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Submission on the Planning System Implementation Review

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Discussion Paper – Planning and Design Code Reform Options

Character and Heritage

The replacement of 72 Development Plans with one State-wide Code has resulted in a substantial loss of local policy. Nowhere has this lost been felt the greatest than in the new demolition tests that were introduced within the Historic Area Overlay of the Planning and Design Code. As a result of the transition, there appears to have been a softening of demolition control policies. In the now repealed Burnside Development Plan there was a focus on the "…retention of items which contribute positively to the character of the Policy Area" and new development located only on vacant sites or on those sites that contain a dwelling that does not positively contribute to this character. This has now been replaced by the Historic Area Overlay, with a Desired Outcome that no longer places the same emphasis on the retention of these buildings, and where the new demolition tests contained in PO 7.1 allows for demolition of a character building when a façade has been substantially altered or where the structural integrity or safe condition of the building is beyond reasonable repair. Development Assessment has advised that since its inception, one application for demolition of a Representative Building has been refused by the Council Assessment Panel and this is the subject of a current appeal. The City of Burnside strongly hold the view that Councils should either have greater influence on Planning and Design Code policy or that the uniform 'one-size-fits-all' approach is abandoned, allowing Councils to regain control of local policy.

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

Fence details, landscape setting and established pattern of division are elements that should be returned to the Historic Area Statements for the City of Burnside.

During the drafting of the Historic Area Statements, a lot of local context was edited out including, but not limited to, fence styles with reference to the original established era of the dwelling and landscape setting. Details around the historic pattern of division was also edited out. The City of Burnside welcome the opportunity to amend the existing Historic Area Statements with the aim of returning some of this local detail and images.

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

Burnside calls for practice guidelines on the application of both the Historic Area Overlay and the Character Area Overlay and the return of formal acknowledgement of Representative Buildings in the Planning and Design Code.

The City of Burnside welcomes the recent announcement by the State Planning Commission to raise the status of Character Area Overlays. However, we think that the announcement did not go far enough to address the immediate need for practice guidelines for the introduction of the Historic Area Overlay and the Character Area Overlay more broadly.

During the transition to the Planning and Design Code, several Councils, including Burnside, were denied the opportunity to transition their existing character areas into either the Historic Area Overlay or Character Area Overlay. The City of Burnside was encouraged to progress a future Code Amendment to address the transition shortfalls, however there weren't any guidelines prepared to guide Councils in this regard.

The Burnside City Master Plan anticipates a future Code Amendment that seeks the introduction of both the Character Area Overlay and Historic Area Overlay across existing character areas. We call on the Expert Panel and the Commission to support the preparation of practice guidelines for the wider introducton of both the Character Area Overlay and Historic Area Overlay.

Echoing previous submissions made, the City of Burnside also calls for greater weight to be afforded to Representative Buildings, which anchor the traditional building character reflected in many areas. Merely acknowledging them in mapping layers in the Planning and Design Code does not go far enough. A return to individual listings would provide better certainty for prospective home owners and would streamline the assessment process for unlisted buildings.

Currently, the demolition of any building in a Historic Area Overlay, regardless of whether it is a Representative Building or not, requires Planning Consent and is subject to public notification. An unintended consequence of this means that a 1980's brick veneer dwelling, which does not exhibit the traditional building character outlined in any Historic Area Statement, requires a full planning assessment and public notification before it can be demolished. We contest that the availability of "Minor" under Table 5 Procedural Matters should not be used to resolve poor consultation policy, nor should the recent amendments proposed through the Miscellaneous Technical Enhancement Code Amendment.

Instead, we recommend the following changes to the Planning and Design Code.

Coupled with the reintroduction of the listings, we recommend that the following amendments are made to the Established Neighbourhood Zone - Table 5 - Procedural Matters – Notification:

Class of Development – Column A	Exceptions – Column B
1. Demolition	Except any of the following: 1. The demolition of a State or Local Heritage Place 2. The demolition of a Representative Building as identified within the lists contained in Part X.

The above amendments should be additionally supported by greater weighting given to Representative Buildings in Performance Outcome 7.1 of the Historic Area Overlay.

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

A combined assessment pathway for the demolition and replacement building in the Historic Area Overlay is not supported, nor would be popular.

As the City of Burnside do not have any areas covered by the Character Area Overlay, the below comments are only made with reference to the Historic Area Overlay.

If the introduction of the assessment pathway was accompanied by criteria that assigned greater weight to the proposed demolition, on the strength of the replacement dwelling, this would not be supported. Demolition of a Representative Building should be assessed on the strength of the merits of the proposal, considering the integrity of the façade and/or structural integrity/safety alone.

Should the Expert Panel be of a mind to consider this assessment pathway and consider giving weight to a demolition application based on the merits of the replacement dwelling, we are of the view that this would encourage pastiche development and would erode traditional building character.

For the reasons explored in the below section, a combined pathway for demolition and the replacement building is unlikely to be an attractive prospect for applicants and is not supported by the City of Burnside.

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

A combined assessment pathway for demolition and the replacement building would not be popular due to the high risk and costs associated with the application as well as the ongoing availability of the "all other performance assessed development" pathway.

There are insufficient regulatory tools available under the *Planning, Development and Infrastructure Act 2016* to tie the demolition of a building to the construction of an endorsed replacement dwelling. Land Management Agreements (s192) cannot be utilised as a tool to mandate the construction of an approved building. Approval plans are always subject to variation by new owners, conditions cannot fetter the decision of a future application, and conditions are often subject to variation or challenge through the courts.

The resource imposition on an applicant to prepare and submit full architetural drawings, on the hope of receiving demolition approval, is also too high for this to be a popular assessment pathway. For as long as "all other performance assessed development" remains the default assessment pathway available in the Code, speculative developers will continue to submit a lone demolition application as a way of managing the costs and risks involved with a combined application.

Tree Policy and Environment

We call for greater oversight over tree removals at the demolition stage, greater tree protection laws, increased setbacks and a reduction in allowable site coverage.

The *Planning, Development and Infrastructure Act 2016 (the Act)* and the Planning and Design Code do not currently present a balanced approach with respect to tree protection. This point is illustrated by several different facets of the existing system.

Firstly, the sheer complexity of the existing regulations and processes has perpetuated the myth that it is too difficult to maintain or retain mature trees. This insight has carried through to the assessment provisions within the Regulated and Significant Tree Overlay, which seems to be lacking detailed policy around the retention of trees. This has further filtered through to the Urban Tree Canopy Overlay, a key feature of the Planning and Design Code, which places a higher value on planting immature trees over the retention of existing mature trees. There are continual advancements being made in tree sensitive construction techniques and methodologies and the City of Burnside welcome a wholescale review of the

existing policy framework with a view to provide a simple and easy to understand policy structure that facilitates careful and smart infill development, with a view to maximise the retention of existing mature trees and the benefits that they provide.

Secondly, the removal of the need for a demolition application (outside of the Local or State Heritage Place Overlay or the Historic Area Overlay) from Schedule 4 of the Regulations has further tipped the pendulum. Now that a demolition application is no longer required for a standard dwelling, trees are being removed at the same time that a dwelling is being demolished. Councils have lost oversight over the trees that existed on the property prior to demolition, which allows the applicant to submit an application for a new development on a vacant site without any further scrutiny. Unless a complaint is made at the time that the trees are being cut down, Council generally has no knowledge of the work being undertaken and therefore cannot investigate the nature of any tree removals. With a view to regain this oversight, we advocate for the reintroduction of demolition assessments outside of the Local Heritage Place Overlay, State Heritage Place Overlay and Historic Area Overlay.

Thirdly, the 10m rule, which allows all trees (excluding Willow Myrtles or Eucalypts) within 10m of a dwelling or swimming pool to be removed 'as of right' is responsible for the clearing vast amounts of canopy across Burnside. Away from the Hills Face suburbs, it is rare for any trees on a suburban block to be located more than 10m from a dwelling or a swimming pool and therefore be afforded protection under this regulation. This policy framework does not value the amenity, microclimatic or biodiversity benefits that trees provide to the suburban setting and will fail to deliver on the climate mitigation and adaptation challenges that will face us over the coming years. Out of all of the policy changes being explored by the Expert Panel, this is the most urgent.

By virtue of Schedule 13(1)(w) of the Regulations, the Department of Infrastructure and Transport and Department of Education are exempt from requiring planning approval or public consultation for any Tree Damaging Activity in relation to a Regulated Tree located on the site of public school or State Controlled Road. Whilst we acknowledge that some infrastructure projects or school expansions would require the removal of trees, the lack of transparency in the process does create a certain amount of cynicism amongst the general public and does not give confidence that the lost canopy coverage is being offset. We therefore request that the Expert Panel consider removing this clause, ensuring that Tree Damaging Activity can be assessed with Crown Development applications. These departments should lead by example with consideration of best practice design and consultation on removal of any established trees on any land used for roads and schools.

