CITY OF
Port Adelaide Enfield

South Australian Planning System Implementation Review

City of Port Adelaide Enfield Submission

January 2023

Contents

Section 1: Key issues additional to those identified in the Panel's Discussion Papers

Issue 1 – Act; 2 – Regs; 3 – Code; 4 – Practice; 5 30 Yr Plan; 6 – E Planning	1	2	3	4	5	6
System Evaluation – Delivery of State Planning Policies - The planning and development system is established via the Planning, Development and Infrastructure Act, 2016. (The PDI Act). The Act contains a set of "Objects" and "Principles of good planning" that, in turn, provide the foundations for a range of "instruments", including: • 16 State Planning Policies (SPP) that detail the state-wide vision for South Australia's planning and development system. • Regional Plans that describe the intentions for specific planning regions in South Australia. (PAE shares the same Regional Plan as all other metropolitan councils and some hills councils, namely, the 30 Year Plan for Greater Adelaide.) • the Planning and Design Code that provides the main "Planning Rules" against which development proposals are considered. Each SPP has an objective and specific policies and provides guidance for the development of Regional Plans and the content of the Planning and Design Code. The 16 SPPs provide a strong point of reference to help evaluate the performance of the planning system. It is recommended that the Panel include evaluation of the system against the SPPs as both a necessary and useful part of its review process.						
Local area / Subregional planning. The new system's centralised approach to planning does not feature local planning studies and schemes that align local infrastructure, service provision and local community aspirations with land use and development patterns. SA is the only state in Australia that has a planning system that does not recognise the value and importance of at least some type of local planning scheme or local input strategy that interprets and complements a larger state government or region-based planning scheme. This provides little local autonomy or ownership and insufficient nuance to plan for local contexts. This problem could be alleviated to some extent with finer grained regional planning, but that has not been the case to date with regional plans - the current iteration of the 30 Year Plan for Greater Adelaide has significantly less detail and spatial clarity than the earlier version that it replaced. **PAE seeks more localised strategic planning including greater Council and**						

Issue 1 – Act; 2 – Regs; 3 – Code; 4 – Practice; 5 30 Yr Plan; 6 – E Planning	1	2	3	4	5	6
community involvement and improved spatial guidance at sub-regional and local level in the new 30 Year Plan. As an example, a clear vision for the Lefevre Peninsula is needed considering its strategic importance to the state and Council's and the community's experience of long-standing legacy issues stemming from the close proximity of residential and industrial development.						
Local policy for local context - The Code removed local Development Plan policy that had been developed by Council in consultation with its community over considerable time and at considerable expense. The previous PAE Development Plan contained substantial detail within many of its Desired Character Statements. These statements were valued by both development proponents and assessment bodies and were practical tools used to negotiate and assess development applications. They also provided guidance, context and explanation for the more specific Development Plan Objectives and Principles of Development Control that followed. Other than the character statements allowed in the Historic Area Overlay and the Character Area Overlay, the Code provides scant policy guidance about the intended character of zones, sub zones and overlays. The reduction of Desired Character Statements to a brief sentence or two of 'Desired Outcomes' leaves the Code's subsequent Performance Objectives and DTS / DFP provisions with little supporting context, and the rationale that underpins them unclear and contestable. Council considers that the content provided by Desired Character Statements should be reintroduced. It also considers that the nature and scope of Concept Plans should be reconsidered to enable them to be able to better deal with local policy issues e.g. allow Concept Plans to include text and other information.						

Section 1: Key issues additional to those identified in the Panel's Discussion Papers

Issue 1 – Act; 2 – Regs; 3 – Code; 4 – Practice; 5 30 Yr Plan; 6 – E Planning	1	2	3	4	5	6
Council should generally be the authority for development in its area. S94 of the Act provides a wide array of circumstances where the Commission is, or can be nominated as, the relevant planning authority. This includes call-in powers for major developments and development considered to be of state interest. The justification and criteria for the Commission being the relevant authority for development under S94(1)(a) instead of councils needs to be reviewed. In most instances, the current basis is set by location and / or a dollar value of development. In Port Adelaide, the location basis was set at time when Renewal SA was actively promoting and trying to package, sell and revitalise its Port Adelaide waterfront land holdings. Now that redevelopment and revitalisation in this area is well underway, this locational basis for the Commission being the authority is not always appropriate. The other basis is the value of the development - with a presumed, implicit rationale that development above a certain value is important to the state. In PAE the threshold value of $3m is not representative of development that would be considered major or of practical importance to the State's economy. This figure needs to be reviewed given the significant increase in land value and development costs over the last few years. Council has no issue with the Commission being the relevant authority for major infrastructure or defence projects and other developments of major State significance.						
Limited scope of Council comments to SCAP - The scope of Council's comments on development applications referred to it from the State Commission Assessment Panel (SCAP) is restricted to a limited set of specified technical matters that do not allow Council's expertise as a planning body in its own right, and as a holder of local and interconnected knowledge, to be considered. Council considers that it should be able to provide a full range of comments that are relevant to the consideration of an application and requests that the Expert Panel review the legislation that currently prevents this.						

Section 1: Key issues additional to those identified in the Panel's Discussion Papers

Issue 1 – Act; 2 – Regs; 3 – Code; 4 – Practice; 5 30 Yr Plan; 6 – E Planning	1	2	3	4	5	6
In addition, the fifteen (15) day limit given to councils to provide comments to the Commission needs to be revised and brought into line with the time frames granted to other referral bodies that are invited to provide comments to relevant authorities. There is no sound (or equitable) reason why councils are only allowed 15 days to provide comments when every other referral body is given at least 20 days and, in many cases, 30 days. The Panel is also asked to consider whether referrals to councils should be addressed under S122 of the Act, Schedule 9 of the Regs (i.e. like all other referrals) - instead of the stand-alone requirement under S94, Clause 23 of the Regs, as is currently the case.						
SCAP response to Council comments - Even when commenting on development applications referred to it by the SCAP within the limited remit of allowable technical comments, Council is concerned that, at times, the SCAP has approved development proposals or aspects of developments contrary to Council's advice and recommendations. Council is concerned that this will create long term infrastructure problems for Council and the community. The design of the promenade in the waterfront areas of Port Adelaide susceptible to future coastal inundation is one example - it potentially hampers the ability to readily provide future flooding mitigation solutions. Insufficient laneway widths that lead to parking, bin collection and landscape retention problems is another.						
Restricted development - The Commission's recent Miscellaneous and Technical Enhancements Code Amendment pares back the amount of development that is restricted and proposes that this development be recategorized as performance assessed and no longer assessed by the SCAP. It argues that improved Planning and Design Code policy is a suitable replacement for the additional scrutiny, allowing no opportunity and additional assessment outside of the Code that accompanies a categorisation as Restricted Development. It is a tenuous argument that additional Planning and Design Code policy can replace what are essentially additional and more rigorous processing features. Rather than seeking to remove restricted development from the planning system, Council Assessment Panels and Regional Assessment Panels should be able to assess restricted development.						

Issue 1 – Act; 2 – Regs; 3 – Code; 4 – Practice; 5 30 Yr Plan; 6 – E Planning	1	2	3	4	5	6
Interaction with other land use issues and legislation - The planning system intersects and interacts with land use matters controlled or shaped by other legislative regimes. e.g. Native Vegetation, Acid Sulphate Soils, Transport and Major Hazard Facilities. While the Expert Panel has recognised the interaction with respect to Native Vegetation, there needs to be similar recognition of interactions with other legislation affecting land use. For example, the creation of a Practice Direction or Practice Guideline under the PDI Act to guide development affected by acid sulphate soils would help development in such areas. Having guidelines tied to the planning system instead of / as well as the environment protection system is important and is used in other jurisdictions. The following is a link to existing guidelines prepared by the Western Australian Planning Commission: https://www.dplh.wa.gov.au/policy-and-legislation/state-planning-framework/fact-sheets,-manuals-and-guidelines/acid-sulfate-soils-planning-guidelines The interaction between land use and transport planning also needs to be reviewed. PAE has developed an Integrated Transport Strategy that aims for: "A transport system that integrates with land use planning to create an urban environment characterised by choice in transport modes, responsiveness to changing densities, and improved quality of life for the community". PAE's strategy seeks increased public transport services and network extensions connecting urban renewal areas (e.g. Lightsview, Oakden / Gilles Plains). It also recognises the importance of encouraging the spatial distribution of land uses in a way that reduces dependency on non-active and/or private transport modes. PAE requests that the Expert Panel and the Commission review the currency of the state's Integrated Transport and Land Use Plan (ITLUP) and that Council's transport and planning aspirations be included in more detailed sub regional and local area planning. With respect to planning for and around Major Hazard Facilities, other States are considerably more advanced than South Australia and have prepared papers and legislation that address the interaction of this type of development with their planning systems. The following is a link						

Issue 1 – Act; 2 – Regs; 3 – Code; 4 – Practice; 5 30 Yr Plan; 6 – E Planning	1	2	3	4	5	6
to guidance provided in the Victorian Planning System: https://www.planning.vic.gov.au/policy-and-strategy/Major-Hazards-Facilities						
Major Hazard Facilities – Aside from guidance documents, the planning system also needs to introduce a new Overlay for land use around Major Hazard Facilities - as the removal of "non-complying development" and the promotion of more general "employment" land uses in industrial areas opens up the opportunity for vulnerable land uses to be established around Major Hazard Facilities. This has created the potential for a significant increase in risk exposure to safety failure events at Major Hazard Facilities. These can have devastating effects on communities. SafeWork SA is the body responsible for licencing Major Hazard Facilities in South Australia and has advised Council that it and shares these concerns. State Planning Policy 16 (SPP 16) provides the following mandate for this work to be undertaken: *"Protecting communities and the environment from exposure to industrial emissions and hazards and site contamination is fundamental to the creation of healthy cities and regions. At the same time, it is critical that South Australia's industrial and infrastructure capacity and employment levels are preserved….Regional Plans should identify the location of its industrial land uses in addition to any other contributors to emissions and/or hazardous activities. Separation distances and the areas for both compatible and restricted development should be identified."* The Planning and Design Code needs to introduce appropriate zoning and policy to satisfy SPP 16.						
Spatially based policy vs general policy - While having policies tied to overlays increases the clarity and accuracy of where the policy applies, it relies on the spatial extent being precise and up to date. Without general policies covering matters that are now the exclusive domain of defined spatial layers, if the spatial data is not correct or becomes out of date, policy gaps emerge. This became evident with the Code's Hazard (Flooding) Overlays. The						

Issue 1 – Act; 2 – Regs; 3 – Code; 4 – Practice; 5 30 Yr Plan; 6 – E Planning	1	2	3	4	5	6
Commission's current Code Amendment program seeks to fix these gaps. However, even when the spatial extent has been updated, if a property sits outside the boundary of a flood zone, it does not automatically mean there is no flood risk. The layers are calculated based on many assumptions and are only as good as those assumptions. The following is a disclaimer attached to flooding data recently supplied by Council: *"The City of Port Adelaide Enfield:* *i. make no representations, express or implied, as to the accuracy of the information in the flood map dataset;* *ii. accept no liability however arising for any loss resulting from the use of the flood map dataset and reliance placed on the data; and* *iii. make no representations, either expressed or implied, as to the suitability of the flood map dataset for any particular purpose"* This disclaimer recognises that the risk of flooding at any given location is dynamic and will vary depending a number of factors including, but not limited to: type of flooding, intensity, frequency and duration of rainfall experienced, time of flooding, weather factors including catchment soil moisture content, new building development and changes to or unforeseen factors associated with water management infrastructure. While the information attempts to represent what may be experienced during a flood, actual flood events may differ substantially. The datasets do not represent historical flood events, nor do they provide a forecast or prediction of future flood events. A similar problem has been created with the loss of general coastal flooding policies, which have been replaced by different Overlays and TNVs for levels to mitigate flooding. However, in PAE these only capture spatial areas where such levels previously existed and do not address the areas previously covered by city-wide, general policies in the former PAE Development Plan.						

