are only one component of the whole assessment process. A holistic approach should be considered. It would also raise issues with how a development is considered under different pieces of legislation.

Any applications for local heritage places within the City of Onkaparinga are referred to council's Heritage Advisor for comment. This involves ongoing consultation with the owners for consideration of their view and position.

We would also suspect there would be additional cost implications for councils and/or the applicants.

14. What would be the implications of sections 67(4) and 67(5) of the PDI Act being commenced?

We note such an enactment would require a majority agreement of all landowners to consent to the implementation of a historic area. We expect this could create serious community angst within the 'relevant area'. A decision whether an area is worthy of heritage protection should be made on sound planning reason and research, not on the popular opinion.

DEEMED CONSENTS

15. Do you feel the deemed consent provisions under the PDI Act are effective?

We consider that the mechanism of a Deemed Consent is not an effective tool for the management of development applications through the council development assessment process.

From our experience this concept is problematic and does not encourage well considered decision making, but rather has resulted in further delays and additional costs to both the applicant and council.

16. Are you supportive of any of the proposed alternative options to deemed consent provided in this Discussion Paper? If not, why not? If yes, which alternative(s) do you consider would be most effective?

We note the alternative suggestions of the Expert Panel, however, we would support adoption of the previous process used under the former *Development Act 1993.* As in the eastern states, applications can either be approved, may be deemed to have been refused, or actually be refused.

Based on the reduced timeframes, there are reduced opportunities for best practice outcomes to be negotiated and this will encourage a more adversarial assessment environment, at the expense of the best possible planning outcomes. They are also placing unnecessary burden on the actual process of planning assessment.

Alternatively, we recommend that the current assessment timeframes should be reviewed to enable greater opportunity for achieving better development outcomes for a proposal.

VERIFICATION OF DEVELOPMENT APPLICATIONS

17. What are the primary reasons for the delay in verification of an application?

We note delays in verifying an application are due to the poor quality and lack of information provided by the applicant, preventing council from determining the assessment pathway and at times even the nature of development.

This lack of appropriate and detailed information at the time of lodgement of an application is frequently resulting in the application being held until such time that all information is provided to align with Schedule 8 provisions.

The verification process requires the assessing officer to undertake an initial assessment to determine which assessment pathway will be selected. Without the relevant information, there is then the potential that the assessment pathway will change, Furthermore, given that there is only one opportunity to request further information during the assessment stage, it becomes critical to ensure all relevant and required information is provided upfront to determine both the nature and pathway of an application.

18. Should there be consequences on a relevant authority if it fails to verify an application within the prescribed timeframe?

No, as the verification process requires a thorough review of the information provide to determine the application nature and pathway. This can be very time consuming and essentially requires a pre-assessment particularly for larger, more complex applications.

Given the delays in assessment times are primarily due to the lack of information provided by applicants, the process should prohibit applications being lodged onto the portal until such time as all relevant Schedule 8 information is provided.

19. Is there a particular type or class of application that seems to always take longer than the prescribed timeframe to verify?

No; it varies and will often come down to the lack of detailed information provided at the start of the process.

We note infrequent or first-time users of the planning system, who are not familiar with matters such as site plans, planning processes and terminology, can struggle with providing the correct information.

On the other side, large and complex land divisions have their own set of complexities that may not be able to be addressed within the five day period, such as stormwater, engineering, retaining wall and road information. Of note, retaining walls which are critical to achieving the land division, can alter the assessment pathway and notification.

20. What would or could assist in ensuring that verification occurs within the prescribed timeframe?

Adoption of a formal checklist could be a mechanism that an applicant must complete prior to the electronic system progressing through to assessment stage of an application. This could take the form of a 'tick-a-box' system whereby the portal will not proceed to the next stage of the process until all relevant documents are lodged and satisfactory.

An email could be sent to the applicant advising what information remains outstanding and advising that the application will not progress from the verification stage until the outstanding information is provided. Alternatively, this information could be provided on the portal in an FAQs format, accessible while an applicant is lodging.

It also appears that there is varying consistency between councils in their interpretation of the provisions of Schedule 8. This should be clearly explained to ensure that all mandatory requirements are submitted and in what form.

21. Would there be advantages in amending the scope of Schedule 8 of the PDI Regulations?

The Schedule 8 provisions should be broadened to include requirements for the lodgement of regulated/significant tree applications and also for heritage applications requiring building work that affects the structural integrity of the building.

Attention to the scale of a proposal (eg stormwater management plans etc) should also be stipulated in Schedule 8.

DISCUSSION PAPER – PLANNING AND DESIGN CODE REFORM OPTIONS

CHARACTER AND HERITAGE

1. **In relation to prong two (2) pertaining to character area statements, in the current system, what is and is not working, and are there gaps and/or deficiencies?**

Prong 2 – Character Area/Historic Area Statement Updates

We note the Expert Panel's suggestion for the review and update of Character Area/Historic Area Statements which propose to provide a 'stronger focus on design which is bespoke to local character and heritage areas and will provide better tools for assessment of character and heritage values'.