Whilst not canvassed in the discussion papers, we would also like to take the opportunity to seek stronger controls around several aspects of Regulated and Significant Tree pruning. A lack of definition in relation to the timeframes in which pruning can be undertaken has created an opportunity for a company can remove 30% of the trees crown and return a week later to undertake the same practice. The term "maintenance" is also mentioned within the Act but is not mentioned in the regulations, which often leads to unnecessary pruning. Clause 6 (b) (iii) also mentions "an area frequently used by people" – greater certainty around what is meant by "frequently" needs to be provided to contractors.

It is important to acknowledge the role that increased site coverage and reduced side and rear setbacks are playing in canopy loss. Dwelling footprints are growing and are increasingly leaving less private open space available for entertaining, storage, landscaping, tree retention or even to kick a ball around. With a view to accommodate the retention of more trees, we call on the Expert Panel to consider a reduction in the allowable site coverage and increased

side and rear boundary setbacks, particularly on residential allotments. As a minimum, rear setbacks in the Neighbourhood type zones should be increased to 10m, which is our community's desire. This issue is amplified by a lack of policy acknowledgement of the contribution that trees make to the overall character of a zone, which has filtered down into site coverage policies.

Innovative policies that incentivise the retention of established canopy on private land may prove useful in the coming years. There may be an opportunity for the State Government to offer financial assistance to support private landowners with maintenance responsibilities of established trees. The City of Burnside currently offer a Tree Assistance Fund, which reimburses landowners up to 75% of the value of work, capped at a maximum of $2000, required for the maintenance of Regulated and Significant Trees on private land. A similar fund could be adapted and offered more broadly across the State. Alternatively, there may be an opportunity for other development incentives to be offered to encourage the retention of mature trees within infill developments more broadly.

Since the full implementation of the Planning, Development and Infrastructure Act 2016 more than 18 months ago, there is still an absence of practice guidelines demonstrating how Councils can carry out a Code Amendment seeking to initiate or amend a declared list of Significant Trees under Section 68 of the Act. The City of Burnside request that a practice guideline of this nature is prepared. There is an opportunity for the State Government to also offer grants to support Councils to do this work and to conduct a State-wide education campaign demonstrating the benefits of retaining mature trees.

The overall complexity of the existing tree policy framework is leading to widespread misunderstanding amongst contractors and the broader public. In deciding the most appropriate future policy approach, we ask that every effort is made to simplify the statutory controls and ensure that they are easy to understand by the general public.

Following on from the previous point, the City of Burnside are looking to present a revised policy to Council that ensures that any arborist employed within the Council holds a minimum level of training of a Certificate IV or higher, commensurate with the level of skills required of a consulting arborist. To ensure a consistency of approach, we would encourage all Councils to adopt a similar approach and ask the Expert Panel to consider whether a State Government level of registration for all arborists would be worthwhile.

Finally, it is important to point out that the Planning and Design Code lacks overall consideration of broader ecological and biodiversity performance within the urban areas, which is a key feature of many other Planning instruments interstate. Throughout the Planning and Design Code, there is an overall assumption that biodiversity only manifests in the urban environment through tree species and this needs to be revisited.

5. *What are the implications of reducing the minimum circumference for Regulated and Significant Tree protections?*

Reducing the circumference will increase the number of trees afforded protection, which will allow more trees to reach maturity. However, this will not limit canopy loss if implemented in isolation of other policy changes.

We acknowledge that tree circumference is not a measure that captures the true ecological or environmental value of a tree, however it is easy to measure and provides the industry with a level of certainty that many other measurements do not offer. In response to the question, reducing the circumference dimension outlined in Regulation 3F will result in more trees being afforded protection and with this, an opportunity to reach maturity. As witnessed first hand by Burnside's arboricultural team, the *Eucalyptus camaldulensis,* is currently being removed at an alarming rate before reaching the required 2m dimension. This puts the species at jeopardy for future generations and is denying the population the benefits of these trees over their long life span.

Forseeably, reducing the circumference dimension will also capture more trees that naturally have a narrower base and a wider variety of tree species, which will contribute to increased biodiversity in built up areas. A reduction in the circumference threshold outlined in Regulation 3F would be a positive change to the existing policy framework that should increase the number of trees protected and captured for assessment.

However, a reduction in the circumference dimension will result in a greater number of applications assessed for Tree Damaging Activity that will challenge Council planning and arboricultural staff, thereby placing increased pressure on existing Council resources.

In years gone by, the definition of Significant Trees captured all trees with a circumference greater than 1.5m, with the exception of some exempt species. Without understanding the justification for a departure away from this policy, it is difficult to assess the full implications of a policy change of this nature. What can be said is that a reduction in the tree circumference dimension, in isolation, will not serve to slow the rate of canopy loss to a significant degree and will need to be packaged with other measures.

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

Height-based tree protections are unlikely to offer a reliable tree protection tool.

The city of Burnside would support any carefully researched measure to improve protections for regulated and significant trees.

However, introducing a height protection threshold will necessitate the preparation of a professional arborist report to identify the protection status of every single tree, which poses a high input cost on property owners. Based on the professional advice of Burnside arborists, this particular mechanism is open to interpretation and is difficult to monitor and quantify for both owners and arborists.

Height alone is also not a great indicator of the importance of a particular tree, as some species are slender by nature, with minimal canopy or aesthetic value, despite their height.

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

Crown spread tree protections are unlikely to offer a reliable tree protection tool.

Similar to height, crown spread is not a great indicator of the importance of the tree. This measurement is even harder to accurately evaluate than height, and does not provide certainty to the average property owner as to the protection status of a tree. Again, there would be a high resource input cost to identify the protection status of the tree and may,

inadvertently, give rise to unreasonable pruning activity in order to avoid reaching the protection thresholds.

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

A review of the species-based tree protection laws is necessary to acknowledge and promote greater biodiversity.

There are currenlty 22 species of trees that are exempt from the definition of Regulated or Significant Trees under Regulation 3F. A species-based tree protection list would provide greater protection for our most important trees species, but overlooks the collective benefits of all trees.

This review offers the State Government a unique opportunity to develop community awareness of the benefits of all mature trees, not just native species. The species-specific exemption list currently contained within Regulation 3F, is no longer relevant or fit for purpose as it does not acknowledge the aesthetic or environmental benefits that some of these species offer. For example, there are several very large Council owned *Schinus areira* (Peppercorn Tree), *Platanus x acerifolia* (London Plane) and *Celtis australis* (European Nettle Tree) throughout the City which provide an impressive aesthetic contribution to the area. There is also an assumption that all *Ficus macrophylla* within 15m of a dwelling will cause damage to the dwelling. Whilst they do have an extensive root system, the species provides significant benefits to the community, and is of high importance. Without the added protection of the regulations, these trees can be hard to protect throughout the development of nearby properties which is a frequent occurrence in the Burnside area. We seek that the specified list of 22 trees contained in Regulation 3F is removed and is linked back to the PIRSA declared plants lists as per the Landscape South Australia Act 2019 'List of Declared Plants'.

Any alterations of the species based tree protections, or amendments to the exemption list, would require significant input from Local Government Arborists to ensure the appropriate species are receiving protection.

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

Whilst a welcome change, reducing the 10m separation distance in the Regulations would vastly increase the number of trees that would need to be assessed for removal, which would place greater impact on Council resources.

The City of Burnside prefaces this response by acknowledging that little is known about the history behind the introduction of the 10m rule. It is difficult to fully understand the implications of reducing the separation distance without a full understanding of the original motivations (i.e. risk to life or property) for its introduction.

Anecdotally, it is understood that some insurance policies may not cover damage to a house due to tree roots and that civil disputes concerning trees is an ever challenging area of case law. Before the Expert Panel make any formal recommendations, wider consultation needs to be undertaken with the Civil Litigation and the Building Insurance Industry, as not enough is known about the broader implications of a policy change of this kind.

Should these matters be capable of mitigation, the City of Burnside holds the view that the Expert Panel should seriously consider either the removal of the 10m rule or a reduction to some nominal distance that has been informed by expert opinion.

The removal or reduction of the 10m rule will not prevent an application for Tree Damaging Activity being submitted and approved should there be sufficient justification for the removal against the assessment provisions in the Planning and Design Code. It also would not prevent Urgent work from being carried out in relation to a tree that is required to protect any person or building as is permitted under section 136 of the PDI Act 2016.

We welcome the recently announced Parliamentary Inquiry into the Urban Forest and their careful consideration of these matters.

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

The City of Burnside acknowledge that urban infill is necessary, however the policy framework contained within the Planning and Design Code does not do enough to promote retention of existing mature trees and instead seems to favour the retention of small shrubs or immature trees. Instead of reviewing the circumstances of when a protected tree can be removed, a wholescale review of the policy framework should focus on how advancements in tree senstive construction measures can facilitate greater retention of mature trees, balanced with infill development.

All Regulated and Significant Trees exhibit differing structural conditions and will achieve a Useful Life Expectancy (ULE) that is dependent on a wide variety of factors. The existing tree damaging activity tests outlined in Performance Outcome 1.3 of the Regulated and Significant Tree Overlay reasonably and appropriately deals with the nuanced conditions of these trees within an urban setting. Subject to the findings of the Parliamentary Inquiry into the Urban Forest, there may be scope to clarify some of the existing tests to prevent misinterpretation and to broaden the assessment criteria to look at how existing trees can be better integrated into proposed developments.