Issue 1 – Act; 2 – Regs; 3 – Code; 4 – Practice; 5 30 Yr Plan; 6 – E Planning	1	2	3	4	5	6
Council requests that the Expert Panel and the Commission investigate introducing overarching general policies to provide a backstop to hazard based policies that rely on accurate and up-to-date spatial definition.						
Good Design in the Planning System - Ongoing effort is needed to continue to improve the new planning system's delivery of good design outcomes. While Council welcomes the intent behind the Local Design Review Scheme that the system offers, like the system's Infrastructure Schemes, the complexity, bureaucracy and inhibits practical application. PAE seeks a strong and practical commitment to design led planning and development. including the enhancement of design policy in the Planning and Design Code and the greater use of guideline documents to provide examples of good development outcomes. As an example, Council has prepared and utilised Design Outcomes Guides for key development areas. These have helped to provide clear and resolved advice about Council's aspirations and expectations to development proponents and have been able to augment the Planning and Design Code.						
Communication and Ensuring Understanding of Planning Policy - A key concept of the new planning system was to front load the policy formulation stage, especially the content of the Planning and Design Code, so that individuals and communities had a clear understanding about what zoning rules would mean on the ground when converted into actual development, and that they would have a strong say then rather than at the development application stage i.e. the notion that if the policy and its development outcome implications are clear and properly understood up front, there should be no need for consultation on individual development applications. Ths requires excellent up-front engagement with affected individuals and communities. As the consultation requirements are set out in a general fashion by the Community Engagement Charter and then elaborated in more detail by a Community Engagement Plan requiring approval from the Commission, there is no consistent set of minimum requirements. Given the						

Issue 1 – Act; 2 – Regs; 3 – Code; 4 – Practice; 5 30 Yr Plan; 6 – E Planning	1	2	3	4	5	6
practical obscurity of the Code to the general public / non-planning experts, changes to the Code need to be accompanied by clear descriptions and visual depictions about what the changes for both typically expected development but also the upper limits of what the policy will allow. There needs to be greater use of three-dimensional graphics where changes to planning policy will result in changes to built form.						
Open Space – Under the former system, Council based Development Plans contained a hierarchy of open space, which was a state-wide 'core' policy from the former South Australian Planning Policy Library. This hierarchy has been removed from the Code and should be reintroduced through the regional and subregional planning process. The Code's removal of the Metropolitan Open Space System (and zoning) should also be reviewed. The 12.5 % open space contribution that is associated with the division of land was set at a time when the majority of housing was detached dwellings on large blocks with large amounts of private open space. In a context of well supplied private open space, 12.5 % public open space was considered appropriate. However, today, with much more intensive residential development featuring smaller allotments, bigger detached dwellings and more diverse housing forms, there is far less private open space. The adequacy of the 12.5% needs to be reviewed. This is also important in the context of Urban Canopy Targets where the reduction of green canopy over private land due to infill development (and an offset scheme that shifts tree planting to public land) means more public open space reserve land needs to be made available.						

Issue 1 – Act; 2 – Regs; 3 – Code; 4 – Practice; 5 30 Yr Plan; 6 – E Planning	1	2	3	4	5	6
Access to spatial data - PAE has a supply arrangement with the State Government for the provision of the Digital Cadastral Data Base (DCDB). The most frequent supply on offer is 2 monthly. Given that various development functions still sit within council responsibility, it is important for PAE to have a more up to date version of the allotments so it can perform these tasks. Council considers that access to a dynamic (live) map service should be provided (and without charge considering Council's annual $60,000 contribution to the e-planning system). Council would also like access to other Planning layers such as proposed land divisions as a map service, particularly if we continue receiving updates of Cadastre at 2-month intervals. This will improve Council's ability to create land records as soon as possible and to see where areas of developments are in the context of its own map layers.						
Affordable Housing PAE like all most areas in Australia is currently experiencing growing pressure on the housing market with increasing housing costs and reduced availability, particularly of affordable purchase and rental options, as well as long and growing waiting lists for social housing. This situation has been brought about by a number of factors that together have placed demand on current housing stock and had a significant negative impact on housing affordability and availability. This includes: • growing demand for but reduced stock of private and social rental accommodation • increasing house prices making purchasing prohibitive for many, leading people to stay in rental accommodation which is becoming increasingly scarce and precarious • increasing construction costs, coupled with shortages in material and labour (exacerbated by COVID-19), with builders and developers experiencing a "profitless boom", which will have significant impacts on the industry in the longer term • finance and legislative barriers to development, including increasing interest rates, difficulties in accessing finance for new development, including affordable housing products; and						

Issue 1 – Act; 2 – Regs; 3 – Code; 4 – Practice; 5 30 Yr Plan; 6 – E Planning	1	2	3	4	5	6
• changes to the planning system. These factors, which have led to the current housing crisis, coupled with the relatively high proportion of social housing in the City of PAE, and increasing development pressures being experienced by middle-ring Councils in metropolitan Adelaide, places the City of Port Adelaide Enfield and its residents in an increasingly vulnerable housing position. It is recommended that provisions which address this crisis and support the affordable and social housing aspirations of the State Government' s Our Housing Future 2020 – 2030 are introduced into the Act, Code and are considered in the review of the 30 Year Plan.						
Parliamentary scrutiny of Code Amendments happens after a Code Amendment has been approved and new planning rules have become operational. This negates any meaningful and practical oversight by the Parliament, which is an important last port of call for councils and communities concerned with Government or private entity Code Amendments. For parliamentary scrutiny to be meaningful, it needs to occur before Code Amendment policy becomes operational.						

Issue	Expert Panel Questions - Planning & Design Code	Response
Character and Heritage	Q1 In relation to ……to character area statements, in the current system, what is and is not working, and are there gaps and/or deficiencies?	In PAE, the Historic Area Overlay provisions that clearly call for all buildings in the overlay area to be assessed against the historic and character attributes of the Character Statement, and the provision of tangible examples of how those historic and character attributes are practically expressed through the identification of Representative Buildings, seems to be offering better protection than the previous system of Contributory Items with their own separate policies. While the latter worked well enough for such designated items, it was often read that only these places were of value and that other buildings in the historic conservation area that had not been so identified were not of value, and even 'non-contributory'. However, the Performance Outcomes listed in the Character Area Overlay are very broad, and without a detailed Character Area Statement to support it, make it more difficult to define the desired design features sought for the area than it should be.
	Q2 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?	Providing more detailed, context specific Desired Character Area Statements for both the Historic Area Overlay and the Character Area Overlay. Amending the Desired Outcome statement of both overlays to explicitly recognise that the retention of existing built form that establishes the valued character attributes of those areas is a key desired outcome. Including illustrations and diagrams in the Code policy (in addition to non-statutory guides)
	Q3 What are your views on introducing a development assessment pathway to only allow for demolition of a building in	To date, in PAE it appears that the new system is adequately controlling the demolition of historic and character buildings - and the retention of character that comes with that.

Issue	Expert Panel Questions - Planning & Design Code		Response
		a Character Area (and Historic Area) once a replacement building has been approved?	Some dwellings in these areas warrant demolition on their own merits as they do not have the attributes laid out in the Character Statement for the area in which they are located. The merits of the replacement dwelling can be assessed later, and the provisions to assess these new dwellings seem to be adequate. Adding demolition control to this area is likely to blur the distinction between this Overlay and the Historic Area Overlay. There is no need to add a provision tying demolition of an existing building to the design of a replacement building.
	Q4	What difficulties do you think this assessment pathway may pose? How could those difficulties be overcome?	The former PAE Development Plan had a provision like this, and it was workable.
Trees	Q5	What are the issues being experienced in the interface between the removal of regulated trees and native vegetation?	The Native Vegetation Act covers little of PAE and we have not experienced issues with people utilising weaknesses in this interface to unreasonably remove trees.
	Q6	Are there any other issues connecting native vegetation and planning policy?	The boundaries of the Native Vegetation Overlay need to be amended to include Folland Park in the suburb of Enfield, (It is a remnant bushland parcel of land subject to a Native Vegetation Heritage Agreement)
	Q7	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?	It is important that trees are provided on private land to contribute to urban heat mitigation, health and biodiversity. Providing trees in the higher density residential settings that are a feature of many master planned infill developments is important.

Issue	Expert Panel Questions - Planning & Design Code	Response
		PAE supports the proposal and the application of the Urban Tree Canopy Overlay to the Master Planned Neighbourhood Zone. (This zone applies to significant areas in PAE (i.e. Oakden/Gilles Plains, Regency Park, Croydon Park, Angle Park, Lightsview, Northfield and Largs North (Taperoo)).
	Q8 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?	There should be an opportunity in most cases for well-designed dwelling development to provide an opportunity for at least (1) small sized tree at the back of each dwelling. To address tree canopy rather than streetscape beautification, trees in rear yards are appropriate. (Please note the comments below in the responses to the Panels' questions about infill development regarding inadequate yard sizes and setbacks)
	Q9 What are the implications of reducing the minimum circumference for regulated and significant tree protections?	This is supported in principle and seems the most practicable way of ensuring the retention of more trees. Trees should be retained and assessed on their value, noting that sometimes regulated / significant trees may be at the end of their useful life expectancy (ULE) whereas smaller trees will/may have more value/longer ULE. While in principle, it is preferable qualified arborists assess any applications impacting significant trees, it should be noted that there is a current scarcity of qualified and experienced arborists in South Australia. Significantly increasing the number of trees controlled by legislation will result in a major backlog of inspections, reports, and decision. A carefully considered reduction with the possibility of a staged approach would provide the arboriculture, development and building design industries with an opportunity to adapt to a greater tree retention regime. This adaptation could be assisted by the Commission

Issue	Expert Panel Questions - Planning & Design Code	Response
		preparing design guidelines (in a similar fashion to the recent the *Adelaide Garden Guide for Green Homes)*
	Q10 What are the implications of introducing a height protection threshold, to assist in meeting canopy targets?	While this could protect more trees, Council is concerned that it may create a perverse outcome with unnecessary removal of trees that are nearing the threshold and the threshold would be difficult to measure and assess. It would also potentially be able to be worked around through pruning. The previous comment about the availability of arborists is also relevant.
	Q11 What are the implications of introducing a crown spread protection, to assist in meeting canopy targets?	As with the above, Council is concerned that it may create a perverse outcome with unnecessary removal of trees that are nearing the threshold and the threshold would be difficult to measure and assess It may be difficult to find agreement on the method to measure canopy spread, particularly if the method requires specialist expertise or equipment. This protection tool may also be able to be worked around as pruning may be able to be used to reduce crown spread to below the threshold level for protection. The availability of arborists is again a relevant issue.
	Q12 What are the implications of introducing species-based tree protections?	There are numerous trees that although not endemic are native and offer habitat or support fauna biodiversity in areas. Corymbias for example offer food and high canopy nesting to native birds, yet these are currently exempt from many planning controls. If tree canopy for greening and mitigating heat loading in urban areas is the key, then generally, most trees contribute not just selected species. However, pest or invasive trees that are detrimental to the environment should be exempt and further research on and identification of climate resilient species suited to our changing climate is needed.

Issue	Expert Panel Questions - Planning & Design Code	Response
		Guidelines for developers to utilise for planting and protecting particular tree species would be of value. DTS criteria to satisfy a listing of species types that are compatible for an area or a zone would be ideal.
	Q13 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?	A reduction in the exemption distance is supported as it would help to reduce the number of trees being removed. This exemption is often used to justify removal of a tree (or trees) in order to create a clear development site, but is based on the tree's proximity to an existing (often neighbouring) dwelling and sometimes the dwelling proposed to be demolished) or swimming pool, rather than its impact on, or ability to be incorporated into the future development of the site that it occupies. The basis for the exemption needs to be reframed so that it is driven by appreciation of the benefits of keeping trees and considering how buildings can be sited and designed to protect and incorporate them as valued assets in a locality. That in addition to the exemption distance, the list of species excluded from this exemption should be broadened beyond Agnosi flexuos and eucalytus. The exemption should not apply to a dwelling proposed for demolition. There could be a requirement for upgraded building foundations, especially where trees are within the medium - large size category.