This will enable a greater focus on the design elements and themes of importance. However, these updated statements should include 'forward looking' controls for new development (as we have requested previously) with a stronger focus on design and locally responsive assessment policy and not just enhanced descriptions of existing character.

Alternatively, we could investigate bespoke subzones to provide envisaged development outcomes and reasonable protection through policy for enhancing character areas, particularly for some of our townships or character areas where the Character Area Overlay may not apply. We would encourage a move away from the mindset that subzones should only be applied in 'exceptional' circumstances.

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?**

Prong 1 – Elevation of Character Areas to Historic Areas

Although the City of Onkaparinga currently does not have any designated Character Areas, we would still support the elevation of a Character Area to Historic Area status where appropriate.

We also support the introduction of Historic Area demolition control provisions within Character Areas.

However, we continue to hold concerns that there are many areas which exhibit distinguishing features and context that are very separate from other areas and should be protected. Onkaparinga previously had a variety of zones and policy areas that applied to our diverse suburbs and towns, including historic townships like Clarendon and Willunga, through to established and newer suburbs such as Morphett Vale and Seaford Meadows. Through the Code, we now find applying a one size fits all standardised approach does not truly reflect the individual character of these areas which are unique in their land use pattern, built form, settlement and setting, historic features and local contextual detail.

Council would support new Character Area/Historic Area Overlays and Statements and/or new subzones for us to provide the true local context of specific areas through policy. Based on the structure of the Code, these levers can provide additional guidance for unique or local differences between the primary zone and an area which warrants the need for additional policy and spatial identification for an area.

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?

We have reservations for the requirement for an application for a replacement building at the time of demolition of a building within a Character Area, particularly if it does not contribute to loss of character of that area. We note however, there would be no certainty or mechanism to ensure that the approved replacement building will actually be constructed.

We are concerned that this process seems to place an emphasis on the replacement dwelling and not on demolition control, potentially sending a confusing message to the community that demolition is supported subject to an 'acceptable' replacement dwelling. As such, the process for assessment of the replacement dwelling against the CAS is supported, as it is more important that the assessment and merit for demolition is considered first and foremost.

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

Approval of a replacement dwelling does not ensure that the applicant will commit to the actual construction of the dwelling on the site. Similarly, there is no ability to enforce a timeframe in which the dwelling must be constructed prior to the application lapsing.

This is an outstanding concern where we note it must be proven that the building is 'irredeemably beyond repair', yet the Code policy simply refers to an unacceptable risk to public or private safety and uninhabitable and beyond repair. We believe that to determine if a structure is irredeemably beyond repair, there should be a mandatory requirement for a Heritage Impact Assessment or an economic viability report for justification.

TREES

NATIVE VEGETATION

5. What are the issues being experienced in the interface between the removal of regulated trees and native vegetation?

We have experienced many difficulties in determining the correct approach when assessing regulated trees and native vegetation. There is continuing conflict between the PDI and Native Vegetation Acts, despite the improved relationship via introduction of the Code. We note there are instances where the Act and policy is difficult to interpret to determine who the responsible authority for this form of clearance is, and it remains open to varying interpretations of when a regulated tree is exempt from Native Vegetation Act approval.

We consider that this conflicting and difficult interpretation of the legislation requires review and clarification.

6. Are there any other issues connecting native vegetation and planning policy?

We note that a declaration stating that no native vegetation will be affected by a development proposal is left to the discretion (and knowledge) of the applicant (native vegetation overlay applies to the whole of Onkaparinga).

We have experienced this to be incorrect for a number of development applications we've received. It is unreasonable to suggest that the lay person will have the expertise and knowledge with an

ability to recognise native vegetation and other vegetation not protected under the Native Vegetation Act.

TREE CANOPY

7. 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?

We support this suggestion however, we remain concerned that due to the small setbacks that are supported in some zones (such as the Master Planned Neighbourhood Zone), insufficient space for a tree to be planted and thrive is provided.

In addition, due to narrow verge widths, conflicts with infrastructure such as roads, footpaths and services, and decreasing allotment frontages, we consider that there is insufficient space for a tree to grow and thrive.

At the design stage of land divisions, there should be sufficient verge and reserve space incorporated to facilitate planting, as well as allotment widths that accommodate both the driveway crossover and space for trees.

Council is extremely concerned that we are losing a number of our regulated and significant trees as a result of new infill and greenfield subdivisions.

Similarly, tree planting within reserves is also a significant issue for council. With stormwater infrastructure requirements and the sharing of open space for this purpose, the planting of trees with larger canopies proves more difficult and is hampered by the need for easements, drainage and detention. These areas are also less functional as open space areas for the local community that they serve, and it becomes impossible if the entire reserve is consumed with stormwater infrastructure. Developers and the building industry are often extremely reluctant to allocate separate areas for each, as this impacts profit.

8. 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?

With reduced allotment sizes and setbacks but increased site coverage, there is also insufficient room for the planting of a tree at the rear of a dwelling; particularly one that will contribute to the urban tree canopy.

With planning policy encouraging smaller allotments, council is concerned that they are not able to achieve the required level of tree planting per dwelling that is expected.