Urban Tree Canopy Off-set Scheme

Burnside call for a review of the Urban Tree Canopy Overlay and the Urban Tree Canopy Offset Scheme, with a view to ensure that more canopy cover is being appropriately delivered in metropolitan suburbs.

The Urban Tree Canopy Offset Scheme allows developers to pay a specified fee into a fund for every tree not able to be accommodated on a development site. Currently, the scheme applies over the following zones:

- Housing Diversity Neighbourhood Zone;
- Urban Renewal Neighbhourhood Zone;
- City Living Zone; and
- Any site with a Designated Soil Type as described in the Scheme.

We would like to take this opportunity to reiterate our lack of support for the Urban Tree Canopy Off-set Scheme, which we voiced in our submission to the Draft Phase Three

Planning and Design Code dated the 17 December 2020. Over the last 18 months, it is clear that the scheme has been treated as a 'panacea' for difficult sites.

Whilst we acknowledge that not all sites can accommodate tree plantings, we do feel that some of the zones listed in the Offset Scheme are not worthy of inclusion in the scheme and there should be a greater focus on retaining existing established trees, or planting new trees where existing trees cannot be realistically retained. Looking at a Glenside case study in the Housing Diversity Neighbourhood Zone, there is a sizeable site area that is capable of integrating some existing mature trees on the property into a future development proposal.

If the Commission wish to increase the take up of walking and cycling as an alternative mode of transport, then there needs to be a greater provision of shade, not just in a residential setting, but more broadly. Cumulatively, most non-residential zones incorporate the greatest proportion of hardstand and, when looking at the LiDAR mapping, they are generally in the greatest need of canopy cover. They also represent a huge extent of inner metropolitan Adelaide where there is an increased focus on walking, as an alternative mode of transport. On the strength of this point, we invite the Expert Panel to consider whether there is scope to broaden the application of the Urban Tree Canopy Overlay across a wider selection of zones, or consider a new overlay that seeks to link increased canopy cover with high heat areas identified by the LiDAR mapping more broadly. This could be supported by a detailed guideline that educates developers on how to accommodate different species of trees.

As we face a warming planet, resolving the nexus between these two policy fronts (mitigation and adaptation) will be the greatest challenge of the next decade. This Council is of the view that the above changes would strike the right balance between these two policy fronts.

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

Noting our previous comments, an increase in the fee for the off-set scheme may incentivise the retention of more trees on a development site.

The immediate implications of increasing the fee for payment into the Off-set Scheme is that it may incentivise developers to either retain as many existing established trees as possible or, at the very least, integrate the required plantings into the overall development layout.

In reality, there is likely to be significant push back from developers if the off-set rate is increased to reflect the actual costs born by Councils to plant one or more trees per dwelling, particularly within the context of a Residential Flat Building. In this regard, the Expert Panel may like to turn their minds to the one tree per dwelling rate set out in DTS 1.1 (Urban Tree Canopy Overlay) and consider whether this is appropriate within the context of a two or three storey Residential Flat Building, which is an expected form of development within the Housing Diversity Neighbourhood Zone and the Urban Renewal Neighbourhood Zone.

Retaining an established tree on a site will deliver far more immediate benefits to a new development than planting juevenile replacement trees. It provides shade, wildlife habitat, softens the visual impact of the development and improves the overall amenity of the suburb, which has measurable capital value benefits for the area. In order to capture this value, the Urban Tree Canopy Overlay should place a higher focus on retaining these trees in the first instance and only applying additional plantings to achieve a net-gain, where it can be achieved, or where canopy cover does not already exist. Before this work can be undertaken, the carrying capacity of differenty types of infill sites needs to be carefully

considered. The provisions within the Urban Tree Canopy Overlay need to be flexible enough to achieve the best outcome for the site and locality.

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

Noting the previous comments, the replacement fee should reflect the true costs to Council to plant a tree inclusive of three years of maintenance.

An increase in the fee that captures the full input costs of a replacement tree is practical. In order to ensure that a full tree can be planted, the rate needs to be reflective of the real cost of purchasing the tree, the labor costs involved with planting the tree, any drainage works installed and three years of maintenance required to establish the tree.

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

The off-set fee for a Regulated or Significant Tree should capture the landscape value of the tree being removed with a view to discourage its removal.

When a Regulated or Significant Tree is approved for removal there is a requirement to either plant two (2) trees per Regulated Tree removed or three (3) off-set trees per Significant Tree removed on the site, at a location more than 10m from a dwelling or swimming pool. If the off-set plantings cannot be accommodated on the site, a payment into the Urban Tree Fund is required at a rate of:

- two (2) off-set trees not planted on the site x $156 ($312) per Regulated Tree to be removed; or
- three (3) off-set trees not planted on the site x $156 ($468) per Significant Tree to be removed.

Neither rate captures the true value of the lost tree with regards to the cooling effect, the landscape contribution that the tree made to the amenity of the area or the habitat value that the tree made.

In line with Council's current practices for the replacement of public trees, we advocate for the replacement of the current Urban Tree Fund offset rate with the Amenity Tree Valuation Formula set out below:

Value ($$) = Basic Value of a standard tree purchased ($) x Species (S) x Aesthetics (A) x Locality (L) x Condition (C)

As this fee is used to calculate the value of a large mature tree, it can be very expensive (sometimes in excess of $10, 000) and in our experience is often contested by the average owner. This pricing mechanism currently represents best practice and would act as a natural deterrent to removing the tree, enticing home owners and developers to explore alternative arrangements before pursuing tree removal for a new house, extension or driveway.

It is important for the Expert Panel to consider the additional cost that will be born by the owner/developer with respect to the physical removal of the tree. Depending on the size, location and risk involved with bringing down the approved tree, the cost can vary substantially. It is not uncommon for a mature Eucalypt to cost in the vicinity of $15, 000 -

$20, 000 to have a contractor physically remove a tree from site. To bear this cost, on top of the cost of the off-set charge, could be cost-prohibitive for certain households across South Australia.

If Tree Damaging Activity to remove a Regulated or Significant Tree is required to minimise future risk to life and property, such a rate, combined with the cost to physically remove the tree, could be the difference between enacting the approval and not. The risk of such a policy decision would need to be carefully considered by the Expert Panel.

Public Realm Tree Planting

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

Access to the Planning and Development Fund should give weight to the provision of increased tree canopy.

The Planning and Development Fund (the Fund) operates under the *Planning, Development, and Infrastructure Act 2016* (the Act) and provides the means for open space and public realm investment across South Australia.

Money paid into the Fund is derived from monetary payments in lieu of open space requirements for development involving the division of land into 20 or fewer allotments and for strata and community titles. The Fund is expended in line with provisions within the Act and is administered by the Office for Design and Architecture SA within the Attorney-General's Department.

The addition of criteria within the Planning and Development Fund that would give greater weighting to the provision of increased tree canopy is supported in line with the Strategic Priorities of the City of Burnside Environmental Sustainability Strategy. In-principle support for a policy of this nature is given on the basis that further consultation on the final shape and form of the policy is undertaken before enacting.

Infill Policy

Design Guidelines

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

The scope of the design guidelines for infill development should be broadened to include a wider range of developments and planning considerations.

Raising the bar on Residential Infill: Policies in the Planning and Design Code is an effective guideline that assists in interpreting a limited scope of provisions in the Planning and Design Code relating to landscaping, stormwater, car parking and street appeal. We are of the view that the scope of this guideline could be broadened to assist with interpreting other design concepts such as materials composition, casual surveillance, visual privacy, bulk, scale and garage dominance. All of the examples illustrated in the guideline are aimed at single-storey dwellings, which is out of touch with the dominant scale of new dwellings, particularly those being received in Burnside. These should be revisited with a view to address two storey buildings and also a broader range of dwelling types including Semi-Detached Dwellings, Row Dwellings, Group Dwellings and Residential Flat Buildings.

With respect to the standard of design, reference is made to DTS 20.2 Design in Urban Areas – General Module of the Planning and Design Code, which seeks that:

Each dwelling includes at least 3 of the following design features within the building elevation facing a primary street, and at least 2 of the following design features within the building elevation facing any other public road (other than a laneway) or a common driveway:

- *a minimum of 30% of the building wall is set back an additional 300mm from the building line*
- *a porch or portico projects at least 1m from the building wall*
- *a balcony projects from the building wall a verandah projects at least 1m from the building wall*
- *eaves of a minimum 400mm width extend along the width of the front elevation*
- *a minimum 30% of the width of the upper level projects forward from the lower level primary building line by at least 300mm*
- *a minimum of two different materials or finishes are incorporated on the walls of the front building elevation, with a maximum of 80% of the building elevation in a single material or finish.*

Regardless of location, the provision of a variety of building materials is vital for all developments, however, due to cost, this option from DTS 20.2 tends to be the least popular with developers. The provision of a mixture of building materials is essential for many reasons: it is a way of delineating one building level from another; it is a method of softening the overall bulk and scale of a development and it is a way of achieving streetscape cohesion. In order to ensure that there is a greater focus on material composition, we advocate that DTS 20.2 be split into two separate mandatory provisions (DTS pathway): one that deals with articulation and one that deals with material composition and blank elevations.