Issue	Expert Panel Questions - Planning & Design Code	Response
	Q14 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)?	Council is concerned that the circumstances (or their manipulation) may see more trees unnecessarily removed. It would be worthwhile revisiting the 10m rule but still requiring assessment on health viability etc as every tree is different.
	Q15 What are the implications of increasing the fee for payment into the Off-set scheme?	As currently configured, the Off-set scheme undermines the overall intent of the Code to improve canopy cover to help mitigate urban heat, improve amenity and support biodiversity. Effectively, it allows development proponents to pay a nominal once-off fee and shift the burden of responsibility onto councils. It presupposes that the public realm has the capacity to provide what is needed and that councils can simply plant more trees in streets and reserves. However, there are practical limitations as to how many trees can be added to streets and reserves, and PAE already has a major commitment to tree planting in the public realm. (PAE has the lowest canopy cover in metro Adelaide and has the following tree canopy target: *By 2050 achieve 35% increase on the City's 2020 canopy coverage of 10%, Plant/maintain 3,500 trees per year.)* Such public realm planting is also most likely to occur in locations away from where canopy loss is occurring, and often where the benefits of additional tree planting are not as needed (i.e, open spaces and streets already have tree coverage and lower urban heat island impacts.). It is important to note that many established areas where infill is occurring already have streets filled with mature street trees and open space areas with established trees (or in some cases limited or no open space

Issue	Expert Panel Questions - Planning & Design Code	Response
		areas within the same walkable neighbourhood in which to plant trees). It is not clear if increasing the Off-set contribution will deliver greater canopy coverage on private land but it will mean that development proponents consider tree canopy more seriously and that additional funding will be available for public realm planting and maintenance.
	Q16 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?	The fee should be aligned with the actual cost of planting and maintaining a tree. PAE would also like the Panel and the Commission to consider if the scheme should allow private households / property owners to opt into the fund if they can provide available space for trees to be planted. (Tree canopy targets may not be able to be achieved without the use of private land.)
	Q17 What are the implications of increasing the off-set fees for the removal or regulated or significant trees?	If this was based on the tree's value on a recognised method, it should help to protect more trees.
	Q18 Should the criteria within the Planning and Development Fund application assessment process give greater weighting to the provision of increased tree canopy?	Yes, trees need land and the Planning and Development Fund provides access to funds for land acquisition. This would be a much more appropriate use of the Fund than using it to help pay for the delivery of the electronic development application processing system.
	PAE Other	Council is supportive of the Conservation Council of SA's recommendation that provisions are restored to require government agencies, specifically the Dept for Infrastructure and Transport and the Dept for Education, to publicly consult and gain planning approval to remove regulated trees

Issue	Expert Panel Questions - Planning & Design Code	Response
Infill	Q19 Do you think the existing design guidelines for infill development are sufficient? Why or why not?	While it is too early in the life of the new system to properly determine if the Code and its associated guidelines are delivering better infill outcomes than the previous system, it is important to note that the new system has carried over a number of zones from the old system in which infill outcomes were particularly poor. The Urban Renewal Neighbourhood Zone is one of these. In PAE it has been applied over the suburbs of Kilburn and Blair Athol, not only to extensive brownfield/redevelopment areas but also to established residential neighbourhoods. Unfortunately, there are too many examples of recent development in these suburbs allowed by this zone that fail to meet the Principles of Good Planning under the PDI Act. In reference to Blair Athol Kiburn it is recommended that the boundary of the Urban Renewal Neighbourhood Zone in Blair Athol and Kilburn is altered, so that land to the: 1. South of Marmion Avenue (in Blair Athol) and south of Brunswick Street (in Kilburn) is rezoned to the General Neighbourhood Zone, given that most of this land is in private ownership; 2. North of Marmion Avenue (in Blair Athol) and north of Brunswick Street (in Kilburn) is retained as the Urban Renewal Neighbourhood Zone, given that most of this land is in Renewal SA/Housing Trust ownership"

Issue	Expert Panel Questions - Planning & Design Code	Response
		Regards broader infill settings, while guidelines may help in the case of willing developers, they cannot compensate for inadequate planning policy that prioritizes dwelling yield. The infill requirements are deficient with respect to private open space (particularly for allotments less than 300 square metres) where only 24 square metres of private open space is provided. This gives inadequate space for the planting of new trees. The soft landscaping provisions within some zones which only require 10% of a site to comprise soft landscaping where the allotment size is less than 150 square metres and 15% of the site area where the allotment size is between 150 and 200 square metres are also inadequate and do not provide meaningful landscaping opportunities. Setbacks to properties also need reviewing as dwellings being too close to side and front boundaries have a major impact on existing trees (compromising root zones and overhanging new dwellings). There is scope and opportunity for a range of design guidelines for new housing to be prepared to help address climate change related issues e.g. solar energy systems, sustainable building materials, insulation, water storage and roof materials and colours.
	Q20 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	The Code and its zoning provisions already contain sufficient flexibility for the market to explore and propose novel infill solutions.

Issue	Expert Panel Questions - Planning & Design Code	Response
	think would be suitable in South Australia?	
	PAE other	There is no holistic policy to guide the location of infill development in urban areas. There is a lack of detailed spatial depiction in the 30 Year Plan for Greater Adelaide and no coordinated subregional level content that depicts the best strategic locations for infill development. This contributes to disjointed decision making within the planning system about the intensity of development appropriate within an area and the capacity of that area to accommodate high levels of infill development. This is particularly problematic in areas where 'general' infill development is occurring. PAE has extensive experience with infill development and considers that master planned housing areas generally deliver better overall infill solutions compared to 'general' suburban infill. Key features of master planned areas are land assembly, project coordination, infrastructure coordination and provision, interface control and project staging. Developing Code provisions based on those features and applying them to general suburban infill would help reduce the ad hoc nature of that development and help to improve the quality of infill outcomes.
Strategic Planning	Q21 What are the best mechanisms for ensuring good strategic alignment between regional plans and how the policies of the Code are applied spatially?	The fundamental issue that precedes this is the need for detailed subregional / local strategic planning to be undertaken to inform the Code. There is a major strategic planning gap between the State Planning Policies (SPPs) and the Code. In the metropolitan area, the current 30 Year Plan for Greater Adelaide falls well

Issue	Expert Panel Questions - Planning & Design Code	Response
		short of filling that gap - its high-level aspirations in many cases are expressed at a more generic level than the SPPs that precede it. Major effort is needed to identify and reconcile the land use and development issues facing smaller areas (regions / councils) and reconcile them spatially. It would be pertinent for the Panel to enquire of the Commission and PLUS about the level of resourcing being allocated to this fundamental strategic task, noting that under the previous system, a large amount of this work was devolved to local government through the preparation of Strategic Directions Reports under S30 of the former Development Act and a commitment to council based Development Plans. The new centralised system has shifted this work and importantly, its resourcing, away from councils. That work and resourcing now needs to be picked up by the Commission and PLUS. PAE is eager to collaborate with and share its local knowledge and expertise to assist the Commission and PLUS in this crucial work.
	Q22 What should the different roles and responsibilities of State and local government and the private sector be in undertaking strategic planning?	Urban and regional planning is first and foremost established as a public good. Accordingly, the primary strategic planning task should fall to the public rather than the private sector. The private sector mobilises capital and has practical experience and knowledge that is important to help inform public policy decision making - along with an array of inputs and interests from other parties that also need to be considered and balanced. There is frequently debate, and often contention, about how control in the planning system should be shared between State and local government. The allocation of respective

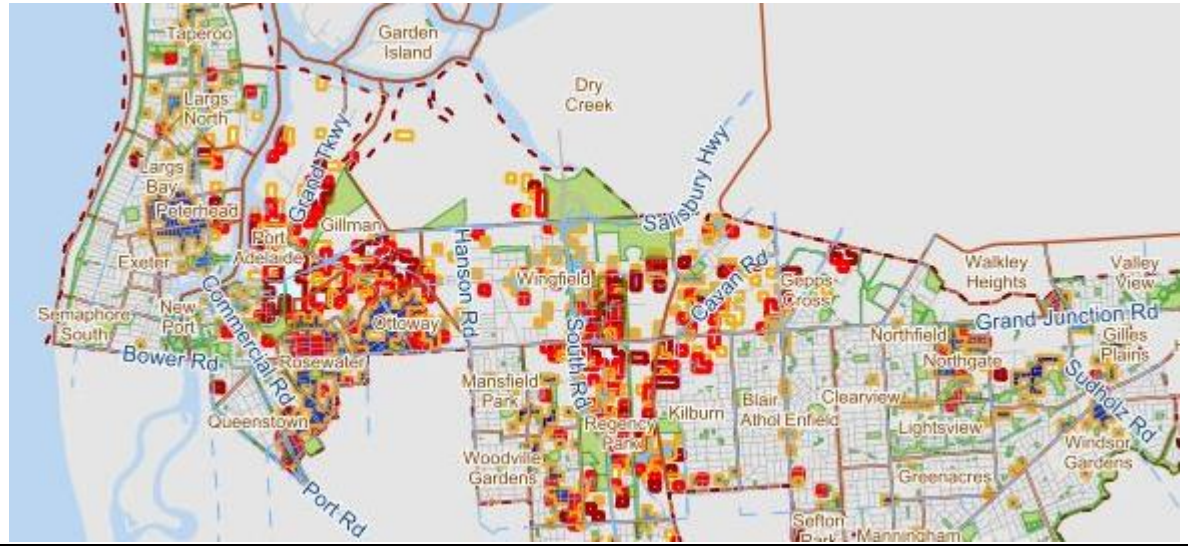
Issue	Expert Panel Questions - Planning & Design Code	Response
		responsibilities inevitably shifts around over time and we are now in a phase where the state government has centralised power and brought more control back to itself. As alluded to elsewhere in other parts of this submission, PAE considers that in many cases the current extent of centralisation is not conducive to good planning and that the balance needs to be re-examined.
Carparking	Q23 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.	Car parking challenges in PAE are the result of numerous factors including: • limited road width not allowing parking on both sides of the road. (There are some 300 streets across PAE which cannot legally sustain parking on both sides of the road directly opposite another vehicle. There is usually little or no scope to widen these roads due to street trees and stobie poles. • reduced road frontages of residential allotments and a greater number of driveways which reduces the amount of kerb side land available for parking • enclosed car parking spaces being used by householders for other purposes • The dimensions of enclosed and undercover parking spaces not being sufficient to conveniently accommodate larger vehicles. (The minimum length is 5.4m which limits use by larger SUVs, 4WD's and people movers. For example, a Kia Carnival and a Ford Ranger are both 5.11m long - with a 5.4m internal length, only 0.29m is available. With confined space and the potential for property damage, this parking is often not used and adds to the demand for on street parking and complaints about congestion and safety. Consideration should be

Issue	Expert Panel Questions - Planning & Design Code	Response
		given to increasing the minimum length to 6m to accommodate larger vehicles.) • An overly simplistic and unrealistic notion that reducing car parking supply will be a primary driver of mode shift, particularly to public transport. Without major investment in public transport, including new infrastructure, routes, frequency and convenience, there is little practical alternative to replace the car as the primary transport mode for most people. • A predilection for major Federal and State infrastructure spends to be on road building rather than public transport also continues to support car use and increase the size of the private vehicle fleet.
	Q24 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?	There is merit in considering car parking rates based on geographic location and interface to public/active transport modes noting that ownership and reliance on private vehicles is greater in outer suburban areas compared to inner metropolitan suburbs. It is acknowledged that if we keep designing for the car without providing viable alternatives, then behaviours will not change. However, the disparity in travel time away from the high frequency public transport routes is currently too significant between private vehicles and public transport to achieve major behavioural change – and leading to operational issues when demand far outweighs supply.