TREE PROTECTIONS

9. What are the implications of reducing the minimum circumference for regulated and significant tree protections?

We strongly believe legislation and policy change is needed to ensure that the next cohort of trees are protected and have the opportunity to become the next generation of big trees. With our generally low rainfall, it takes great time and resources for our trees to reach regulated or significant status. A reduction in minimum circumference would mean less time and therefore greater opportunity for our trees to achieve some form of protected status.

However, we question whether a reduction in the minimum circumference of a regulated tree for assessment purposes would achieve anything meaningful if the policy continues to permit the clearance of such trees via the current Regulation exclusions. Therefore, exclusions must be reviewed as part of this.

10. What are the implications of introducing a height protection threshold, to assist in meeting canopy targets?

We believe it is vitally important that we protect all trees of substantial age/size, not just tall trees or a tree of a set circumference. A regulated or significant tree is not always of substantial height, nor may ever reach the circumference that is prescribed. Without other supporting planning policy, this requirement in isolation may result in a disadvantage for trees that are of shorter stature.

11. What are the implications of introducing a crown spread protection, to assist in meeting canopy targets?

As above, it is important that we protect all trees of substantial age/size, not just tall trees. Not all trees of substantial age/size possess a large, spreading crown. This may disadvantage trees that are regulated or significant but that have a narrower crown.

It should also be noted that it is also important that the crown of the tree is protected during any construction works, as per the root system. This may involve the need for a larger tree protection zone, for trees that have spreading crowns. For subdivisions creating additional allotments, there are often crossovers proposed to be located within TPZs and under the crowns of trees. Any additional measures that afforded protection would be useful.

In summary, tee protection based on a combination of height, circumference and canopy spread criteria would be supported.

12. What are the implications of introducing species-based tree protections?

The need for certain species to be protected can change over time, depending on environmental or other factors that may be threatening such species at a given time (eg climatic factors, pathogens etc). A species-based list of tree protections would then need to be reviewed regularly.

This may also disadvantage good, quality trees that are for whatever reason not included in the list of protected species, but that contribute to the landscape and possess characteristics worthy of retention, such as amenity value and habitat value.

We believe that all substantial trees are worthy of protection, with the exception of species known to be problem weeds, or those that cause significant issues for other prescribed reasons.

DISTANCE FROM DEVELOPMENT

13. Currently you can remove a protected tree (excluding Agonis flexuso (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?

We support amendment to this policy and consider that this would result in fewer regulated or significant trees being removed, just based on proximity to a dwelling or pool. We do note that this could mean an increase in development applications for the removal of regulated or significant trees however it gives us an opportunity to consider other solutions/measures, such as pruning, root barrier etc.

14. 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)?

With reductions in urban tree canopy cover evident for most councils following recent urban tree canopy mapping, it has become clear that these circumstances should be revised. Reducing the circumstances under which protected trees can be removed would help us to be able to protect these trees. With overall objectives to increase tree canopy across the state, policy should act as a deterrent, with assessment based on prescriptive best practice standards in order to obtain permission to remove protected trees. Since, the change in legislation to tree protection controls in 2011, it has become increasingly evident that the policy has become easier and less effective in managing our tree canopy.

URBAN TREE CANOPY OFF SET SCHEME

15. What are the implications of increasing the fee for payment into the Off-set scheme?

We support the suggestion that the fee for payment into the Off-Set Scheme should be increased such that it will act as a deterrent and disincentive to simply pay into the fund. Rather, this may result in an increase in people who will elect to plant a tree instead. Therefore, we suggest that greater attention would be required to the intent and meaning of the policy to ensure that unsuccessful plantings are minimised by way of planting a tree in inappropriate locations; the tree is an appropriate tree species which is suitable for the climate and site context; is sited in spaces that are too small; or consist of poor soil type etc.

On this basis the parameters around choosing to plant should be revised to ensure that success is likely.

16. 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?

In principle, we support this intent but question whether there will be any difference between costs in different locations. The cost of ongoing maintenance such as watering and formative pruning (for at least three years) should be included in this calculation.

17. What are the implications of increasing the off-set fees for the removal of regulated or significant trees?

We consider that the increased off-set fees for the removal of a regulated or significant tree will hopefully act as a disincentive to landowners/developers/applicants. Desirably, existing trees should be incorporated into the overall development scheme utilising suitable design and construction tree protection measures. Increasing the off-set fees should not mean that it is easier to obtain approval for the removal of a tree.

It would be extremely beneficial for the implementation of a recognised tree valuation method, such as the Revised Burnley method (one example) utilised for calculating the monetary replacement value of a tree (except perhaps where the reason for removal is that the tree represents an unacceptable risk). An arbitrary fee is usually just factored into a developer's budget and provides no disincentive to removal of the tree. Additional incentives for the retention of a regulated or significant tree should also be considered.

PUBLIC REALM TREE PLANTING

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

We support this suggestion. The Planning and Development Fund should be determined by priorities that include both the retention of the existing tree canopy, and the increasing of tree canopy by maximising planting opportunities. This should be particularly relevant for the larger canopy trees, given that there is rarely space for planting such trees in our newer development areas, and even more so in many established residential areas.