On a separate note, we are of the view that the Planning and Design Code has missed the opportunity to integrate universal housing design criteria into contemporary housing policy or to consider a broader disability housing policy framework. Looking interstate, like in Brisbane for example, they have integrated adaptable housing criteria into their standard housing assessment criteria. In some instances, setback and site coverage dispensation may be afforded for dwellings that seek to incorporate this criteria into a new dwelling.

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

Co-located housing is supported as an alternative form of infill development, which seeks to retain existing character buildings and accommodate people across a variety of life stages.

The Burnside City Master Plan (Urban Form and Transport) outlines a very clear mandate to increase housing choice across the Council area. As a participant of the Future Living Code Amendment, Burnside sees the value of co-located housing as a way of allowing residents to age in place whilst avoiding loneliness, and as a way of addresssing housing affordability more broadly. As this Code Amendment is in its infancy, there are a number of technical matters that need to be resolved but the City of Burnside are excited to see this housing model widely taken up, as it provides a way of retaining the existing character

within inner City suburbs and achieving a wider variety of housing stock, suited to a variety of life stages. It may also allow lone person householders to access flexible development outcomes with increased social benefits.

Strategic Planning

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

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

Strategic alignment between regional plans and the Code needs to managed in cooperation with Councils, guided by the growth management frameworks contained in the Burnside City Master Plan.

As part of the update of the 30 Year Plan for Greater Adelaide, an overall regional growth management framework should be developed in line with population projections and the visions set out within Council Master Plans. These documents are already aligned to the 30 Year Plan for Greater Adelaide and have been endorsed through community consultation. This growth management framework can then be used to set dwelling supply benchmarks for each Council.

For those Councils without an endorsed growth management plan, they should be given time to prepare one that is aligned with the 30 Year Plan for Greater Adelaide, which will be revised in 2023.

Working in a collaborative manner, Councils should be supported by the State Government to undertake individual Code Amendments to convert the growth management frameworks set out in their Master Plans into the Planning and Design Code. It should not be up to the State Government to enforce their own top-down changes to the Planning and Design Code, which contradict the wishes of local communities.

Similar to other States, an annual land supply and development monitoring program will track the quantity and diversity of offerings, which is important to provide an evidence base for future growth management strategies and policy amendments. The results of an annual land supply and development monitoring program can be used to hold Local Government to account in meeting their density targets.

The Code Amendment process, as it is set out in the Act, Regulations and Engagement *Character*, does not easily facilitate complex Code Amendments initiated by a Council that may spread across a variety of precincts. Instead, it easily facilitates developer-led Code Amendments that occur in an ad-hoc ‘site-based’ manner. This is antithetical to objectives of the Planning, Development and Infrastructure Act 2016 (PDI Act) and State Planning Policy 1 – Integrated Planning, which seeks coordinated infrastructure delivery. The City of Burnside recommend that the Expert Panel reconsider the developer led Code Amendments set out in section 73 of the PDI Act 2016 and turn their mind to how the Code Amendment process could be improved to facilitate more complex Code Amendments initiiated by a Council.

Car Parking Policy

In the 2021 Census, 56% of households in the City of Burnside had access to two or more vehicles. It is worth highlighting that there was a noticeable increase in households with three or more vehicles, which increased by 17.4% on 2016 levels. Presumably, the increase in three car households is due to adult children staying at home longer. As housing becomes increasingly unaffordable for younger generations, it is reasonable to expect that demand for on-site and on-street parking in inner City suburbs will grow over the coming years.

With an increase in popularity of Electric Vehicles (EVs) there is also unlikely to be a major decline in the car as a mode of transport, which is likely to sustain demand for parking into the future. Before any policy changes are made in this regard, the City of Burnside recommend that modelling is undertaken on the impact of EV's on land use and transport planning.

Code Policy

19. *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.*

A lack of strategic investment by the State Government in public transport services and infrastructure is resulting in growing on-street parking in the suburbs surrounding the City including Dulwich, Rose Park, Eastwood and Beulah Park.

Those suburbs in close proximity to the Adelaide CBD and adjacent high frequency public transport corridors experience the greatest volume of rat-running traffic and overflow parking, which presumably is due to commuters who park and ride/walk to nearby workplaces. In Burnside, the suburbs where these experiences are most common include Dulwich, Rose Park, Eastwood and Beulah Park. Grant Avenue and Swaine Avenue, Rose Park specifically receive the greatest instances of commuter parking. The local roads around bus stops along the southern extent of Glen Osmond Road and Portrush Road, Glenunga also experience all day parking.

An undersupply of public transport coverage and frequency within the outer suburbs, combined with paid parking in the CBD, is driving commuters to seek out affordable car parking options in the inner city suburbs. This problem is not unique to Adelaide and is managed in other Australian capital cities by heavy investment in public transport infrastructure (dedicated bus lanes and Busways), public transport coverage/frequency, and 'park n ride' infrastructure in and around public transport nodes i.e. shopping centres, train stations and the like.

State Planning Policy 1 – Integrated Planning envisages a planning system, which integrates land use, transport and infrastructure. The 30 Year Plan for Greater Adelaide anticipates that growth will occur along major transport routes and around transport nodes, however does this in the absence of any meaningful investment in the public transport network.

The City of Burnside Master Plan (Urban Form and Transport) sets out a very clear vision for growth management over the coming decades that looks to connect areas of increased growth with walking, cycling and public transport as the highest mode of transport. Forseeably, this vision will align with the growth management model adopted through the Regional Plan Review planned in 2023. In order to realise the vision of the Regional Plan

and the City Master Plan, we call for a greater integration between land use planning, transport planning and public transport investment.

Councils have responded to parking congestion with the application of time-limited parking controls within those suburbs closest to the CBD. These are really only half measures as they tend to push the parking out to streets where the controls do not apply. The discussion paper seems to welcome on-street parking as a symptom of growth, however in those areas experiencing more and more congestion there can be very real consequences, particularly around access to waste and emergence service vehicles.

In newer infill areas, double-width garages and double-width driveways dominate, with insufficient separation distance between new crossovers to accommodate on-street parking. This trend is becoming particularly evident in streets like Highfield Avenue, St Georges and Hewitt Avenue, Linden Park. The Code also allows for two crossovers per property, which places even greater pressure on available on-street parking space. The City of Burnside would like to see the Design in Urban Areas provisions limit the default Deemed-to-Satisfy criteria to a single driveway per property, with any additional crossover to be assessed through a performance assessed pathway.

20. *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?*

21. *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?*

Without substantial investment in public transport services and infrastructure, reduced car parking rates near the CBD, corridors and employment centres would only increase congestion and demand for on-street parking.

Looking to interstate experiences like Brisbane, for example, there is a spatial limitation on car parking rates that applies to non-residential developments within a 5km radius of the City. Back in the 2000's, this policy was coupled by a car parking levy that applied to CBD paid car parks, subsidised rail and bus fares and investment in walking, cycling and high quality public transport infrastructure (dedicated bus and cycle lanes, Busways and Train Stations) and park and ride facilities. Densities were increased substantially around the busway and railway stations and the presence of high quality public transport on the door step justified the application of a reduced on-site residential parking rates (one vehicle space per unit). Once fully implemented, the full effect of this policy framework sought to encourage walking, cycling and public transport as an alternative mode of transport and to disincentivise the use of the private motor vehicle for the daily commute into the CBD.

In the absence of a multi-faceted framework like this, car parking rates should not be reduced within close proximity to the CBD, employment centres, or public transport corridors. If implemented in isolation, it would only serve to increase congestion and on-street parking without reducing demand for private motor vehicle use in the first instance.

22. *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?*

A car parking rate assessment should be based on peak demand, rather than contemporary Census and ABS based data, particularly with respect to commercial and large scale residential developments. This represents the worst case demand for a development and is necessary to identify potential issues with access/egress, queuing and congestion, which is important particularly on arterial roads.

23. *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?*

In order to prevent carports and garages forward of the building, provision of at least one covered car park on-site should be retained in the Code.

The short answer to this question is yes. In an instance where a dwelling does not include an integrated garage/carport, and proposes a crossover/driveway in front of the dwelling, it is assumed that a future carport in front of the dwelling is acceptable. Carports and garages in the front of the dwelling are an undesirable policy outcome sought by the Planning and Design Code. To proceed with any changes in this regard would create potential policy conflict.

Contemporary dwellings rarely include single width garages/carports, presumably as single width garages/driveways negatively affect the capital value of the property. Notwithstanding this point, it is important to retain the requirement for a single covered car park for the purpose of ensuring that renovations and land divisions involving existing dwellings do not inadvertently endorse unwanted built form outcomes.

Design Guidelines

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

In addition to introducing an off-street car parking design guideline or fact sheet, the City of Burnside call for DTS 23.1 and 23.2 (Design in Urban Areas) to be strengthened to make garages fit for modern living.