Issue	Expert Panel Questions - Planning & Design Code	Response
	Q25 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?	No, we frequently hear from the community that public transport services are inadequate to service its needs, which results in a reliance on private vehicles. The current public transport system in SA is heavily weighted towards bringing people in and out of the CBD, and the public face significant challenges / lengthy travel times / multiple changeovers if they try to take public transport cross-suburb. There has not been a reduction in the number of cars owned per household, and this places greater demand on on-street car parking, particularly in areas where infill development is occurring. Lightsview is a prime example.
	Q26 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?	Some facilities operate with very strong peak demands whilst having relatively low average demands i.e. sports grounds. This needs to be considered, however greater variety of facilities with applicable parking rates would be welcomed.
	Q27 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?	Many modern developments result in the garage becoming a pseudo shed/storage as well as location for bins to be stored. On one hand if not having the requirement of one space being covered meant that two uncovered spaces are more likely to be utilised for parking then it could be a positive impact. However, it must be considered what role the covered (garage/carport) space also plays in a modern property where the garden shed has become a thing of the past.
	Q28 What are the implications of developing a design guideline or fact sheet related to off-street car parking?	Consideration should be given to emerging demands i.e. EV charging, e-bike charging, DDA, changes in what is a B85/B99 vehicle. To assist with accelerating electrification of the light fleet in SA, reducing transport emissions and take advantage of a

Issue	Expert Panel Questions - Planning & Design Code	Response
		decarbonising grid setting, a % for carparks supported by EV charging infrastructure for larger developments is needed, especially high density developments where residents sometimes can't charge EVs at home and are reliant on the public EV charge network. Best practice design elements supporting safe pedestrian and cycling access within carparks for large developments like shopping centres should be better incorporated. Best practice WSUD principles should also be applied to future car parks to achieve cool, green places and less storm water pollution.
Electric Vehicles	Q29 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?	EV charging stations should be encouraged but identifying charging stations as a form of development will make installation more onerous. The installation of EV charging stations should therefore remain unregulated. However, this does not mean that guidance on the design for such infrastructure could not be developed. The provision of EV charging stations should also be encouraged, if not mandated, for major residential developments and new car parks. It is understood that signage associated with EV chargers may be a form of development that requires development approval. It would be useful for this to be made clear.
	Q30 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	Guidelines on the design of EV charging infrastructure is encouraged but not at the expense of identifying charging stations as a form of development, which is not supported. The transition towards electrified vehicles is a very important step in reducing emissions from on-road transport. Whilst the

Issue	Expert Panel Questions - Planning & Design Code	Response
	charging infrastructure. Should dedicated policies be developed to guide the design of EV charging infrastructure?	installation of electric vehicle (EV) charging infrastructure does not directly reduce emissions, it has a direct relationship to the uptake and use of EVs in the community. Currently, high density / multi-storey and commercial car parks are being approved with no provision for supportive (future proofed) EV charging infrastructure. This is a problem as the cost to retrofit, compared to designing in, is significant. Also, by not tackling this as a planning issue may prevent an accelerated uptake of EV vehicles.
Car Parking Off-Set Schemes	Q31 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)?	PAE established and ran a car parking fund for the Port Adelaide Centre for nearly 10 years but discontinued it due to poor uptake, ongoing opposition from small scale local traders and a significant gap between the contribution fee per space in lieu of parking and the actual cost of providing land and establishing car parking space. A reduction in required off-street car parking rates introduced through Ministerial amendment to the area's planning policies, and an ongoing reduction of Council's role as a planning authority determining development applications in the area, contributed to Council's decision to discontinue the fund. Whilst the notion of using money accrued in a car parking fund to improve other transport modes and reduce the burden on car parking is reasonable in principle, PAE's experience was that there was little appetite for such an offset scheme and that it created more problems than it solved.

Other issues that need to be addressed in the Planning and Design Code		
Climate Change Adaptation and Mitigation	**Additional Spatial Layers**	There should be greater consideration within the Code of the effects of climate change. Many climate change effects can be considered as hazards, spatially depicted and addressed in Overlays. While this has already been done for bushfires and flooding, the Code needs to be augmented with other Overlays where the effects of climate change will create hazards in particular locations. Extreme heat is our number one threat in terms of loss of life from natural hazards, and the most up to date analysis and modelling forecasts that this threat will continue to increase. (refer CSIRO and Bureau of Meteorology State of the Climate Report 2022) PAE and a number of other councils have already undertaken sophisticated urban heat mapping projects and depicted the results spatially using GIS platforms. The following is an example showing the areas in PAE with the greatest urban heat effects. 

Other issues that need to be addressed in the Planning and Design Code		
		This data and spatial depiction should be used to develop an Overlay in the Code that provides additional planning provisions to help mitigate urban heat in the affected locations e.g. the Overlay could place controls on roof colours, increase the percentage of soft landscaping required and modify DTS requirements. Another hazard issue arising from climate change that the Code will need to better address is the impact on coastal areas from rising sea levels, more intense storm events, coastal flooding and coastal erosion. PAE is working with the Coast Protection Board (CPB) on a project that will update our understanding of these threats and their spatial impacts on our City. This is likely to require the existing Coastal Areas Overlay and the Coastal Flooding Overlay to be updated. This project and other research being undertaken by the CPB and other science organisations may also highlight the need for new Overlays to be created. e.g. the research may indicate that coastal retreat is the only realistic mitigation option in some locations and these may need to be the subject of a new Overlay. As these hazards and the threats they pose are dynamic, the Code will need to be informed by future, regular downscaled hazard modelling e.g. every 5 - 10 years to allow good planning decisions to be made. The Expert Panel is asked to highlight to the Commission and PLUS that its ongoing work programming and resourcing factor this in.
	Energy Positive and Carbon Neutral Buildings	The current Code and design guidelines need to be updated to promote more energy efficient and carbon neutral buildings to meet the challenges brought about by climate change. Given the lifecycle of new buildings and the forecast parallel timing of climate change impacts, the Code and design guidelines need to 'raise the bar' for building efficiency and performance. A key action for government is to strengthen these policies for climate smart development through the planning system.

Other issues that need to be addressed in the Planning and Design Code		
		State Planning Policy SPP 5 states: *"What we plan for and develop must take into account the best available climate science so that we can improve the resilience of our communities, economy, buildings and natural environment. This means understanding the risks associated with climate change and planning and designing accordingly."* The planning system provides a great opportunity to improve our resilience, promote mitigation, increase carbon storage and adapt to the challenges that we are facing. However, other than some basic passive design provisions, the philosophy and planning provisions of the Code continue to be based on the view that the National Construction Code is sufficient to address building performance. PAE does not support this contention and notes that other jurisdictions in Australia have adopted a higher level of performance as part of the planning assessment process. Examples are Green Star, the Nationwide House Energy Rating Scheme (NatHERS), and the Built Environment Sustainability Scorecard (BESS). We would like the Panel to note that Renewal SA has also recently used the Green Star Communities Framework as a guide to establishing key performance indicators (KPI's) for sustainable development in the Oaken / Gilles Plains development in our Council area. Council also recommends that the Panel and/or Commission engage with large developers who are active across SA and other States with respect to this issue. Many large developers who work nationally have investigated the costs and processes associated with constructing high performance and zero emissions buildings, with further resources developed through state government bodies and the CSIRO. A key objective of this focussed engagement would be to gain support and buy-in from the development sector for more ambitious building and design codes and reporting requirements.
Sensitive development in potentially	**Significant Interface Management Overlay**	In its original submissions on the PDI Act and the Code, Council noted with concern that the removal of a 'non-complying development' category may have potentially adverse consequences for controlling land uses in certain areas. One of these areas in PAE was the former Restricted Residential Policy Area that applied over parts of the Lefevre peninsula

Other issues that need to be addressed in the Planning and Design Code		
hazardous areas		where residential areas are close to potentially hazardous activities. The previous system made intensification of residential development in these areas a non-complying form of development. This was well understood by and explained to property owners and development proponents. The clarity of these provisions meant that there were no applications for residential intensification in this former Policy Area for many years. Under the new system, the Restricted Residential Policy Area has been replaced by the Code's Significant Interface Management Overlay. This allows intensification proposals to be assessed on merit but relies on a complex and obtuse set of planning provisions which, on the surface, appear to be more enabling of such development but require the proponent to satisfy criteria that for all practical purposes, simply cannot be satisfied. PAE has had to provide separate advice to property owners and potential development proponents to explain the practical realities of the Code's policy settings. Despite this, there has been an influx of development applications to develop this land more intensively and a number of universally disappointed and frustrated owners, developers and PAE planning staff. In its submission on the Commission's recent Miscellaneous and Technical Enhancements Code Amendment, PAE requested that such intensification be classified as Restricted Development. This would at least allow for a more rigorous process and enable other non-Code matters like cumulative hazard risk analysis and access to publicly unavailable industry licensing information to be brought into the assessment process. Unfortunately, one of the general thrusts of that Code Amendment is to reduce the extent of restricted development overall and try to improve Code policy to compensate. PAE maintains that this is not an appropriate solution and that the intensification of residential development in this Overlay should be classified as restricted development. Further, and as alluded to elsewhere in this submission, PAE staff and the Council Assessment Panel have the skills, professional accreditation, local knowledge and resources to assess such proposals and should be afforded the opportunity to act as a relevant authority for Restricted Development applications.

Other issues that need to be addressed in the Planning and Design Code		
Water Sensitive Urban Design (WSUD)	**Introduce a general provision**	There are currently no Code provisions to achieve WSUD outcomes (e.g. swales, bio-filtration systems, raingardens, permeable pavements etc). Suggested general section – all development DTS/DPF wording: • *Water Sensitive Urban Design (WSUD) techniques should be incorporated into developments and include evidence of bio-filtration systems, grassed or landscapes swales, slotted kerbs, permeable pavements, and retention systems, consistent with the examples provided in the "Water Sensitive Urban Design Technical Manuals for the Greater Adelaide Region".*
Stormwater	**Introduce a general provision**	General / basic stormwater management PO/DTS/DPF's are required so that councils can request further information when there are basic issues with an Engineers siteworks design (e.g. non-compliance with Australian Standards, not just PDI code) which occurs often. There are no general stormwater PO's in the Code currently that can be referred to ensure that on-site drainage systems are designed in accordance with recognised building / engineering standards and best practices. It is essential this be provided, as without them, Council may be forced to accept a design which contains fundamental design errors that could result in nuisance or flooding. As an example, a recent plan was submitted to Council by an Engineer, only a single 90mm pipe was proposed when a pipe of around 300mm was required. These types of mistakes are common. The previous PAE Development Plan included wording that could have been used in this scenario, e.g.: • *All land and development should be capable of being properly drained to a legal point of discharge.*

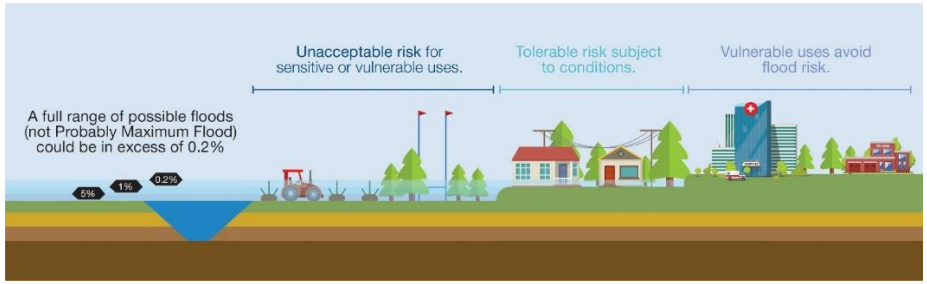
Other issues that need to be addressed in the Planning and Design Code		
		• *Development should include stormwater management systems to protect it from damage during a minimum of a 1-in-100 year average return interval flood.* • *Development should have adequate provision to control any stormwater over-flow runoff from the site and should be sited and designed to improve the quality of stormwater and minimise pollutant transfer to receiving waters.* • *Development should include stormwater management systems to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure the carrying capacities of downstream systems are not overloaded.* Suggested general section DTS/DPF wording: • *The design and installation of on-site stormwater systems should comply with the National Construction Code (NCC), AS/NZS 3500.3:2018 and industry recognised Engineering best practices.*
	Introduce a general provision for discharge location	Council (the stormwater drainage authority) must have the ability to provide direction as to where stormwater must discharge. There is currently no wording in the Code which facilitates this. The previous PAE Development Plan included the following: • *All land and development should be capable of being properly drained to a legal point of discharge.* Suggested general section DTS/DPF wording: • *All stormwater should be managed on site or conveyed to a legal point of discharge as deemed appropriate by the relevant authority.*