It is also recommended that for greenfield land divisions, a masterplan be submitted by the applicant that demonstrates how a 30% tree canopy cover can be achieved. This places the onus back on the applicant. Additionally, it should be mandatory that street tree planting is nominated and depicted on detailed landscaping plans that can be incorporated into Infrastructure Agreements with the council.

INFILL

DESIGN GUIDELINES

19. Do you think the existing design guidelines for infill development are sufficient? Why or why not?

Whilst the preparation of existing design guidelines for infill development has been supported and provides a sound starting point, we note they are not statutory documents and as such the shortfall is the Code itself, as it cannot call up or refer to them.

20. 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?

We support the consideration of alternative forms of infill development however with this there needs to be further consideration of titling arrangements of (or preventing inappropriate) land division to support good outcomes.

STRATEGIC PLANNING

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

The existing approach is supported however this question assumes a 'one size fits all' as is the current issue with the Code. A regional plan can set the overall direction and targets however, different areas / regions will need to respond differently yet the Code zones discourage a nuanced approach to local area planning.

22. What should the different roles and responsibilities of State and local government and the private sector be in undertaking strategic planning?

We strongly believe it is the role of state and local government as the representatives of our community to lead strategic planning. As a stakeholder, the private sector can contribute in a meaningful way to strategic planning.

CARPARKING

CODE POLICY

11. 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.

Council remains concerned on the cumulative impacts of infill development on our existing suburbs and the implications these forms of development have on onstreet parking.

Council continues to receive feedback from residents who are concerned about the impacts this may be having on local neighbourhood character, amenity and traffic management. There is also the perception that new infill development is inadequate to accommodate the resident's parking needs. In addition, when combined with narrower streets, preventing safe and convenient access, particularly by emergency service vehicles, and reduced front building setbacks, we note there is a reduced capacity for the parking of cars onsite.

12. 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?

The ability of the population to access services and employment is strongly influenced by access to transport/car parking.

Analysis of car ownership within the City of Onkaparinga in 2021 indicates that 57% of households have access to two or more motor vehicles, compared to 53% in Greater Adelaide. This correlates with the ability of the population to access services, shops, services and employment. Census data shows car ownership levels in 2021 have also increased slightly within the council area since the 2016 census.

Despite the concentration of density around our centres, this has not resulted in a reduction in car ownership and this will not overcome the negative impacts on surrounding residents. We note that the CBD is better established for reduced car parking rates by the very nature of a central point public transport system, walkability and availability of services.

13. 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?

While reduced parking rates for specific land uses in inner city areas may be feasible due to their proximity to primary transport corridors and regular public transport services, we do not support a weakening of the current parking rates for our outer suburbs where this situation is extremely different. Therefore, it is recommended that their application should be strategically considered.

14. 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?

Car park demand rates are affected by location, function and time. Therefore, appropriate rates should reflect these differences particularly where higher residential densities near activity centres is encouraged. Other implications relate to the seasonal popularity of some areas and the implications of COVID-19, which may have affected the uptake of public transport during these times and peak parking demand data.

We also note that the pattern of demand is also very different in our southern-most suburbs, which are less accessible than the wider metropolitan and inner-city areas, with residents having to rely on

less frequent bus services. Therefore, there must be a sound reason to justify lower or reduced parking standards.

15. 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?

We consider that the current onsite car parking rates provide a sound baseline for development assessment in order to mitigate impacts caused by car parking. Should these rates be reduced there must be a demonstrated and sound reason to justify these lower standards.

DESIGN GUIDELINES

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

While any available information that can be used to assist during the assessment process is welcome there is no mandatory provision for enforcement of their guidance.

We would recommend that guideline documents or details be introduced into the Code. We would also consider it helpful that a detailed fact sheet is prepared that demonstrates the varying policy parameters, in a simple form that can be used to provide to the community.

ELECTRIC VEHICLES

17. 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?

We consider that the scale/extent of site coverage for a charging station (or number of charging points provided) within a development should be considered as the 'trigger' for the categorisation as a form of development.

Given the structures and/or canopies erected in association with the charging areas generally require a footing to be stabilised with canopies provided for weather protection of pedestrians etc, there should be no doubt that development approval is required. While many may take a DTS pathway during assessment, some may also incorporate ancillary advertising (akin to free-standing bus stops on the public verge with illuminated advertising panels) which will also require approval.

18. 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?

We suggest that dedicated Code policy that guides the design of parking areas and provision of EV charging infrastructure is essential. This would be particularly more relevant in our character and historic areas where they should automatically require development approval. While they will be typically ancillary to the function of a car parking area, there are possibly some qualifying factors that should be considered during assessment.

Policy in the Code should address the siting of the charging infrastructure and where a station is most likely to be acceptable. However, it is anticipated that long-dwell time destinations such as offices/workplaces, tourist attractions, retail centres and cinemas, public car parks, entertainment and restaurant precincts, and multi-residential buildings are the more common locations that should be reflected in policy.

With an increased demand and take up of EVs, further consideration for the in-built availability for the charging of private domestic vehicles should also be addressed. We note the National Construction Code of Australia considers that EV charging station are a form of building work, which only reinforces the need for complementary planning policy.