There is a common view in the industry that the internal garage dimensions and garage door standards outlined in the Australian Standards 2890.1 2004 Parking Facilities, which is the basis of the provisions in the Planning and Design Code, are insufficient for modern living. There are several reasons for this. Firstly, the dimensions outlined in DTS 23.1 have been designed for a smaller (B85) standard vehicle rather than a larger (B99) standard vehicle, which represents the highest selling and most popular contemporary vehicle type in Australia. As a direct result, the resulting garages are not fit for purpose and residents are often forced to park in their driveways or on the street. Secondly, there is a lack of meaningful internal storage, which is resulting in people using their garages for storage, forcing private vehicles onto the roadway or driveway. Thirdly, the minimum single door dimensions set out in DTS 23.2 (Design in Urban Areas) requires a person to flip back their side mirror when entering and exiting, creating an inconvenient outcome for the owner and ultimately forcing large vehicles in particular to park in the driveway or on the street. We therefore advocate for the amendment of DTS 23.1 and 23.2 (Design in Urban Areas) to set a higher bar for on-site parking. The standards set out in AS 2890.1 should not be the starting threshold for an assessment, but the absolute minimum standard worked through a performance assessed solution.

A design guideline would be of assistance with respect to the technical design aspects of driveways and garages i.e gradients, angle of entry and the like. However, combined with the above amendments there may be more benefit in setting out different design options that demonstrate how storage can be included in a single and double width design. There is a misconception that the minimum dimensions set out in the Planning and Design Code will offer sufficient space for domestic storage and perhaps the guidelines can demonstrate this.

Electric Vehicles

25. *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?*

26. *If EV charging stations became a form a development, there are currently no dedicated policies within the Code that seek to guide the design of residential or commercial car parking arrangements in relation to EV charging infrastructure. Should dedicated policies be developed to guide the design of EV charging infrastructure?*

Whilst the City of Burnside would like to see the widespread takeup of EVs, charging stations will require some level of planning policy with a particular focus on heritage, crime prevention and safety.

With an increase in popularity of Electric Vehicles (EVs) there is unlikely to be a major decline in the car as a mode of transport over the coming decades. This has major implications for both parking and civil policy in metropolitan and regional areas into the future. Before any policy decisions are made in this regard, the City of Burnside recommend that comprehensive research and modelling is undertaken.

In the meantime, there are planning matters that need to be considered in deciding the appropriateness of an EV charging station. Firstly, the impact of the location of an EV charging station on a Local or State Heritage Place is worth consideration to make sure that it does not negatively impact upon the curtliage of the Place. Secondly, if an EV charging station is proposed within the chord truncation of an intersection, it may inhibit sight distance of approaching vehicles. Thirdly, if in a public location, bays should be able to meet the Crime Prevention through Environmental Design (CPTED) principles, and have adequate lighting for the safety and security of EV drivers as well as the vehicles and hardware. The location of the hardware should also consider the risk of vehicle impact and proximity to hazards such as dangerous fuels, which is a matter that is somewhat dealt with under Australian Standards (AS 1940, AS 4897, AS 60079.10). As a final point, it is important to ensure that there is reliable power supply available to the site of a charging station, which will be a major consideration if charging stations proliferate into the regions.

We are of the view that EV Charging stations should be regulated to some extent by Schedule 4 of the *Planning, Development and Infrastructure Act 2016.* However, this does not prevent them from being afforded an Accepted or Deemed-to-Satisfy Pathway depending on different policy settings. By extension, there would be a need to be some limited policy developed that, as a minimum, deals with the locaton of the infrastructure.

Car Parking Off-Set Schemes

27. *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)?*
28. *What types of projects and/or initiatives would you support the car parking funds being used for, if not only for the establishment of centrally located car parking?*

Even though the City of Burnside does not have an existing car parking fund, expanding the remit of the car parking fund to allow for strategic investment in active transport initiatives has considerable merit.

A car parking fund assigns a monetary value on a single car park not delivered by a proposed development (in Activity Centres) in accordance with the car parking rates outlined in the Planning and Design Code. Any payments received in association with the fund can be used by the Council to construct new car parking facilities, to maintain or improve existing facilities or to maintain or improve transport facilities thereby reducing the demand for car parking facilities. Due to the high land value of Burnside, it has never made financial sense to establish a car parking fund and this is why Burnside does not currently have one.

The rate that is assigned for a neighbouring Council's car parking fund it $15, 000 per car park not provided in relation to a proposed development. If the fund was expanded to include other zones outside of the traditional Activity Centres this would need to be carefully considered. For instance, it would seem unreasonable to apply this rate for Neighbourhood-type Zone but could provide some useful support for Urban Corridor Zones and Urban Renewal Zones or located in and around train stations, where park and ride facilities might offer the best strategic investment.

Widening the remit of the car parking fund to align with a strategic investment in both public transport and active transport initiatives has considerable merit. The funds could be used to contribute towards 'on-demand' Council public transport services or for the implementation of active transport initiatives including the installation of sharrows, footpaths, shared paths or cycling infrastructure more broadly.

Commission Prepared Design Standards

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

Without more detail on the scope of the Commission prepared local road Design Standards, the City of Burnside is reticent to offer support. A Council should have the right to determine the standard of infrastructure that it will accept or any acceptable deviations away from this.

As was voiced in our submission to the Planning and Design Code back in February 2020, Burnside Council maintains a lack of support for the Commission Prepared Design Standards and the removal of section 221 permits, particularly as they relate to new crossovers.

Our concerns with this approach are:

- That relevant authorities (including accredited planning certifiers) will effectively assume control for approving work in the public realm, including the removal of street trees.
- There is little confidence that the disability access standards AS1428.1 will be upheld.

- Streetscape improvements, like bespoke plantings or WSUD measures, are unlikely to be valued.
- A consistent approach to footpath and kerb materials (i.e. bluestone) standards will be lost.
- There will be little regard for the Tree Protection Zone of Council owned street trees and where a tree conflicts with a crossover location, the tree will likely be lost.
- A strategic direction in decision-making in managing the urban forest will be lost.
- The aesthetic value of the street-lined streets will be eroded.

The Expert Panel should carefully consider how the design provisions contained in the Planning and Design are affecting the streetscape, the number and condition of street trees and disability access requirements more broadly. There should be more focus on dwellings fitting in with the existing public realm rather than changing it to suit a proposed design.

With respect to local road designs, Austroads already sets out very clear design standards for different types of roads and as such the need for Commission prepared local road Design Standards is not well understood. A Council should have the right to determine the standard of infrastructure that it will accept or any acceptable deviations away from this. Without more detail about the form and content of the design standards, the City of Burnside is reticent to support the concept.

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

Public Notification

Call or a new assessment pathway 'Impact Assessment – Assessable by the Council Assessment Panel' and removal of Deemed Consents.

Before a response is provided to the questions posed in this discussion paper, the City of Burnside would like to use this opportunity to advocate for the creation of a new assessment pathway in the form of 'Impact Assessment by a Council Assessment Panel.' It is envisaged that this assessment pathway would be limited to those developments that are not envisaged in a zone, are inherently more complex, with impacts that extend beyond the boundaries of the site. By their very nature, these uses require a higher level of scrutiny and longer assessment timeframes. It is further envisaged that this level of assessment would be subject to public notification, would afford third party appeal rights (s202(1)(d)) and would not be entitled to a 'Deemed Consent.' This pathway would extend to those uses that are not envisaged in the Zone and default out of Code-Performance Assessed and the Restricted Pathway. Uses that fall within this pathway within a Neighbourhod-type Zone, for example, include Industry (any type), Animal Keeping, Automotive Collision Repair, Motor Repair Station, Warehouse, Petrol Filling Station, Educational Establishment, Pre-School, Shop (less than 1000m²), Office and Consulting Room. Similar to other States (QLD), we call for amendments that ensure that the default level of assessment for developments, not envisaged within a Zone, to be 'Impact Assessment by a Council Assessment Panel' rather than 'Code – Performance Assessed.' We reiterate that this level of assessment necessitates longer assessment timeframes and must not be entitled to a Deemed Consent.

Whilst it is early days with the Planning and Design Code, the danger with not progressing the above changes is that there is an increased risk of a Deemed-Consent for a use that is not envisaged in a zone and that may have an adverse amenity or environmental outcome if not caught and quashed in time. The fundamental purpose of a statutory planning system is to ensure that appropriate safeguards are in place to ensure that no harm comes from a planning decision. In the professional opinion of Burnside's Planning staff and Assessment Panel members, the existing system fails to provide sufficient safeguards and the introduction of 'Impact Assessment by a Council Assessment Panel' as the default assessment pathway (with the removal of Deemed Consents) would go some way to addressing this issue.

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

We support the full restoration of the public notification requirements that were lost during the transition to the Planning and Design Code. In particular, Shops, Offices and Consulting Rooms in the Neighbourhood-type Zone should be subject to public notification, irrespective of size.

We support the full restoration of the public notification requirements that were lost during the transition to the Planning and Design Code. In particular, Shops, Offices and Consulting Rooms within a Neighbourhood-type Zone are elements of development that result in some level of impact beyond the boundaries of the site and currently only require notification if they exceed the nominated height Technical Numerical Variation (TNV), boundary wall length or the nominated floor space. Irrespective of the scale or boundary wall length, these forms of development inherently project traffic, noise and amenity impacts that are experienced within the locality they are set. This point alone warrants the need to remove these classes of development from Column A entirely.