Other issues that need to be addressed in the Planning and Design Code		
	Extend application of Detention & Stormwater Quality provisions to other development types and ensure capacity of receiving drainage systems	The following two PO's need to be included for a greater number of development types so that stormwater detention (in particular) and stormwater quality measures are implemented on a broader range of developments. • *"Water Sensitive Design - Development likely to result in risk of export of sediment, suspended solids, organic matter, nutrients, oil and grease include stormwater management systems designed to minimise pollutants entering stormwater"* • *"Water Sensitive Design - Development includes stormwater management systems to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that development does not increase peak flows in downstream systems."* The above two provisions are currently only included for "all non-residential developments". This is of concern for larger residential developments (e.g. apartment complexes, multi-unit which currently don't have these provisions applied). Alternatively (and preferably), the above two PO's should just be moved under "all development". The standard wording used for stormwater detention in the Code (General Development Policies > Design in Urban Areas > All non-residential development > Water Sensitive Design > PO 42.3) is currently worded: • *Development includes stormwater management systems to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that development does not increase peak flows in downstream systems.* There is a serious problem with this wording, as it gives no consideration for the capacity of receiving drainage systems. It needs to be noted that Council drainage systems (excluding new areas where on site detention is not required) have historically been designed for much lower runoff coefficients

Other issues that need to be addressed in the Planning and Design Code		
		(around 0.35). Most pre-development sites are already well above the capacity of receiving Council drainage systems (e.g. up around 0.65). In these areas, limiting post-development flows to pre-development levels may not always be enough. As an example, if a pre-development site was 100% paved, but the pipe in the street is severely undersized, then it is critical that more stringent on-site detention is provided in order to prevent flooding of both the new development and the road. By way of further elaboration, if the pipe in the street is only 300mm diameter and sized to convey 0.35 worth of stormwater, but the development proposes no on-site detention and to convey the "full flow" through a 900mm pipe that connects to a 300mm, this is obviously not going to work and it will result in poorly designed stormwater systems which are not effective, and will result in flooding The previous PAE Development Plan included the following city-wide provision: • *Development should include stormwater management systems to mitigate peak flows and manage the rate and duration of stormwater discharges from the site* ***to ensure the carrying capacities of downstream systems are not overloaded.*** This wording was key as it meant that Council could enforce (as appropriate) stormwater detention design criteria that was either – limiting peak post development flows rates, to peak pre-development flow rates, or to the capacity of Councils receiving drainage system (both of which should always be checked). Limiting post-development flows to pre-development is also highly problematic. In instances where a site was previously 0% paved (all grass), on-site detention requirements will be excessive. There is also no practical need for this if the receiving drainage system has capacity to cater for additional flows. Likewise, a development that was previously 100% paved (most the cause of current flooding) will need no on-site detention whatsoever (this makes no practical sense)

Other issues that need to be addressed in the Planning and Design Code		
		Accordingly, it is strongly recommended that wording used for stormwater detention in the PDI code is revised to: • *Development includes stormwater management systems to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that development does not increase peak flows, or exceed the capacity of receiving drainage systems.*
	Amend Stormwater Management Overlay provisions re tanks	The following amendments are recommended: • include the word "and" between (a) and (b) for DTS/DPF 1.1. • specify only 20mm orifice (25mm increases impacts on receiving Council drainage systems) and although the existing wording "allows flexibility" the reality is, no one is doing calculations anyway so just set one value. • the retention volumes required in section (b) are huge, there seems not much point them being this big because unless you maximise re-use tanks will just stay full the whole time, overflow and take up space. Consideration should be given to connecting tanks to all toilets, and include additional wording for "irrigation systems" (which is a major source of water consumption, does not need to be "clean mains water", and lawn actually benefits from the nitrogen in rainwater compared to chemical cleansed mains water).
	Amend Stormwater Management Overlay provision re on site detention requirements	Mandatory detention tanks for residential dwellings per DTS/DPF 1.1. are not necessary in new Land Divisions where a detention basin has already been provided as part of an overarching land division. The stormwater management Overlay spatial extent polygons should be updated to exclude areas where new major land divisions have been constructed with detention systems (Lightsview is an example).

Other issues that need to be addressed in the Planning and Design Code		
		This will need to be regularly monitored and maintained as new larger Land Divisions occur. (Due to the extent of this work, it may need to be a layer managed by the Government's current "Flood Hazard and Mapping Project".)
Flooding	**Merge Hazards (Flooding) & Hazards (Flooding - General) Overlays into one Overlay**	It is understood that these two separate overlays have been created based on flood depth, one for flood depths less than 0.3m, and the other for flood depths greater than 0.3m. This creates confusion around the two overlays, and raises the question, can they be merged? The reality is from an engineering perspective and in accordance with recognised engineering practices, all development needs to be constructed above 1% AEP (100 year) ARI flood risks regardless of what the flood depth is. The diagram below (whilst it has some merit in looking at situations where buildings are existing) is somewhat irrelevant for the purpose of working out where new development can and cannot occur because: (a) In no circumstances is it acceptable for new buildings to be constructed below 1% AEP flood risks, whether located in "unacceptable risk", "tolerable risk", or "avoid vulnerable uses" area (b) Additionally, the current Code provision's wording (which appears to be based on the diagram below) suggests that land must NOT be developed if it is located within a 1% AEP (100 year ARI) flood zone: *"Pre-schools, educational establishments, retirement and supported accommodation, emergency services facilities, hospitals and prisons <u>located outside the 1% AEP flood event."</u>* This should be reviewed as: - It has major implications with respect to limiting certain types of development. - Any development with suitable access can be constructed in the middle of a flood zone or even a creek – providing it can be demonstrated by an engineer that it is

Other issues that need to be addressed in the Planning and Design Code		
		above the 1% AEP flood level, and that any flow paths (in the scenario of a creek) are appropriately mitigated (e.g. creek widened) to prevent impacts to the flow path.  It is also unclear why some of the Code's provisions would be applicable to some flood depths but not to others - most of the PO's are applicable to both layers. This again supports the case to review the need for these two overlays. If there are concerns about what types of development can occur depending on flood depth, the two overlays can still be merged, and an additional PO introduced e.g.: • *"Sensitive land uses such as educational, aged, disability, supported accommodation, emergency services, hospitals and prisons should not be proposed where flood depths exceed X.Xm or velocities exceed X.Xm/s"*
	Introduce additional PO/DTS/DPF for all hazard flooding overlays re land	There appears to be an emphasis in protecting building FFL's only. The reality is that landowners / occupants expect to be protected against any flood inundation. This includes carports, carparks, gardens, patios, parking areas. This is the expectation of our community and is a major source of complaint from residents. Flooding also creates nuisance as well as building / property damage. The Code seems to put emphasis on building / property damage only. It needs to address the nuisance

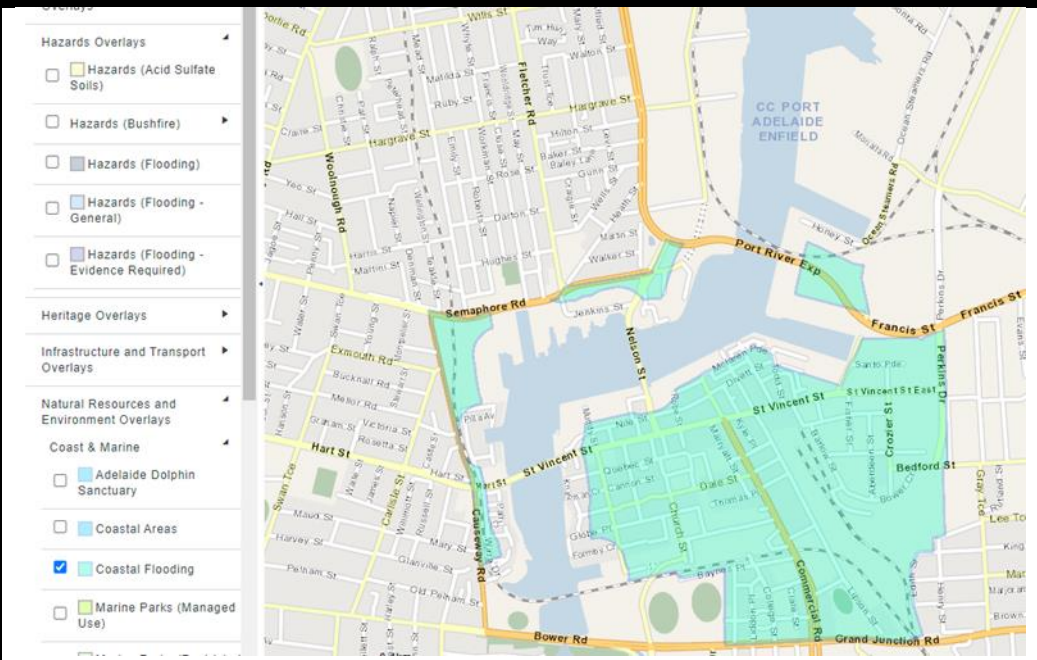
Other issues that need to be addressed in the Planning and Design Code		
	as well as buildings	component as this is a major issue for Council as these issues are much more frequent (lesser flood depths required), than property / building damage. Accordingly, it is recommended that an additional PO in introduced for all the hazard flooding overlays e.g. • *Development should be designed to prevent 1% AEP floodwaters inundating private land.*
	Amend Hazard Flooding Overlay General provisions	The current DTS/DPF 2.1 wording suggests that FFL's does not need to be specified. It also poses limitation on Council requesting changes to site levels (or requesting site levels being provided) where a floor level has not or has been unsatisfactory specified. DTS/DPF 2.1 either specifies a nominated ground / floor level value, or states: *"**In instances where no finished floor level value is specified,** a building incorporates a finished floor level at least 300mm above the height of a 1% AEP flood event."* The way this reads, an Applicant/Engineer does not need to specify a ground or FFL. It is critical that site and FFL's be specified where flood risk has been identified. Suggested DTS/DPF 2.1 wording: *"Habitable buildings, commercial and industrial buildings, and buildings used for animal keeping incorporate a finished ground and floor level not less than:* *(a) <u>Finished Ground and Floor Levels</u>* *Minimum finished ground level is X.XXm AHD; Minimum finished floor level is X.XXm AHD* *OR*

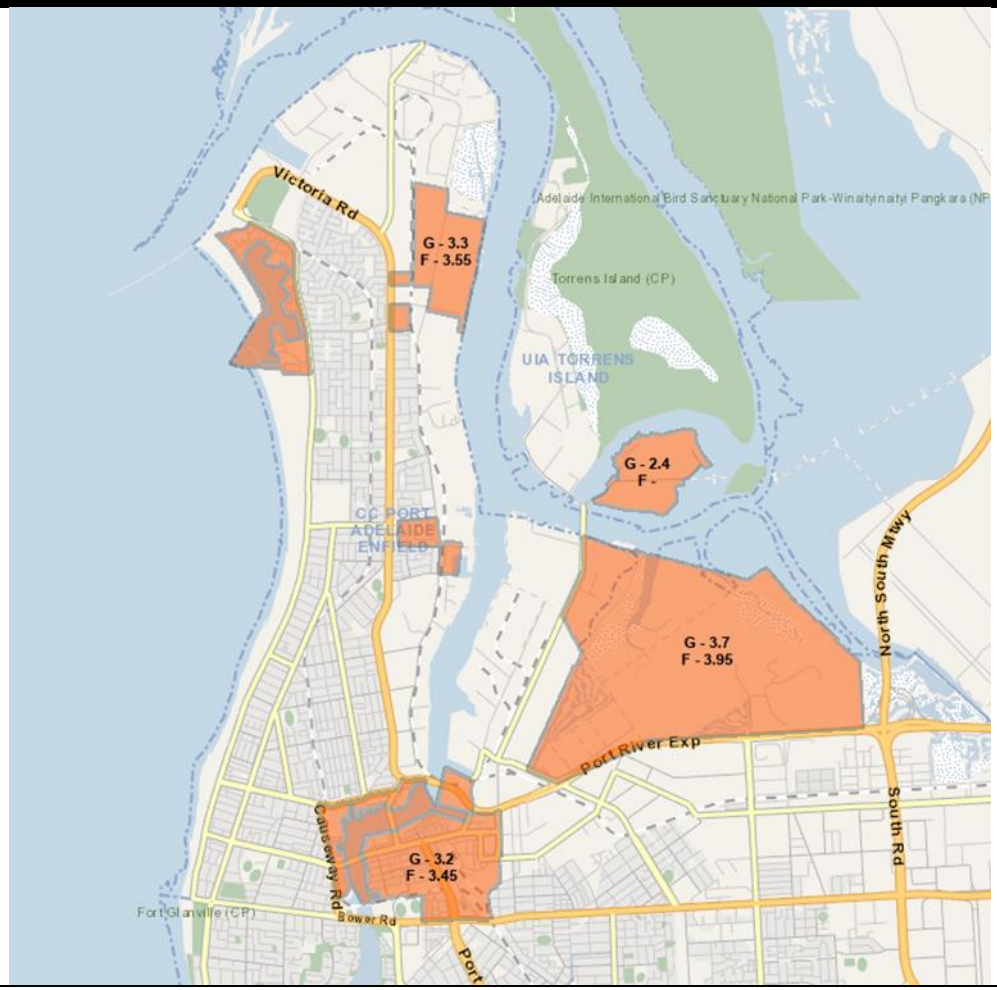
Other issues that need to be addressed in the Planning and Design Code		
		a building incorporates a finished floor level at least 300mm above the height of a 1% AEP flood event."
	Amend Hazards (Flooding - Evidence Required) Overlay provisions	DTS/DPF 1.1 *"Habitable buildings, commercial and industrial buildings, and buildings used for animal keeping incorporate a finished floor level at least 300mm above:* *(a) the highest point of top of kerb of the primary street* *or* (b) *the highest point of natural ground level at the primary street boundary where there is no kerb"* - Consideration needs to be given to scenarios where, when looking from the street, a narrow building is proposed and takes up only a small portion of a very wide frontage allotment (think commercial developments). In these scenarios it is not practical, and it is also unnecessary to elevate the building 300mm above the highest top of kerb, in which case the wording of where 300mm above TOK is applied from should be more specific. - The term "primary street" should be reworded. It may be necessary to provide flood protection against a secondary street (e.g. laneway behind, or secondary street if on corner). - The current DTS/DPF wording provides no options for an Applicant to engage an Engineer to investigate and assess flood risks when flood mapping is not available (which is the whole point of the "evidence required" overlay), so additional wording should be provided which allows this. - Given the potential long term flood risks if a building FFL is not high enough, when flood levels are not known, FFL's should be specified with a degree of safety. 300mm