CAR PARKING OFF-SET SCHEMES

19. 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)?

At present, council's existing car parking funds are not able to be re-established under PDI Act. That said, we would support broadening the scope for what purposes the funds proceeds could be used for.

In our experience, they have not achieved the desired outcomes primarily due to modest levels contributions sought, meaning the funds are not adequate to support the actual cost of providing the parking.

20. 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?

Given the limited extent of parking fund operation, we have not been able to use the funds for many wider upgrades to a contribution area.

We suggest that other initiatives or measures funded through the parking fund could include the provision of street furniture, landscaping/streetscaping, extension of a community bus service, directional signage, improvement to or provision of new footpaths, provision of bicycle parking and shared paths.

Ultimately, it is important that the contributionsbe used for providing parking that is suitably related to the development in terms of timing, equity, proximity and need.

COMMISSION PREPARED DESIGN STANDARDS

21. Do you think there would be benefit from the Commission preparing local road Design Standards?

We note that current standards for local road design and infrastructure provision vary across councils. The provision of infrastructure and design standards would therefore be beneficial in providing clear direction and minimum parameters to address this inconsistency across the state.

With the overall intent of the Code providing "*a performance-based approach to planning and design by incorporating policies that address the scale, form and design of buildings as well as their relationship to the public realm"* , these standards must adopt a 'best practice' approach which can be used early during the assessment process to achieve these objectives.

DISCUSSION PAPER – E-PLANNING SYSTEM AND THE PLANSA WEBSITE REFORM OPTIONS

USER EXPERIENCE

WEBSITE RE-DESIGN

1. Is the PlanSA website easy to use?

As regular and expert users of the public PlanSA website and Development Assessment Portal (DAP), council's development services staff have commended the successful delivery of the two systems in a challenging environment – viruses both virtual and real!

We also acknowledge the regular and various portal enhancements and rectification of some of the inefficiencies of the online planning application and data management system.

The public PlanSA website is well presented and achieves, for the most part, a good balance between presenting volumes of complex information and providing simple, easy to find answers.

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

The digitalisation of the state planning system has brought many benefits but there still remains some technical inefficiencies which require resolution to ensure that 'stop-the-clock' functions and appropriate assessment time frames can still be maintained.

The DAP is rigid and does not allow for the path of applications to change as the assessment changes or further information is obtained. Similarly, there is a lack of or limited list of specific land use 'elements' or development pathways listed on the portal to enable the user to more accurately describe their proposed development.

For ease of use for the general community, the first access page of the PlanSA website should be amended by customising and incorporating more specific identification or 'navigation' accessibility tools ('bubbles') to highlight and link to the more common features of the operating systems, including particular features of the Code, Regional Plans, Fact Sheets, Lodgement of Development Applications, Forms and SAPPA etc.

MOBILE APPLICATION FOR SUBMISSION OF BUILDING NOTIFICATIONS AND INSPECTIONS

3. Would submitting building notifications and inspections via a mobile device make these processes more efficient?

The creation of a mobile app for both the building industry (submission of notifications) and council's building officers (logging of inspections) would deliver further efficiencies.

4. Where relevant, would you use a mobile submission function or are you more likely to continue to use a desktop?

As above, council's building officers could use such an app for the onsite submission of inspection data. Council currently uses a similar application for inspections – information on this can be found on the application website https://safetyculture.com/iauditor/

ONLINE SUBMISSION FORMS

5. Is there benefit to simplifying the submission process so that a PlanSA login is not required?

This would seem to be beneficial for the end user, however it is unknown how a secure process could be provided without a personalised account.

6. Does requiring the creation of a PlanSA login negatively impact user experience?

While we have received complaints from applicants, these complaints have been of a general nature and it is standard security practice to require such a process.

7. What challenges, if any, may result from an applicant not having a logon with PlanSA?

As noted above, a secure account is required to prevent access of applicants' documents which almost always contain personal, commercial or copyright material.

Some inconvenience in utilising a secure login process is preferable to open access to all and any files.

INCREASED RELEVANT AUTHORITY DATA MANAGEMENT

8. What would be the advantages of increasing relevant authorities' data management capabilities?

The requirements of councils as relevant authorities are vastly different from the requirements of private certifiers. Councils require this data for infrastructure and social planning and for operational management.

Problems include:

- past and current reports continue to provide inconsistent data
- some reports are summaries only – we cannot view the raw data
- data regarding development assessed by private certifiers is not always included in reports.

9. What concerns, if any, do you have about enabling relevant authorities to 'self-service' changes to development applications in the DAP?

We welcome this improvement however this should not be permitted beyond the local government jurisdiction (noting other relevant authorities have accessed/adjusted council's data without permission).

INSPECTION CLOCKS

10. What are the advantages of introducing inspection clock functionality?

We would support this functionality as it provides visual clarity on the number of days to do inspections and provides the ability ensure officers are meeting minimum inspection numbers. It also provides the ability to monitor team inspection workloads under the inspection tab.

11. What concerns, if any, would you have about clock functionality linked to inspections?

We do not have any major concerns currently in relation to clock functionality.