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

We recommend that the Expert Panel consider resolving the interface between the consultation requirements under the Planning, Development and Infrastructure Act 2016 and the Fences Act 1975.

As contained in most Neighbourhood Zones (Established Neighbourhood Zone shown below), Table 5 – Procedural Matters (PM) – Notification outlines the following exception from the Classes of Development set out in Column A:

"…involves a building wall (or structure) that is proposed to be situated on (or abut) an allotment boundary (not being a boundary with a primary street or secondary street or an excluded boundary) and:

1. the length of the proposed wall (or structure) exceeds 8m (other than where the proposed wall abuts an existing wall or structure of greater length on the adjoining allotment)
   or
2. the height of the proposed wall (or post height) exceeds 3.2m measured from the lower of the natural or finished ground level (other than where the proposed wall abuts an existing wall or structure of greater height on the adjoining allotment)."

Whether intentional or not, the above drafting results in any boundary fence and retaining wall structure requiring notification in instances where either the length and/or the height noted above are exceeded. Schedule 4, Regulation 4(1)(f) of the *Planning, Development and Infrastructure (General) Regulation 2017* allows a retaining wall up to 1m before consent is required. Schedule 4, Regulation 4(1)(f) also does not require consent for a fence until it exceeds 2.1m as measured above the lower adjoining ground levels. Due to the topography across the City of Burnside, it is fair to say that most new dwellings will include a combined retaining wall and fence structure that exceeds 3.2m in height and 8m in length and therefore requires public notification.

The Fences Act 1975 sets out an additional consultation process that neighbours are required to engage with before removing or erecting a new boundary fence. Presumably due to a duplication of process, Councils are finding that many residents are failing to meet their Fences Act 1975 obligations, which is resulting in increased complaints and civil disputes.

Practice Direction 6 – Scheme to Avoid Conflicting Regimes does not directly deal with the interface between these two Acts and there is consensus amongst many planning practitioners that fencing should not be subject to consultation under the PDI Act 2016 where it is subject to consultation under the Fences Act 1975.

We recommend that the Expert Panel consider resolving the interface between the consultation requirements under the *Planning, Development and Infrastructure Act 2016* and the *Fences Act 1975.*

32. *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.*

When signage is removed from site during the consultation period, graffitied to the point of being unrecognisable or not erected in the approved location, there can be adverse procedural impacts that can bring on a judicial review. As these have been interstate experiences with similar signage requirements, evidence is unable to be provided.

The signage component of public notification does not attract many submissions for the vast majority of applications, in particular dwellings. With the exception of demolition of a Local or State Heritage Place or a Representative Building, the removal of a Regulated Tree on public land or a development that is not envisaged in the Zone most representations received for a notified development originate from Adjoining Owners.

Having said this, the signage component of public notification does serve to keep the community well informed of developments however does present some procedural issues when signage has been:

- removed from site prior to, or during, the consultation period;
- graffitied to the point of it being unrecognisable; or
- not erected in the approved location, where it can be easily seen i.e. in the approved location, but behind bush.

Similar to other states, there needs to be clear tests in the Act that deal with instances where a person's awareness of an application has been negatively impacted and where there would be a public expectation of re-notification.

33. *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.*

Third Party Appeal Rights must be returned to ensure transparency and community confidence.

Due to the widespread denial of third party appeal rights, there has inherently been an overall reduction in the number of appeals. However, an unfortunate consequence of this approach has been an increase in widespread public mistrust of the Assessment Panel as an independent authority.

In an account cited by a member of the Burnside Council Assessment Panel, the Panel has recently been accused of making "secret deals" with the applicant when considering a compromised proposal through the Court imposed mediation process by representors who were denied Third Party Appeal Rights.

If Third Party Appeal rights were returned for uses that are not envisaged in a zone, this would return some level of public confidence in the integrity of the court imposed mediation process.

34. *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)?*

There is a need for an extension to the decision making and negotiated condition periods as an alternative planning review mechanism.

In our view, insufficient time has passed to properly consider whether the Review of the Assessment Manager's Decision process has any merit.

What can be said is that condensed assessment periods are resulting in increased refusals. Assessing officers and panels no longer have the ability to defer a decision, pending minor amendments. Whilst officers have the option of putting an application on hold under section 119 with the consent of the Applicant, there is a risk that a Deemed Consent Notice can still

be issued and this is forcing the Relevant Authority (both Assessment Manager and Assessment Panel) to issue refusals where an appropriate outcome cannot be achieved in time.

In order to encourage a more conciliatory process, section 125 of the Planning, Development and Infrastructure Act 2016 could be amended to allow for the extension of the decision making period, pending agreement between the Relevant Authority and the Applicant. An explicit clause would need to be added to ensure that the assessment clock stops on the day that the agreement is made and preventing a deemed consent from occurring.

Similar to other states, it may also be worth considering the option of a "negotiated decision" period, following the issuing of a Decision Notification. This would allow the applicant to challenge their conditions within a specified period, to be considered by the Relevant Authority. The Act would need to allow for the appeal clock to stop on the day a Negotiated Decision request is submitted, allowing the applicant to negotiate the form and effect of conditions. Following a decision, the balance of the appeal period would be available allowing unresolved matters to proceed to the ERD Courts. This is a model that was used in Queensland in past planning legislation.

Accredited Professionals

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

It is not appropriate for Building Certifiers to assess applications for planning consent or for planning certifiers to assess applications for building rules consent.

There are a number of Private Building Certifiers who also have Planning qualifications and hold the necesssary Accreditations to reflect this. It is reasonable that a person with dual qualifications and Accreditations is given the opportunity to assess and decide applications involving both Planning and Building Consent. However, it is inappropriate for a Planner, who does not hold the appropriate Building Surveying qualifications, to assess and decide an application for building consent. Vice versa, it is inappropriate for a Private Building Certifier, who does not hold the relevant planning qualification to assess and decide an application for planning consent.

Planning Assessments, even for dwellings, are becoming more complicated. For example, a dwelling that falls into the Deemed-to-Satisfy Pathway requires an assessment of pervious vs impervious area, an assessment of the planting of trees and securing sufficient deep-soil planting area around the tree. Presumably, building certifiers have not been trained in dealing with these matters and therefore should not be afforded the opportunity to assess minor shortfalls with respect to these matters, which are essentially a merits based planning assessment.

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

We require the removal of "minor variations" under s106(2) of the PDI Act 2016.

It is unclear what sort of model is being proposed by this line of questioning. Is the Expert Panel interested in knowing the answer within the context of the assessment of applications that fall into a Deemed-to-Satisfy pathway? Or, are the Expert Panel keen to see what people's views are about planning certifiers being the Relevant Authority for a broader range of assessment pathways?

Assuming that the question relates to the former, the implications of only allowing planning certifiers to issue planning consent is that the scope of applications able to be assessed by Building Certifiers will be reduced.

This Council has a fundamental issue with the ability of Accredited Professionals (planning or building), external to Council, to issue Minor Variations under section 106(2) of the *Planning, Development and Infrastructure Act 2016*. The ability of a private Accredited Professional to issue a minor variation puts the Accredited Professional in some level of conflict with Regulation 30(1)(c) of the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*. The Accredited Professional is contracted by the developer and stands to receive payment should they be able to argue a development represents a minor shortfall from the Deemed-to Satisfy criteria. The allowance of "minor variations" is constantly abused and is resulting in continued breaches of the Act by external Accredited Professionals. Due to limited auditing and enforced penalties, private Accredited Professionals are empowered to continue to exercise their discretion beyond what can be reasonably classed as a 'minor variation,' where they are not bound to make decisions in the public interest.

Section 106(2) of the *Planning, Development and Infrastructure Act 2016*, allowing 'Minor Variations', should be removed, forcing proposals at odds with the 'Deemed-to-Satisfy' provisions to default to a 'Performance Assessed Pathway.'

We are of the view that a practice guideline as described in section 43(2)(b) of the PDI Act 2016, which has still yet to be implemented 18 months into the new planning system, will not serve to restore integrity in this regard. A documented definition of "minor" will only serve to extend the goal line of non-compliance sought by private certifiers.

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

The City of Burnside will leave it to organisations such as the Australian Institute of Building Surveyors (AIBS) to respond to the audit results cited in the discussion papers and to speak to this question.

Impact Assessed Development

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

This is supported.

Infrastructure Schemes

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

Infrastructure Schemes are expensive and overly complex to establish and hence we call for a simplified approach.

Infrastructure Schemes are notoriously difficult and resource intensive to establish. They require a high level of infrastructure network and capacity modelling. Further resources are required to put a value on land, pipe network, embellishments, footpaths and other infrastructure. Should a scheme actually get off the ground and a developer decide that they

want to offset the infrastructure contributions in lieu of constructing the work themselves, there are considerable administrative processes (issuing offset notices) required to make this happen. Infrastructure Deeds currently provide the most cost effective tool in order to facilitate the delivery of infrastructure to support a particular development and to deal with bonding and the maintenance periods. However, infrastructure deeds do not deal with the greater issues associated with equity and sequencing.