Other issues that need to be addressed in the Planning and Design Code		
		is the freeboard adopted where flood levels are known. Where they are not known, it could be argued that FFL's should be specified higher. When flood modelling is undertaken, it is sometimes found that existing buildings which were constructed at 300mm above TOK, are not high enough. When flood levels are not known (i.e. developments in the evidence required layer, noting the number of these will decrease over time as the AGD completes state-wide flood modelling) we should be conservative in specifying a minimum height above TOK (e.g. 500mm above TOK, not 300mm). 500mm above top of kerb instead of 300mm above TOK would not be unreasonable either, particularly when you consider that the code already stipulates that FFL's must be 300mm above 1% AEP flood depths. And 1% AEP water levels are usually designed to be at verge/property boundary level which is about 100-150mm above TOK, in which case FFL's would normally be about 400-450mm above TOK anyway. A more conservative minimum height above TOK would also encourage Applicants to engage an Engineer to provide the "evidence required" which is favourable. Accordingly, strongly recommend revised DTS/DPF wording as follows: *"Habitable buildings, commercial and industrial buildings, and buildings used for animal keeping incorporate a finished floor level at least 500mm above:* *(a) the highest top of kerb immediately adjacent the proposed building* *or* *(b) the highest point of natural ground level adjacent the proposed building where there is no kerb*

Other issues that need to be addressed in the Planning and Design Code		
		Alternatively, a suitably qualified Engineer can be engaged to investigate the site and nearby catchment to provide evidence of flood risks and prescribe finished floor levels that provide appropriate protection with freeboard above 1% AEP (100 year ARI) flood risks."

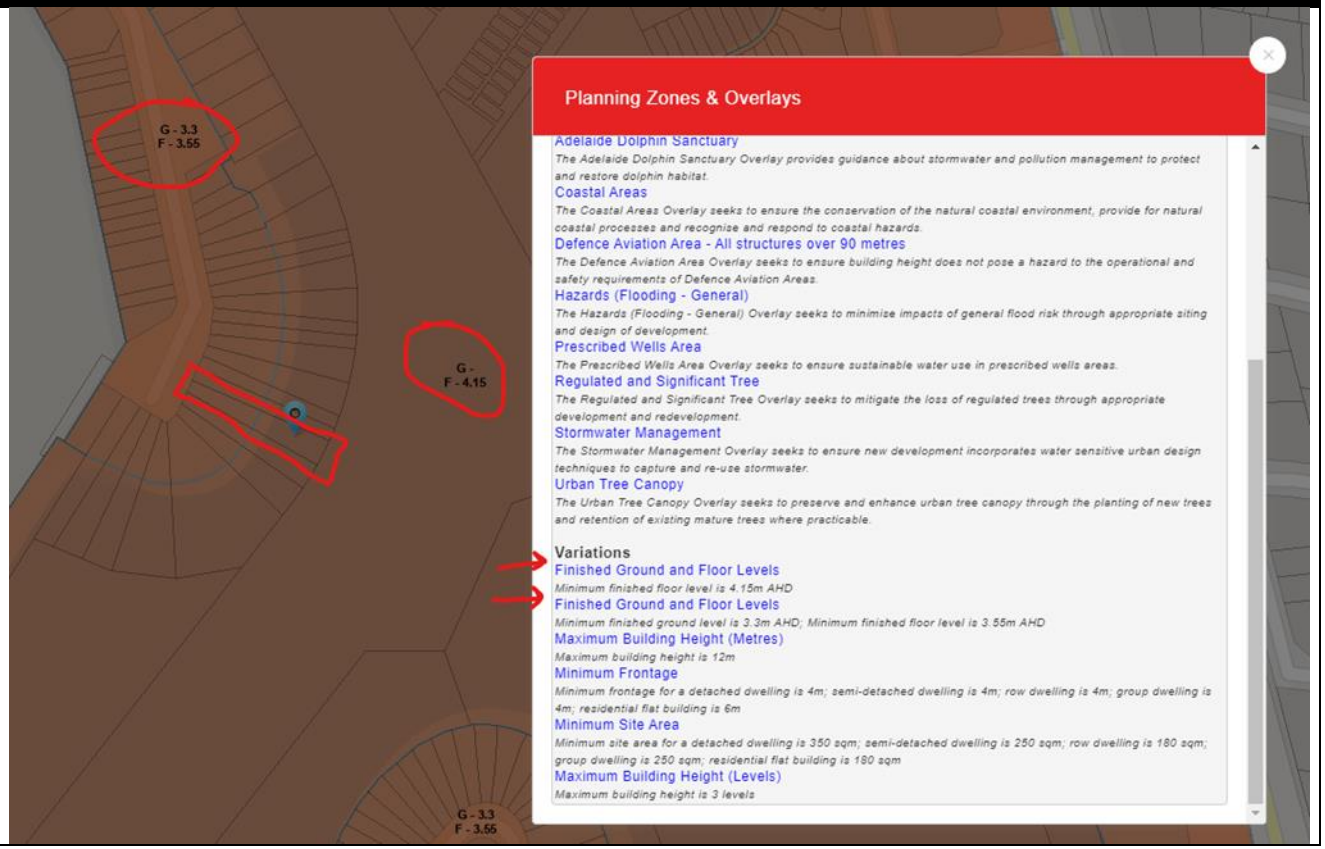
Coastal Flooding	**Hazards Flooding Coastal Flooding Overlay**	There are flood studies and mapping available that look at sea water flood risks (Port Adelaide Seawater Stormwater Flood Study for example). These studies included additional mapping that was completed that take into account additional factors such as sea level rise and land subsidence to highlight areas where achieving these factors would be problematic. Based on a review of the "coastal flooding" layer and "minimum site and floor level" TNV layer, not all of the known areas at risk of coastal inundation are covered by the layers (see image below). The application of the layers to address current and future hazards and risks requires review. It is understood that the only areas currently included and shown in "coastal flooding" layer and "minimum site and floor level" TNV layer are areas which previously formed part of a Development Plan policy / zone where specific minimum site levels were prescribed. This is an issue as the old Development Plan had omissions where minimum site and floor levels should have been prescribed but were not.

Other issues that need to be addressed in the Planning and Design Code		
		

Other issues that need to be addressed in the Planning and Design Code		
		

Other issues that need to be addressed in the Planning and Design Code		
	Minimum site and FFL TNV's	With reference to allotments that are half over water / half overland (i.e. application 21012854), the current TNV layer prescribes different site and FFL requirements for both, but when reviewing the planning portal "summary" page, it is not clear under what circumstances each of the two difference values apply. The wording of the TNV's needs to explain that higher levels apply to over water development, and the lower levels apply to development on land, consistent with the PAE's old development plan. There may also be a programming error as application 21012854 only brings up TNV *"Finished Ground and Floor Levels (Minimum finished floor level is 4.15m AHD)"* despite the allotment being located over two different levels (see last screenshot)

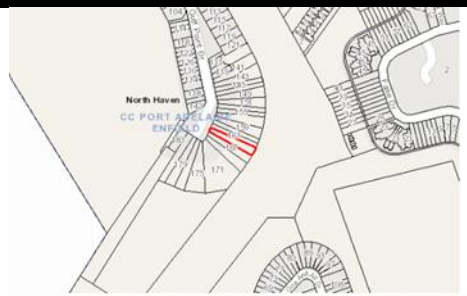
Other issues that need to be addressed in the Planning and Design Code



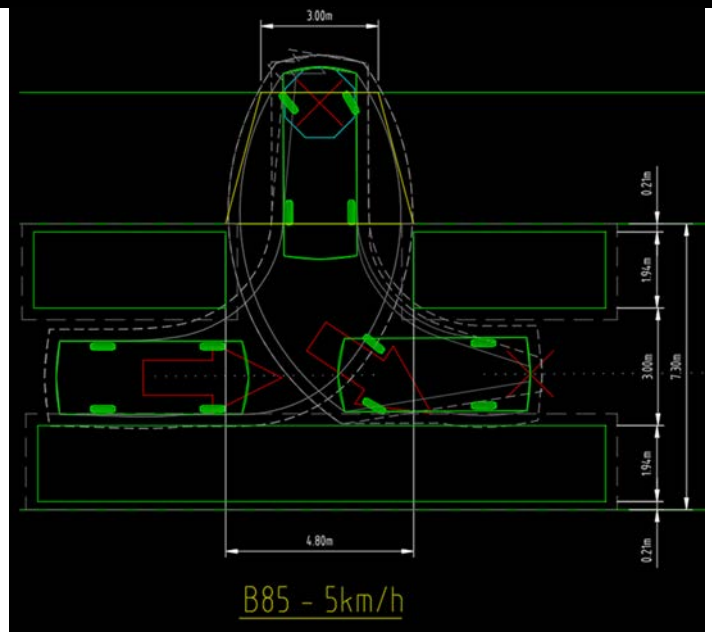
Other issues that need to be addressed in the Planning and Design Code		
		Form and Character 4 Development including associated roads and parking areas should be protected from sea level rise by ensuring all of the following apply: (a) there are practical measures available to protect the development against an additional sea level rise of 0.7 metres (b) there is an allowance to accommodate land subsidence until the year 2100 at the site (c) site levels are in accordance with those outlined in following table:

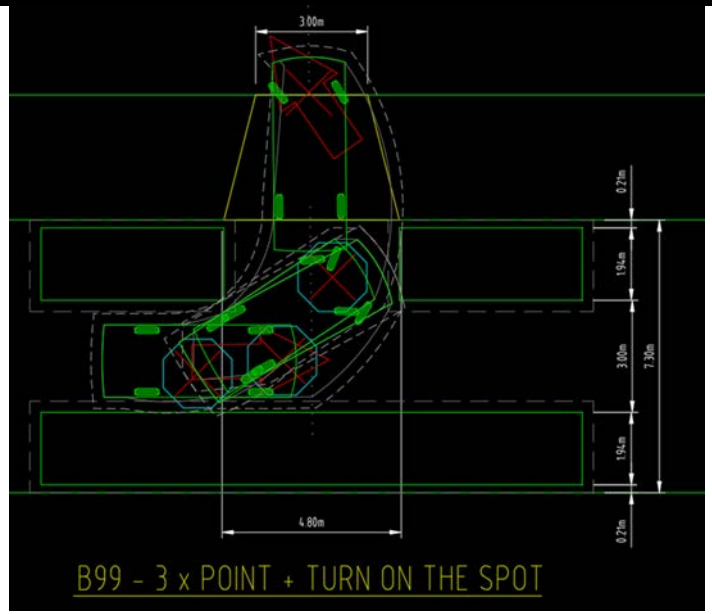
Location of Development	Minimum Site level (metres AHD)	Minimum Floor Level (metres AHD)
On land	3.30	3.55
Over water development other than boat berthing and servicing facilities and ancillary walkways	n/a	4.15