However, in addition to this functionality, the "activity date" input should be restricted to only allow mandatory notifications to be input up to five days in advance. Currently we are getting notification two to three months in advance of the completion of works.

12. What, if any, impact would enabling clock functionality on inspections be likely to have on relevant authorities and builders?

As highlighted in question 11, clock functionality will enable better time management for council officers and allows further transparency in relation to statutory timeframes to all stakeholders.

COLLECTION OF LODGEMENT FEE AT SUBMISSION

13. Would you be supportive of the lodgement fee being paid on application, with planning consent fees to follow verification?

We support this change, noting however that it will require an applicant to pay fees on at least three separate occasions.

14. What challenges, if any, would arise as a consequence of 'locking in' the Code provisions at lodgement? How could those challenges be overcome?

The Code provisions should not be locked until the completion of verification.

We have experiences with the evolution of the nature of a development as further information is provided during the assessment of an application (eg an application for a 'cellar door' that proposes 'restaurant' facilities and then expands to include activities defined as a 'function centre'). Locking in cellar door would not capture these additional land uses.

Combined Verification and Assessment Processes

15. What are the current system obstacles that prevent relevant authorities from making decisions on DTS and Performance Assessed applications quickly?

The non-provision of relevant information identified in Schedule 8 is the main obstacle to swift assessment.

It is also council's contention that assessment for Performance Assessed applications should focus on quality of decision, rather than time.

16. What would be the advantages of implementing a streamlined assessment process of this nature?

Improvements to the quality and level of information submitted at lodgement (eg mandatory requirements for a site plan and elevations; as mentioned previously, a 'tick-a-box' system would be preferred) where the application does not proceed further until such time that all relevant information is provided. This could be particularly helpful for determining DTS and Accepted pathways.

17. What, if any, impact would a streamlined assessment process have for non-council relevant authorities?

Streamlined assessment process would be of benefit to all parties, including the applicant.

Please note that the City of Onkaparinga does not support the expansion of private certifiers' status as a relevant authority into the Performance Assessed assessment pathway.

AUTOMATIC ISSUE OF DECISION NOTIFICATION FORM

18. What are the advantages of the e-Planning system being able to automatically issue a Decision Notification Form?

Council does not support the automatic issuance of Decision Notification Forms.

19. What do you consider would be the key challenges of implementing an automatic system of this nature?

Such a system would removes an essential consistency check on applications. While council understands that the decision of a private certifier as a relevant authority cannot be overturned, council uses this process to identify errors that require a formal complaint to the accreditation authority.

Examples of compliance issues include:

- street furniture in proposed driveways
- lack of area for CWMS tanks
- non-provision of disability access
- lack of standard conditions eg stormwater
- non-provision of building indemnity insurance.

We would also be concerned that mandatory building notifications could be omitted or decided by another authority as well as being reliant on a certifier charging the correct fees.

There would need to be improvements to how conditions of consent are ordered on the decision notification form.

20. If this was to be implemented, should there be any limitations attached to the functionality (i.e., a timeframe for payment of fees or the determination will lapse)?

As above.

BUILDING NOTIFICATION THROUGH PLANSA

21. Would you be supportive of mandating building notifications be submitted through PlanSA?

Yes, we support this.

22. What challenges, if any, would arise as a consequence of removing the ability for building notifications to be received by telephone or in writing to a relevant council? How could those challenges be overcome?

We consider that an 'app' developed by PlanSA would provide builders with the ability to quickly and simply provide notifications via the portal. As such the removal of other contact options should not be of concern.

23. Would this amendment provide efficiencies to relevant authorities?

Directing all notifications through PlanSA would provide an assured pathway for councils when undertaking notified inspections. Currently councils must check five communication channels to confirm if a builder has notified at the correct time and this reduces productivity

REMOVE BUILDING CONSENT VERIFICATION

24. Would you be supportive of removing the requirement to verify an application for building consent?

No, we do not support the removing of verification of building consent applications. This should be retained. The level of information provided in applications can be minimal and the verification stage provides officers the opportunity to request basic documentation (in accordance with Schedule 8) without there being an impact on assessment timeframes.

25. What challenges, if any, would arise as a consequence of removing building consent verification? How could those challenges be overcome?

As discussed in question 25, the level of information provided in applications can be minimal and the verification stage provides officers the opportunity to request basic documentation to be provided.

If this stage of the application process were removed, there should be increased information supplied to applicants relating to the level of documentation to be provided for an assessment. The system should also require certain documentation for BRC and not allow applicants to progress until provided.

CONCURRENT PLANNING AND BUILDING ASSESSMENT

26. What would be the implications of enabling multiple consents to be assessed at the same time?

We would discourage building consent prior to planning consent. We do not see this as a cost-effective approach for a developer, particularly for Performance Assessed applications noting the nature of development can change.

We would have concerns that the different consents could be sent to different authorities resulting in one application being different in nature between planning to building.

INNOVATION

AUTOMATIC ASSESSMENT CHECKS FOR DTS APPLICATIONS

1. What do you consider would be the key benefits of implementing an automatic system of this nature?

There is some time saving benefit in creating an automatic assessment check list for DTS, as long as it can also be edited to add comment to any minor variation.