40. *What improvements would you like to see to the infrastructure scheme provisions in the PDI Act?*
41. *Are there alternative mechanisms to the infrastructure schemes that facilitate growth and development with well-coordinated and efficiently delivered essential infrastructure?*

Should there be wider support for the retention of Infrastructure Schemes, the process must be simplified. With an old and outdated infrastructure network (water and sewerage) within the inner city, organisations such as SA Water need to lead in this area.

Local Heritage in the PDI Act

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

We support the formulation of a centralised Local Heritage listing body on the condition that the powers of the body do not allow the retrospective review of existing places and Councils ability to nominate a place are retained. If the Expert Panel were of a view to remove assessments of demolitions of a Place from the Council Assessment Panel, this would not be supported. If there is an appetite by the Expert Panel to remove public notification from the assessment process of a demolition, this would also not be supported by the City of Burnside or the wider community.

The Local Heritage listing process, as managed by Local Governent, is curently based on the input of a Historian and Heritage Advisor, engaged by a relevant Council. Only the legislative process is facilitated by a Planner. The motivations of the Expert Panel to remove the listing process from Council is uncertain and should be explained before any decisions are made in this regard.

If the Expert Panel envisage a single statute and centralised Heritage Authority to consider Local Heritage Place listing nominations, this certainly would have merit with respect to resourcing and ensuring a consistency of approach. However, the body would need to be very well resourced by the State Government.

The City of Burnside would not support the powers of this body being retrospective, or would support the removal of the need to consult with the affected landowners. Appeal rights should also be afforded to landowners who wish to challenge the Local Heritage listing.

The City of Burnside would like to reiterate that section 67 of the *Planning, Development and Infrastructure Act 2016,* which outlines the criteria for a Local Heritage Place*,* places a considerable amount of weight on the importance of these Places to the local area and its people. The ability to nominate a Place should be open to everyone, including Councils, who are more familiar with the local context and meaning of the place. We would not support removing Councils from the nominations process or support the ‘watering down’ of the Local Heritage Place listing criteria.

If there is a view to include the Local Heritage Place listing process under the umbrella of the Heritage Places Act 1993 Part 7, there is a further opportunity to strengthen section 36(1)(2)(3) of this Act to address damage and neglect. The overall intention of these changes would be to ensure that local hertiage places are maintained to a reasonable standard.

The process of assessing a partial or full demolition of a Local Heritage Place is made on the professional advice of two qualified heritage advisors with input from a number of other experts including, but not limited to, an independent structural engineer and quantity surveyor. A Planning Officer's role in this process is to interpret and present the balanced views of all of the technical experts, with consideration given to the applicable tests. A Council Assessment Panel,e tasked with making the decision, consist of a number of experts in the field including heritage advisors, architects, planners and planning lawyers, as well as a Council Member. In Burnside's view, this decision making format produces balanced and legally defendable decisions, instead of a decision based on the views of an individual heritage advisor.

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

We support the removal of sections 67(4) and 67(5) of the PDI Act.

For clarity, Section 67(4) and 67(5) relates to the application of the Historic Area Overlay, not the Local Heritage Place Overlay or State Heritage Place Overlay.

By mandating that 51% of all relevant allotment owners need to approve a Code Amendment to designate an area within the Historic Area Overlay is unrealistic. Even with the best engagement framework, Councils cannot force people to provide written consent. Many property owners are time poor and as a result tend to be disengaged from consultation. Whether an area should be included within a heritage character or preservation zone or sub-zone should be based on expert opinion and needs to balance the collective good of the change against the individual interests of a property owner. If sections 67(4) and 67(5) were switched on, any further effort to protect the historic fabric through such a Code Amendment would be unachievable. The City of Burnside agrees that sections 67(4) and 67(5) were never realistic clauses to begin with, and if the Expert Panel were of a view to remove these, the City of Burnside would support this.

Deemed Consents

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

Deemed Consents are leading to rushed dcisions and are having a negative impact on workplace culture. We call for the timeframes for the performance assessment pathway to be extended to eight (8) weeks.

Deemed Consents are effective at forcing a decision in a restricted time setting. However, since the inception of the deemed consent, the following negative consequences have become apparent:

- The restricted timeframes are having an extremely negative impact on the workplace and culture and staff are leaving the local government sector in droves.
- In an effort to avoid a deemed consent, inappropriate proposals are refused, rather than negotiated with the applicant, which makes for a less collaborative process.

- Approved plans represent “just good enough” design, which is antithetical to the goal of the Act, which seeks to promote ‘high standards’ for the built environment.
- In light of the well documented national shortage of Town Planners, some Councils risk being unable to handle a future spike in applications, which may result in increased deemed consents.

Many of the symptoms noted above indicate that the timeframes afforded under the Act are grossly insufficient and if they are not changed, we will continue to lose Council planners and risk inappropriate development outcomes. The City of Burnside are of the strong view that the assessment timeframes for the Performance Assessed Pathway need to be extended to eight (8) weeks.

The risk of an inappropriate use with environmental or amenity consequences being approved by default is high. So, is the Expert Panel comfortable that a one (1) month quashing period is a sufficient fail safe to deal with this risk?

The City of Burnside request that Deemed Consents are removed entirely from the PDI Act 2016 or that they are limited to envisaged performance assessed proposals. This Council maintains the view that it is not appropriate for developments that are not envisaged within a particular zone to be entitled to a deemed consent.

45. *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?*

Should the timeframes for issuing Development Approval be exceeded, Council support is provided for applications to be made to the ERD Court.

In the discussion paper, instances of Councils refusing to issue Develoment Approval have been cited. We ask whether the circumstances around these examples were investigated or not? Councils do not withhold the granting of Development Approval lightly. It is only done where there are large scale inconsistencies between the Planning Consent and the Building Rules Consent, where new elements of development requiring approval have been added to the plans without the appropriate consent, or when the applicant has failed to provide sufficient details addressing their Reserved Matters.

The City of Burnside would support allowing applicants to apply to the ERD Court seeking a Deemed Approval. However, if the Expert Panel were of a mind to consider automatic Deemed Approvals, the City of Burnside would not support this as it would likely result in un-actioned Reserved Matters, inconsistent decisions and non-compliant built form outcomes. The unintended consequence of this would likely increase in complaints, compliance action, civil action and overall undermining of trust by the community.

In the absence of an effective auditing and penalty framework, the City of Burnside is reluctant to offer support for accredited professionals to issue Development Approvals as outlined in the discussion papers. This position is justified for several reasons:

- Many certifiers currently miss the Reserve Matters listed in a Decision Notice, there is little confidence that they will decline to grant Building Rules Consent and Development Approval, if these have not been satisfied first.

- Based on the experiences of a few actors in the industry, there is little confidence that the integrity of the original planning consent will be upheld in the issuing of the Building Rules and Development Approval without Council oversight.

- Building notifications and inspections are set up when Development Approvals are granted and if they are not set up correctly, Council will not capture or carry out the mandatory inspections required under the relevant Practice Directions.

Verification

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

Delays in verification are the result of insufficient information required to assign an assessment pathway.

Unlike the previous requirements under Development Act, the Verification process under the PDI Act is much more resource intensive. It requires a planning practitioner to identify the elements of development, identify the missing Schedule 8 Mandatory Information, identify the relevant referrals and assign an assessment pathway to each element. In the case where a Deemed-to-Satisfy Pathway is available, almost a full assessment needs to be undertaken just to assign an assessment pathway (Demed-to-Satisfy). In the worst case scenario, a single application for a combined house, outbuilding, swimming pool and associated safety barrier application can take 3 hours or more to verify.

It is clear that the industry is not following Schedule 8 in the way that it was intended. Applications are still being submitted without site plans, elevation plans, details of trees, scale bars and without the necessary detail required by Schedule 8, that allows an officer to analyse the plans and determine an assessment pathway for the relevant elements. As a direct result, a single application takes an average two rounds of verification to obtain the necessary information required to determine the assessment pathway. A completed list of verified application numbers, along with the reason for delays can be provided upon request of the Expert Panel.

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

Penalties for longer verification periods will only force rushed decisions and poorer development outcomes without addressing the lack of information.

The short answer to this question is no. Before considering applying penalties, we ask that the Expert Panel take a look at some of the applications that are being submitted and determine whether the standard of information is sufficient to assign an assessment pathway. In those instances where the assessment pathway can be determined, an officer will not hold up an application unecessarily and will verify it, but if a pathway cannot be determined an officer will have to go back until this information has been supplied. It is difficult to see how the Panel can justify penalising a Council where the standard of information provided by the average applicant is not to a standard that can be relied on to assign an assessment pathway the first time around. Like Deemed Consents, penalties will only force rushed decisions and poorer development outcomes.

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

Complex applications involving a potential change of use and built form, as well as combined applications for dwellings, outbuildings, fences and swimming pools with the associated safety barrier. These all require longer time to verify.

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

Mandatory information checklists imbedded in the DAP or application forms and planning assessment reports will assist at the time of lodgement and will streamline the verification process.