Other issues that need to be addressed in the Planning and Design Code			

		
		Click the property location image above to open the South Australian Property and Planning Atlas (SAPPA) in a new ab, and view zoning and other layers for this location
			Development location(s)
			165 GULF POINT DR NORTH HAVEN SA 5018
			Title ref CT 6131/113 **Plan parcel** D31099 AL25 **Council** City Of Port Adelaide Enfield
			Nature of development edit
			Dwelling addition and new balcony towards marina, new garage to Gulf Point Drive frontage, and associate demolition of existing structures
			Elements selected edit
			• Demolition
			  ◦ Partial demolition of a building or structure
			• Carport or garage
			  ◦ Outbuilding (Carport or garage)
			• Other - Residential
			• Dwelling alteration or addition
			  ◦ Dwelling addition
			› Submission details
			⌄ Zoning information
			Zones
			• Infrastructure (Ferry and Marina Facilities)
			• Waterfront Neighbourhood
			Overlays
			• Adelaide Dolphin Sanctuary
			• Coastal Areas
			• Defence Aviation Area
			• Hazards (Flooding - General)
			• Prescribed Wells Area
			• Regulated and Significant Tree
			• Stormwater Management
			• Urban Tree Canopy
			Technical Numeric Variations (TNVs)
			• Finished Ground and Floor Levels (Minimum finished floor level is 4.15m AHD)
			• Maximum Building Height (Metres) (Maximum building height is 12m)
			• Minimum Frontage (Minimum frontage for a detached dwelling is 4m; semi-detached dwelling is 4m; row dwelling is 4m; group dwelling is 4m; residential flat building is 6m)
			• Minimum Site Area (Minimum site area for a detached dwelling is 350 sqm; semi-detached dwelling

Other issues that need to be addressed in the Planning and Design Code		
Vehicle Access	**Amend General Development Policies > Transport, Access and Parking > Vehicle Access > PO 3.6**	DTS/DPF 3.6 refers to the width of access point no greater than 3.5m or 6m. It needs to be made clearer where this width is to be measured – at the property boundary or at the kerb
	Introduce additional provisions to address design of crossovers	Additional DTS's are required to ensure crossovers are appropriately flared to facilitate unobstructed access into developments. If only a 3-4m crossover (at the kerb) is provided, and if a vehicle parks on-street at the edge of crossovers (legally allowed, then it is not physically possibly to manoeuvre into and out of an allotment. A multi-point turn is often also of very little benefit (plus unsafe) as demonstrated in image 2 below because of the tight nature. This results in complaints to Councils to restrict on-street parking, so that residents can get in and out. Suggested DTS/DPF wording: *(a) Residential crossovers should measure a minimum 5.0m at the kerb.* *(b) Commercial crossovers should comply with the minimum dimensions outlined in AS 2890.2:2018 section 3.4, figures 3.1 & 3.2.* *(c) Alternatively, a vehicle turning path assessment should be completed to confirm that the largest sized vehicle expected to access that site can enter and exit the land when all on-street parking spaces are full, and vehicles are parked the edge of crossovers, or on the opposing side of the road (where possible).*

Other issues that need to be addressed in the Planning and Design Code			
			

Other issues that need to be addressed in the Planning and Design Code		
		
Driveway Gradients	**Amend General Development Policies > Design in Urban Areas > Residential Development - Low Rise > Car parking, access and manoeuvrability > PO 23.5**	The current PO permits 1:4 driveway grades without transitions. This does not comply with the requirements of Australian Standards (AS2890.1) and will result in vehicles bottoming or scraping. The Code also needs to address grade limitations for commercial vehicles. It is recommended that new general section DTS/DPF wording be introduced, for example: *The maximum gradient of driveways shall comply with AS/NZS 2890.1 (for (passenger vehicles) and AS 2890. (for commercial vehicles)* (If there is a reticence to refer to another code, the P&D Code provisions need to extract the correct technical data more thoroughly and precisely from these Australian Standards.)

Other issues that need to be addressed in the Planning and Design Code		
Development affecting easements		The code needs to include provisions regarding development in proximity to, and over easements. If not planned and designed correctly, building footings adjacent an easement are at major risk of being undermined (not to mention the construction issues that are caused) if not planned correctly and footings are not deep enough. Applicant also need to be aware of the limitations associated with easements (refer Schedule 6 (Section 89A) of the Real Property Act 1886, an example (for Council drainage easements) being: • *an easement in favour of Council, for drainage purposed provides Council with the right for him, his agents, servants and workmen at any time to break the surface of, dig, open up and use the land (described for that purpose in this instrument) for the purpose of laying down, fixing, taking up, repairing, re-laying or examining drains or drainage pipes and of using and maintaining those drains and drainage pipes for drainage purposes and to enter the land at any time (if necessary with vehicles and equipment) for any of those purposes.* Accordingly, (although a complicated legal issue), development should not occur if it unreasonably prevents the above. Suggested general section DTS/DPF wording: *Design of development should ensure that any structures proposed on or adjacent an easement, or a right of way, does not unreasonably prevent access to the easement, or the right of way pursuant to the requirements outlined in Schedule 6 of the Real Property Act 1886, or any relevant easement documentation. Development on or adjacent an easement, or a right of way must not create the potential for property or building damage should maintenance or works within an easement, or a right of way being undertaken.*

Other issues that need to be addressed in the Planning and Design Code		

Issue	Expert Panel Questions – Act & Regs	Response
Public Notification and Appeal Rights	Q1 What type of applications are currently not notified that you think should be notified?	Nil
	Q2 What type of applications are currently notified that you think should not be notified?	At the City of Port Adelaide Enfield, over 35% of development applications undergoing public consultation have been for developments where the length of a structure on the boundary has triggered public consultation. It is Council's view that if notification is required for walls/structures on boundaries, the notification should only be to the property or properties immediately affected by the proposed structure. In the alternative, the current triggers for public consultation could be reviewed so that considerably less walls/structures on boundaries require public consultation. In this respect, it is noted that the Miscellaneous and Technical Enhancements Code Amendment currently being finalised by the Minister may resolve this issue.
	Q3 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.	The new system condenses notification categories from a three (3) tiered system down to a two (2) tiered system. Under the former three 3 tiered system, the extent of notification was generally commensurate with the level of likely impact. For example, residential structures were typically Category 2 so only adjacent neighbours were notified, whereas non-residential development which often has broader impacts was typically Category 3 so broader notification and appeal rights applied. Under the PDI Act, however, the extent of notification required (all properties within 60m, sign on the land and plans

Issue	Expert Panel Questions – Act & Regs	Response
		being publicly available) is often excessive for residential development.
		The grey area regarding what retaining walls require Public Notification needs removing or further clarification. In many instances, a dwelling application only goes on Public Notification because of the proposed retaining walls. Neighbours then feel they have the right to raise concerns about the dwelling design itself (even if the design meets 99% of DTS requirements) rather than commenting on the retaining walls.
	Q4 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 Port Adelaide Enfield has had limited exposure to appeals since the commencement of the Planning and Design Code.
	Q5 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)?	The Expert Panel should consider exploring a 'fast track" pathway for the consideration of appeal matters where the only considerations are planning related matters. As observed by the Panel, such pathways exist successfully in other States.
Accredited Professionals	Q6 Is there an expectation that only planning certifiers assess applications for planning consent and only building certifiers assess applications for building consent?	Yes, any alternative approach means the certifier may not have the necessary skills to undertake the assessment. From a practitioner perspective, planning and building consents are very different specialities and it is not necessarily the case that all building professionals have the correct knowledge and experience to undertake a planning assessment.

Issue	Expert Panel Questions – Act & Regs	Response
	Q7 What would be the implications of only planning certifiers issuing planning consent?	It is recommended that private planning professionals should not be allowed to approve DTS development with any minor variations due to the subjective nature of assessing minor variations. While most private planning professionals will act professionally and with integrity, the fact that private planners have a financial incentive to determine that a development is DTS is not conducive with a public interest process. (Further comment about this is included in the section "Other Issues that need to be addressed in the Act and Regs" at the end of PAE's responses to the Panel's questions.)
	Q8 Would there be any adverse effects to Building Accredited Professionals if they were no longer permitted to assess applications for planning consent?	This will reduce the amount of available work for private building professionals. However, planning decisions are unlikely to represent a significant portion of the work undertaken by private building certifiers.
Impact Assessed Development	Q9 What are the implications of the determination of an Impact Assessed (Declared) Development being subject to a whole-of-Government process?	This would be appropriate
Infrastructure Schemes	Q10 What do you see as barriers in establishing an infrastructure scheme under the PDI Act?	The infrastructure schemes are simply too complex, onerous and daunting to be practical as is evidenced by the absence of any take up - despite the clear need for a better way to coordinate and fund infrastructure that the current piecemeal work around agreements that are used.
	Q11 What improvements would you like to see to the infrastructure scheme provisions in the PDI Act?	They need to be completely reviewed and tested and framed from an end user's point of view.
	Q12 Are there alternative mechanisms to the infrastructure schemes that facilitate growth and development with well-coordinated and efficiently delivered essential infrastructure?	A comparison of systems used in other states jurisdictions would be helpful.

Issue	Expert Panel Questions – Act & Regs	Response
Local Heritage in the Planning, Development and Infrastructure Act 2016	Q13 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)?	PAE has recently advocated to the Commission that we need a more direct and nimble process for local heritage listing, and that we need better provisions or legislation to deal with damage or neglect of local heritage places. While the Code Amendment Process is arguably fit for purpose for consideration of bulk heritage listings or Historic Area or Character Area Overlays where there are many properties affected, it is an excessively elaborate, time consuming and resource hungry process for dealing with individual or small numbers of listings. This is particularly evident when trying to accommodate requests from landowners who are proactively seeking local heritage listing of their own properties. A single statute and integrated Heritage Authority will enable more efficient and independent consideration of Local Heritage Place listing nominations. The Panel's attention is also drawn to the original Expert Panel (2014) recommendations and the Heritage Reform Advisory Panel (2021). Progressing those recommendations will significantly improve local heritage processes and outcomes.
	Q14 What would be the implications of sections 67(4) and 67(5) of the PDI Act being commenced?	Fortunately, this has not yet been made operational. It is a poor law and should be removed from the Act. No other change to a designated instrument or zone, subzone or overlay boundary requires an affected property owner pre-poll like this. The Code Amendment process and the Community Engagement Charter provide ample requirement and

Issue	Expert Panel Questions – Act & Regs	Response
		opportunity for community and affected landowners to be consulted and their input considered.
Deemed Consents	Q15 Do you feel the deemed consent provisions under the PDI Act are effective?	The concept of deemed consent is fundamentally flawed. Development that requires on merit planning assessment should not be given de facto "right to develop" status comparable to accepted development because of a time to assess problem. Other mechanisms to deal with time to assess problems should be explored. The need for an efficient and responsive development assessment process is supported. However, the Deemed Planning Consent may contribute to unnecessary stresses on the planner involved in the assessment process. This, combined with very short assessment times for what can be quite complex matters, results in a greater likelihood of applications being refused, or substandard designs that do not meet the provisions but are just good enough being approved to avoid a deemed consent rather than working with applicants to achieve a design that can be supported to better deliver the intent of the policy. This is inconsistent with the objects of the Act to promote high standards for the built environment. It is a severe penalty that does not adequately consider the consequences for the community for development that is inappropriate. It is noted in the discussion paper there have not been many deemed planning consents issued. It is not the case that the number of those issued reflects the considerable stress that sits with every application to avoid this occurring. Planning staff