2. What do you consider would be the key challenges of implementing an automatic system of this nature?

Ensuring all relevant and correct policies are captured, it would still need human eyes to check over the automation.

3. Would you be supportive of the Government investing in developing this technology so that it may integrate with the e-Planning system?

Yes.

3D MODELLING FOR DEVELOPMENT APPLICATION TRACKER AND PUBLIC NOTIFICATION

4. What do you consider would be the key benefits of the e-Planning system being able to display 3D models of proposed developments?

A visual display can better demonstrate and articulate what is being proposed and is often more easily understood by the broader community.

5. Do you support requiring certain development applications to provide 3D modelling in the future? If not, why not? If yes, what types of applications would you support being required to provide 3D modelling?

Yes, but maybe limited to where height or footprint triggers are in place.

6. Would you be supportive of the Government investing in developing this technology so that it may integrate with the e-Planning system?

Yes, subject to ensuring it is not an additional cost to councils.

AUGMENTED REALITY MOBILE APPLICATION

7. Would you be supportive of the Government investing in developing this technology so that it may integrate with the e-Planning system?

There may be some benefit, subject to the nature of the development and where and how it is proposed.

ACCESSIBILITY THROUGH MOBILE APPLICATIONS

8. Do you think there is benefit in the e-Planning system being mobile friendly, or do you think using it only on a computer is appropriate?

Yes, it has the potential to assist in provision of forms / information when away from the office.

9. Would you be supportive of the Government investing in developing this technology so that the PlanSA website and the e-Planning system is functional on mobile?

Yes, subject to ensuring it is not an additional cost to councils.

23 January 2023
Our ref: 5880194

Mr John Stimson
Presiding Member
Expert Panel
Planning System Implementation Review

via email: DTI.PlanningReview@sa.gov.au

Dear Mr Stimson

PLANNING SYSTEM IMPLEMENTATION REVIEW

Combined Council Comments to the Expert Panel on Infrastructure Schemes

A round table of South Australian growth councils have come together to provide a joint response to the Planning System Implementation Review regarding the need to establish workable infrastructure schemes for large and complex land developments. These councils are Adelaide Plains Council, Town of Gawler, Light Regional Council, City of Onkaparinga, City of Playford, City of Salisbury, Mount Barker District Council and Barossa Council.

In consultation, we agree with the Expert Panel that, as provided in the *Planning, Development and Infrastructure Act 2016* (the Act), the General and Basic schemes are overly complex and difficult to work with, if operatable at all. Two quotes from the Expert Panel Discussion Paper are illuminating:

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

As the Act has been in place since 2016, this is a very concerning delay affecting the provision of essential infrastructure, which in turn could negatively impact the timing on project implementation, economic development and sound planning outcomes.

The Discussion Paper also highlights the complexity of managing these infrastructure projects:

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

Councils have continued to respond to this legislative and policy gap with local developer contributions schemes using Deeds and/or Infrastructure Agreements anchored to affected properties by a Land Management Agreement. In addition, some councils have needed the use of Separate Rates levied on properties that come into effect once they reach a development trigger.

Town of Gawler Experience

For example, the current approach to infrastructure provision in Gawler East, Growth Area demonstrates a significant resourcing and administration challenge aimed at delivering outcomes that also affect state government assets.

In July 2017, the Town of Gawler introduced three Separate Rates across the Gawler East, Growth Area totaling $19.6 million (M):

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

In addition, council made a contribution of $5.4M to the development of infrastructure in Gawler East, Growth Area bringing the total potential infrastructure spend to $25M.

This approach to the scheme was complex and required individual tailoring of legal advice and agreements. It involved extensive staff resources in their administration, including providing advice on interpretation (as needed), the development of proposals, gaining cooperation of landowners and levying of the separate rates.

City of Onkaparinga Experience

Another example of the complexities and significant resourcing faced by the lack of appropriate legislation is seen in the Hackham Code Amendment, currently underway. The City of Onkaparinga has now been sidelined from ongoing discussions between developers and RenewalSA who are endeavoring to prepare and finalise a deed and land management agreements (LMAs) over fragmented land (multiple landowners) to manage stormwater, road networks and general infrastructure delivery. Deeds and LMAs are being utilised, in the absence of suitable Infrastructure Schemes, in an attempt to ensure the future delivery of infrastructure that is coordinated and equitable for all developers, ratepayers and utilities.

In particular, council's concern is we will ultimately inherit in a complex stormwater system that is substandard or only a partially delivered system that consequently results in us incurring unwarranted costs, thereby directly impacting future residents and our wider community.

The approach in utilising deeds and LMAs causes council great concern, as an LMA cannot in itself prevent a landowner from lodging a development application and, equally, it cannot displace the planning authority's statutory obligation to process a development application that has been validly submitted.

With the absence of Infrastructure Schemes, as the prescribed relevant authority, council may have little choice but to grant planning consent to a land division application contrary to a prohibition in the deeds and LMAs, which may then lead to an undesirable conflict between a development approval on the one hand, and an LMA on the other.

Councils across the state have also experienced challenges with deeds and LMAs in circumstances where affected properties are sold, and the landowner's responsibilities not appropriately transferred as a part of the transaction.

General concerns

Recently, a council from the round table of South Australian growth councils experienced the necessity to negotiate and settle deeds involving infrastructure affecting state assets (arterial road network) without the relevant state agency being a party to the agreement.

Councils have also experienced challenges in circumstances where affected properties are sold, and landowner responsibilities are not appropriately transferred as a part of the transaction resulting in missed developer/landowner obligations being followed through.

Without Infrastructure Schemes in place, these outcomes are noted as inconsistent across the state which is seen negatively by the development industry and the community. Alternatively, a commencement of General and Basic schemes, albeit in a simplified process, will remove this uncertainty.

An alternative solution to LMAs and Separate Rates is required to enable the development of the state's strategic growth areas. The solution needs to work for those areas that require coordinated infrastructure delivery and rezonings where not all landowners are in agreement and where the infrastructure provision may have a long-time horizon and often several providers.

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

The councils who have collaborated to develop this paper contend that a 'case by case' approach as currently utilised is **delaying** infrastructure projects from housing to employment lands and hence delaying orderly and economic development.

We recognise the need to expedite development in South Australia and believe a simpler system can be developed to ensure that there is a common understanding of required infrastructure contributions at the outset of each project. Infrastructure Schemes should be clear and straightforward in what they need to achieve based on the following principles - **strategic, equitable, sustainable and best practice, adaptive, and economical.**

Within the Discussion Paper, *Planning, Development and Infrastructure Act 2016* Reform Options, we note the Jurisdictional Comparison and consider there is substantial merit in further exploring alternative legislative provisions noting there is support within this group for a similar approach taken by the Victorian Planning Authority. It is noted that the state of Victoria has been operating a Developer Contributions Scheme since 2003.

In informing our position we have also been asked to respond to the following questions on Infrastructure Schemes, as posed by the Expert Panel:

1. *What do you see as barriers in establishing an infrastructure scheme under the PDI Act?*
    - The infrastructure scheme legislation has not yet been enacted.

- The current proposed scheme processes are overly complex with numerous decision-making points by different parties.
- Councils are concerned that most of the decision making and control comes from the state government when local government has the knowledge, links to the community and current and future ownership of most of the infrastructure.
- The proposed schemes provide no guidance as to where the upfront investments will originate.
- Separately, the schemes place considerable responsibility on the 'Scheme Coordinator' role, making this the subject of potential governance risk in conducting negotiations with more than one Landowner/ Developer.
- The Scheme Coordinator approach may also lack the ability to involve key stakeholders (eg government agencies and/or key utilities) to ensure timely deliverables.

2. *What improvements would you like to see to the infrastructure scheme provisions in the PDI Act?*

   - It is recommended the issues identified in question 1 plus the recommendations in questions 3 should be considered.
   - In addition, councils would like the definitions of infrastructure to be reviewed to incorporate open space and a broader definition of community infrastructure and services.
   - The Act should be amended to ensure Structure Planning of growth areas with infrastructure designs and costings occurs prior to the rezoning process.
   - The Act needs to require that the state government provides for an effective whole of government infrastructure coordination that aligns with Regional Plans, including funding mechanisms for infrastructure agencies. It is difficult for local government to engage with infrastructure providers (eg SA Water, SAPN/ElectraNet, the Department for Education) at the strategic planning and rezoning stages. Agencies need to be committed to providing services to facilitate and support development opportunities.

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

   Any process needs to ensure key triggers for delivery of required outcomes. Solely relying on development assessment as a trigger for infrastructure delivery is problematic, noting the Deed and LMA model's complexities and weaknesses.

   A 'Whole of Government' approach bringing key agencies (especially state agencies and departments) into the planning process is required. This would address the needs and expectations of state level agencies involved with, amongst other matters, transport infrastructure, education, health and wellbeing, emergency services, environment, recreation and sport and of course local government.

   The key facilitator of such a forum would be an empowered authority with the legislative scope to drive land use and infrastructure coordination. In the opinion of all councils, this would be an effective model to consider exploring. For instance, the Victorian system has been identified as having a better coordinated infrastructure model and provides an example of measures that could be adapted to South Australia, such as:

- Predetermined contribution costs for various types of infrastructure, with the ability to alter the agreed cost when identified in a structure plan.
- A state infrastructure fund to pay for infrastructure prior to development proceeding and costs being recouped.
- A minimum requirement that 10% of land is allocated towards key infrastructure at the structure planning stage.

Anecdotal feedback suggests that the Victorian model has the benefits of all stakeholders, (including landowners, developers, communities, local authorities, state departments/agencies, key utilities etc) being aware of a contribution-based approach in contemplating rezoning and development opportunities.

Councils would be interested in exploring such a model with the state government and other stakeholders, acknowledging that councils would maintain an interest in continuing to manage key local infrastructure decisions and delivery management arrangements.

We trust you find and accept our combined comments on our shared experiences useful to help inform a way forward with Infrastructure Schemes.

Please do not hesitate to contact Matthew Lawrence, Manager Development Services via [redacted] or [redacted] for further information.

Yours sincerely

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Acting Chief Executive Officer