Issue	Expert Panel Questions – Act & Regs	Response
		do not feel they can take extended leave due to the potential that one of their applications will tick down to a deemed consent and the workloads associated with other planners in the team do not facilitate easy management of applications when others are away. Councils have had to take on more planning staff to keep workloads to a level that allow timely interaction with applications and does not result in time overruns to assess the same or similar application numbers overall to those managed with fewer planners under the Development Act. The deemed consent approach does not provide a basis for collaborative relationships with applicants that in turn deliver more appropriate planning outcomes. This provision does not take into consideration the challenges in establishing a sustainable work environment for the relevant assessing officers where they can apply their skills to the delivery of outcomes that benefit all, in line with the relevant assessment policy. The consequence of this provision is to extend the assessment times for simpler development applications, as greater attention is required on the more complex developments that generally have the same assessment times. Furthermore, this is leading to less capacity to provide preliminary advice to applicants which is a highly valuable non-statutory service to assists applicants. It is noted in the jurisdictional comparison contained in the Panel's discussion paper, only Queensland utilises this mechanism and New South Wales has adopted a deemed refusal mechanism. Other jurisdictions such as Victoria,

Issue	Expert Panel Questions – Act & Regs	Response
		Western Australia and Tasmania have taken a more balanced approach, whereby a review is undertaken by the respective courts on the facts and the court makes a considered and independent determination on the application. This is a more equitable approach that will safeguard the community against potential poor development outcomes while removing the risk of instant approvals for inappropriate outcomes.
	Q16 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?	PAE considers that the Deemed Consent provision should be removed from the Act. If an alternative mechanism is required in place of Deemed Consents, options include: • reintroduce the former Development Act process where the applicant could apply to the Court for a direction for the relevant authority to issue a decision; • enable applicants to apply to the Commission to take over the assessment and issue a decision, given this may be a more expeditious process than option 1 but still sufficient incentive for Councils to undertake assessments within time; or • enable the applicant to issue a deemed refusal notice to allow an opportunity to take the matter to Court.
Verification of Development Applications	Q17 What are the primary reasons for the delay in verification of an application?	Unlike the previous requirement under Development Act, the verification process under the PDI Act is much more resource intensive. The increased requirements are not equally placed on an applicant to submit a complete development application – the DAP does not prevent incomplete applications from being submitted. Therefore, all the expectation is placed on the relevant authority. Furthermore, the resource intensive process is exacerbated when an applicant provides a partial response to a request for information to form a complete application. This

Issue	Expert Panel Questions – Act & Regs	Response
		is double, triple handling of the application. The consequence is that greater attention is required on the more complex developments and simpler developments take longer to process. The system also fails to account for the nuanced link between requesting from an applicant the full documentation for an application, when at a preliminary stage, it is apparent the development proposed will not be supported in that form. Providing relevant authorities the time to provide a preliminary guidance to an applicant early, will save the applicant time and money. This is particularly relevant for more complex development applications. Not providing advice about significant issues but seeking possibly expensive technical mandatory information only to then advise after lodgement has occurred that there are significant concerns does not build a constructive relationship and has the potential to lead to complaints about staff action. The Expert Panel in invited to also consider that the data collected to form its initial perceptions of verification was over a period of extraordinary development activity as a result of government stimulus to facilitate construction activity during peak Covid-19. Some Councils experienced over a 30% increase in development applications in this period while at the same time many workplaces were required to adapt to significant changes, lock downs and loss of staff due to isolation rules. There were also many instances where new lots from approved land divisions were not created in the DAP and applications could not proceed past the verification stage. Further it is not uncommon for applicants to submit applications for new housing reliant on lots and roads that have not been

Issue	Expert Panel Questions – Act & Regs	Response
		approved in a land division and these may then need to wait longer before they can be verified and submitted. In this context, 84 percent of verifications within time is considered to be reasonable. The suggestion of penalty in the context of the environment at the time of the data collection is not considered reasonable. It is likely to lead to more refusals. Moreover, it would also seem appropriate to explore the data from the DAP in more detail to determine if the applications that fell outside the 5 days were verified on day 6 or 7; or was this an issue for a particular application type or region; or how affected where these authorities by Covid-19; or was the timeframe due to the poor quality information submitted with the application. A more complete understanding of the issues behind the headline metric is warranted. Furthermore, the Expert Panel is encouraged to consider training for all participants in the industry, education, and DAP system solutions, ahead of imposing penalties on a sector that is facing the same resourcing challenges as other sectors. The proposal within the E-Planning System and the Plan SA website paper to explore combined verification and assessment processes and to remove Building Consent verification for simpler applications has merit and warrants further consideration. Other issues affecting verification are: • the lodgment of applications before new titles have been created which means that applications often sit "awaiting verification" until the title has been created. Reform should address this circumstance.

Issue	Expert Panel Questions – Act & Regs	Response
		• Applicants providing insufficient information and often information not meeting the minimum requirements under the regulations. The lodgement process could be substantially improved by prompting an applicant to tick a box (or similar) against each item of mandatory information to confirm it has been lodged, i.e., site plan, site works plan, elevations, colours and materials, landscaping etc. where an applicant selects "no" they can provide a reason or justify why this is not required. This would ensure that the applicant is aware that mandatory information is required. This could be expanded to include requirements for where a prompt to advise if a change to more sensitive land use is to result or the land is contaminated. It would then prompt required information for uploading. The Panel is asked to note the QLD IDAS where the onus or burden is placed on the applicant to provide and disclose information to aid assessment. If incorrect, it is the responsibility of the applicant to correct it, not a relevant authority. too much time and resources is put into chasing applicants who do a poor job of lodgement for a verification process that has not been effectively paid for (fees only charged post verification) yet months of back and forth may occur on a verification for the application to never eventuate. this is time that could be spent negotiating better outcomes or processing applications within timeframes.
	Q18 Should there be consequences on a relevant authority if it fails to verify an application within the prescribed timeframe?	The suggestion by the Expert Panel, that the verification timeframe be absorbed into the overall assessment time frame is considered a sensible, measured mechanism that balances the need for a timely decision with the need to verify an application within a timely manner. However, it relies on other related matters being satisfactorily addressed, especially a review and resetting of assessment timeframes and

Issue	Expert Panel Questions – Act & Regs	Response
		improvements to Schedule 8 requirements, processes and application obligations.
	Q19 Is there a particular type or class of application that seems to always take longer than the prescribed timeframe to verify?	Volume home builders tend to be overrepresented in PAE's experience as the applications are often lodged before titles have been created.
	Q20 What would or could assist in ensuring that verification occurs within the prescribed timeframe?	Builders/Developers having a better understanding of mandatory information under Schedule 8 of the Regulations It is a question of how effective verification currently is. All too often, an application is lodged as "dwelling" when it includes other elements such as retaining walls, fences, verandahs, carports etc. Chasing clarification from an applicant consumes time for verification. Additionally, determining if referrals are required should be an automated system. the burden is put on a relevant authority to identify referrals etc. if an element is selected by the applicant, and it is located in an overlay that requires a referral to take place, this should automatically trigger a referral and seek fees accordingly. Verification is to effectively check all the docs and procedure is correct, not to do it for the applicant.
	Q21 Would there be advantages in amending the scope of Schedule 8 of the PDI Regulations?	To improve the standard of information provided by applicants, it is recommended that information prompts are provided in the DAP during submission which summarise the required mandatory information based on the element(s) selected and the requirements of Schedule 8.

Issue	Expert Panel Questions – Act & Regs	Response
		An online checklist would also be useful for relevant authorities when verifying an application. In some cases, an application should not be able to be submitted without particular information; noting that relevant authorities have the ability to waive the need to provide information, but some information such as site plans are fundamental to an application. It is recommended that Schedule 8 is amended to outline mandatory information for tree damaging activity both for tree removal (so a relevant authority can confirm if the tree is exempt due to species or proximity to dwellings and determine if the applicant intends to plant replacements or pay into the Urban Tree Fund), and for pruning (to determine if the pruning work is exempt). Schedule 8 should also outline mandatory information for change of use applications given some change of use applications can be Accepted or DTS. Schedule 8 should also clarify that relevant authorities are able to request any other information which is required to determine the assessment pathway or to verify the elements, to account for applications where the nature of development is not prescribed in Schedule 8. It is also pertinent to review Schedule 8 to make sure any criteria required to be assessed for Accepted / DTS pathways are reflected in mandatory documentation. For example, one of the criteria for determining if a swimming pool is accepted is the extent of soft landscaping remaining on the site, but this is not included in the mandatory information in Schedule 8.

Issue	Expert Panel Questions – Act & Regs	Response
		We effectively cannot process any Land Division applications as DTS, as Schedule 8 requires the Final Plan to be lodged as the minimum level of documentation. Surveyors do not want to lodge only the Final Plan as that is a greater cost investment up front without a certainty that it will get approval if they have missed some part of the DTS criteria. If the Final Plan requirement was removed from Sch 8, it would mean we can process some Land Divisions faster which has a better outcome for the public.

Other Issues that need to be addressed in the Act & Regs	
Deemed Approval / Minor Variations	The discussion paper identifies instances where planning and building consent has been issued for a development application, but councils are not accepting the planning consent issued by the private accredited professional. The paper assumes the council as the problem and does not examine the reasons why the approval is not being issued by the council. The Act requires a council to check that the appropriate consents have been sought and obtained for a development application. This is an important mechanism that safeguards applicants / owners from commencing development with inconsistent or invalid consents. The absence of this important check is likely to result in non-compliances being identified during construction, leading to more significant and costly delays. In many instances where development approval has not been issued, it is evident some private accredited professionals have acted outside their powers under the Act. This issue is directly related to the accredited professionals' incorrect assessment which missed or dismissed key assessment criteria, including the application of Overlays such as the Historic Area Overlay. There are some examples of accredited professionals' interpretation being such that they have effectively undertaken a performance assessed development, including on notifiable development.

Other Issues that need to be addressed in the Act & Regs	
	This issue is exacerbated with the ambiguity that is created with s106(2) of the Act in relation to minor variations. The Deemed to Satisfy (Minor variations) is subject to various interpretations and has created uncertainty and delayed approvals, as identified by the Panel's discussion paper. This varying interpretation has resulted in poor outcomes for applicants. The difficultly with the interpretation was highlighted when a cross sector working group established by PLUS was unable to define what constitutes minor variations. This legislative ambiguity is contributing to a tension between the practice of some private accredited professionals and council practitioners. There needs to be greater guidance/training for relevant authorities on respective roles and what constitutes a minor variation for Deemed to Satisfy developments to address the current inconsistent approach. This could be informed with clear parameters such as a minor variation may only be granted: • by an Assessment Manager at council, or • by privately certifiers where the element does not have an impact beyond the site. E.g. excludes site area, frontage, setbacks, building heights, length on boundary and the like; and there is accountability / transparency with clearly documented justification for any minor variations.
Assessment Timeframes	The discussion paper suggests a review of assessment timeframes. This review is supported as the current timeframes do not adequately differentiate the work that is required to properly assess more complex assessments such as larger commercial and industrial type applications. It is recommended the assessment timeframes for complex development, not involving up to two (2) class 1 buildings or any class 10 buildings, should be 8 weeks as the current assessment timeframes are not adequate and do not facilitate the promotion of high standards for the built environment. It is not reasonable to expect an application for 19 plus dwellings or large-scale warehousing to be assessed in 20 days, yet this is currently the case. The Panel may wish to also consider the gross time for the completion of assessments to gauge the overall impact of the new system and whether there are broader legislative / DAP enhancements that may be necessary.

Other Issues that need to be addressed in the Act & Regs	
Restricted Development	The Commission's recent Miscellaneous and Technical Enhancements Code Amendment significantly pared back the amount of development that is restricted and suggested that much of this development should instead be categorised as performance assessed and no longer assessed by the SCAP. It argues that improved Planning and Design Code policy is a suitable replacement for the additional scrutiny, early no opportunity and additional assessment outside of the Planning and Design Code that is a feature of Restricted Development. It is at best tenuous that additional Planning and Design Code policy changes can replace these current process issues. An amendment to the Act and Regulations that would allow Council and Regional Assessment Panels to assess restricted development should be considered and developed in consultation with councils.