Instead of applying penalties, we ask that the Expert Panel consider recommending that a mandatory information declaration with checklist is required in the portal seeking the required mandatory information in Schedule 8. Similar mandatory information checklists have been used interstate and force the applicant to check their plans against the mandatory information requirements outlined in the Regulations.

Looking at other States, we wonder whether the Expert Panel have considered making a planning report, not necessarily prepared by an Accredited Professional Planner, a mandatory requirement under Schedule 8. This report would detail the assessment criteria of the relevant development elements and identify the shortfalls against the relevant Accepted or Deemed-to-Satisy criteria and outline the applicant's justification against the corresponding performance criteria. Doing this will allow a planning practitioner to quickly identify the Deemed-to-Satisfy shortfalls, allowing applications to be verified and assessed in a more streamlined timeframe.

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

The scope of Schedule 8 needs to be widened to front load applications and prevent encroachment issues.

There would be advantages but this should not be done in a manner that removes information required to assign an assessment pathway. To remove any Schedule 8 detailed information, without amending the Deemed-to-Satisfy criteria, will only serve to slow down the verification process further.

In order to streamline assessments, we advocate for the following additional clauses to be added to Schedule 8:

Schedule 8—Plans 1—Plans for development ancillary to dwellings

1. CT required for all development
2. Written consent of the relevant landowner's
3. Schedule of external materials, colours and finishes

2—Plans for applications seeking planning consent for new buildings or structures or extensions to existing buildings

2. CT required for all development
3. Written consent of the relevant landowner's
4. Schedule of external materials, colours and finishes
5. Siteworks and Drainage Plan prepared by suitably qualified Engineer

6. Site Plan 1(v) to also include species, circumference measured from 1m above the base of the trunk

3—Plans for swimming pools

1. CT required for all development
2. Written consent of the relevant landowner's
3. Site Plan to include the location of any regulated tree on the site or on adjoining land that might be affected by the work, or that might affect the work, proposed to be performed
4. Proposed party walls are to be provided on plan of division

7—Requirements for general land division applications for development approval—proposal plans

1. Proposed party walls are to be provided on plan of division
2. Written consent of the relevant landowners

Speaking to the above lists, we are of the view that written landowner's consent should be provided for all applications. We are increasingly seeing issues with encroachments and the development assessment process, which is treating the encroaching aspect of the development as an after thought rather than a matter that should be resolved before lodgement. In the past, boundary walls for dwellings, sheds, carports and masonry fences have encroached within Council reserves or adjoining private land without any engagement with Council or the relevant landowner. Currently, written landowner's consent with signature is required at the time of lodgement in states such as Queensland, New South Wales and Victoria and we call for Schedule 8 to include the same.

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

Website Re-Design

51. *Is the PlanSA website easy to use?*
52. *What improvements to the PlanSA design would you make to enhance its usability?*

No. The Plan SA website is very difficult to navigate. In particular, the resources section does not itemise the various guidelines by topic and as such it is very difficult to search for a specific document. Linking the relevant guidelines with a landing page set up for each stage of the assessment process or topic would save time and limit frustration.

Mobile application for submission of building notifications and inspections

53. *Would submitting building notifications and inspections via a mobile device make these processes more efficient?*
54. *Where relevant, would you use a mobile submission function or are you more likely to continue to use a desktop?*

A number of Councils now use I-Pads on site and would benefit from mobile device access to the portal whilst on site. This function would be particularly useful for those Council inspectors who undertake several inspections throughout the course of one day.

Online submission forms

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

Yes. A representor in the community should not have their ability to make a submission discouraged by the lack of a login. The submission function should be easy to use for the average person.

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

A growing proportion of the Burnside community are over the age of 70 and have varying degrees of computer literacy. It is reasonable to assume that a certain degree of the population would be put-off from creating a login out of fear of what happens with the data or just due to a lack of computer skills.

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

Some people are naturally discouraged from making a submission at all on an application. In many instances, it also results in the submitter sending the submission to Council to upload on their behalf. However, if the submitter has not provided the details required to input into the portal (i.e. whether the person wishes to be heard or not) it can result in an invalid submission and Council being blamed for this. Similar to the Code Amendment process, the applicant's postal and email addresses for consultation should be available.

Increase Relevant Authority Data Management

58. *What would be the advantages of increasing relevant authorities' data management capabilities?*
59. *What concerns, if any, do you have about enabling relevant authorities to 'selfservice' changes to development applications in the DAP?*

Over the past 18 months or so, a number of system difficulties have prevented an application from progressing due to a lodgement error by the applicant or due to data lag. For example, where an applicant inputs an incorrect address or a site is missed in the DAP, either the application has to be withdrawn and relodged or resolved by way of a PlanSA helpdesk enquiry. Traditionally, this would be easily resolved by administrators at Council but has become overly complicated by the functions of the DAP.

Inspection Clocks

60. *What are the advantages of introducing inspection clock functionality?*
61. *What concerns, if any, would you have about clock functionality linked to inspections?*
62. *What, if any, impact would enable clock functionality on inspections be likely to have on relevant authorities and builders?*

As requested by the City of Burnside, the existing inspections module still does not allow inspections to remain open once started. It would be more useful if this functionality was added so that inspectors can return to the original notes and update until the non-complying matter is resolved.

Further to the above, it would be ideal if the inspections module was more user friendly for both sides, allowing both Councils and builders to look at their unactioned and in-process inspections and follow the history on them.

Furthermore, 24 hours for an inspection is insufficient in order to arrange access to a site. This timeframe needs to be extended to a more realistic timeframe so that suitable access can be arranged with the owner or site foreman. If someone sends us a notification at 4pm on a Friday afternoon for a concrete pour, this work has usually been completed by Monday morning. The current timeframes are not practical for the industry.

Once all of the above fixes are in place, then the clock functionality may be able to be implemented effectively. We would ask that any new functionality in the DAP is thoroughly tested before being implemented.

Collection of lodgement fee at submission

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

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

The City of Burnside seeks to be able to collect a verification fee or the full assessment fees, scanning fee (if required) and lodgement fee at the submission stage. Currently, the level of work involved in this process is unpaid, which is a significant resource issue considering the average application takes a minimum of two rounds of verification to provide the required information. There are a number of applications that are also abandoned within the portal, without payment. Council is then out of pocket for the cost of verification and the portal fee for the State Government.

Noting the complexities of some applications, full assessment fees cannot be calculated at the submission stage as insufficient information has usually been provided to determine the assessment pathway. Either the portal needs to allow for three lots of fees to be calculated and taken (one at lodgement, at planning verification and building verification) or the

assessment criteria in the Planning and Design Code, particularly for a Deemed-to-Satisfy application, needs to be simplified allowing the assessment pathway to be assigned and fees charged up-front.

Likely challenges that could result from locking in the Code provisions at lodgement may involve elements that are missed, or that change through the application process. The current process makes it difficult to go back and add new elements that may have been missed or to change the assessment pathway if new information comes to light. The ability to amend applications becomes overly complicated and arduous, particularly with regard to collecting new fees or undertaking partial refunds.

Prior to the introduction of new Code Amendments that reduce development rights, Councils are likely to be inundated with lodgements consisting of a form and minimal fees but no plans or supporting information. This was the experience during the transition to the Planning and Design Code. However, this is unlikely to be experienced at the same scale that occurred during that period.

Combined Verification and Assessment Processes

65. *What are the current system obstacles that prevent relevant authorities from making decisions on DTS and Performance Assessed applications quickly?*
66. *What would be the advantages of implementing a streamlined assessment process of this nature?*
67. *What, if any, impact would a streamlined assessment process have for non-council relevant authorities?*

Automatic Issue of Decision Notification Form

68. *What are the advantages of the e-Planning system being able to automatically issue a Decision Notification Form?*
69. *What do you consider would be the key challenges of implementing an automatic system of this nature?*
70. *If this was to be implemented, should there be any limitations attached to the functionality (i.e., a timeframe for payment of fees or the determination will lapse)?*

This response addresses both the concept of combined verification and assessment processes and the automatic issue of the Decision Notification Form.

The City of Burnside has a fundamental issue with carrying out an assessment without the applicant having paid the relevant assessment fees. In those limited instances where the application is not supported, an applicant may refuse to pay their outstanding assessment fees. The City of Burnside does not support the idea of carrying out assessments for free without an ability to easily recoup the cost to Council for staff time.

Building Notification through PlanSA

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

Ideally, builders should upload their building notifications into the portal themselves as it takes up considerable Council resources to manage this for them. However, the reality is that many small contractors do not have access to computers or DAP logins and will continue to send their notifications through to Councils to upload on their behalf.

72. *What challenges, if any, would arise as a consequence of removing the ability for building notifications to be received by telephone or in writing to a relevant council? How could those challenges be overcome?*
73. *Would this amendment provide efficiencies to relevant authorities?*

Council's preference is that these details are not taken over the phone but that for records purposes they provide these in writing. Similar to online enquiry functions, it would be helpful if the DAP had an external email function that contractors could access without a DAP login. Provided they had the application number, they could upload their notification through the email notification function.

Remove Building Consent Verification

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

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

The Building Consent Verification process is necessary in order to ensure that the relevant mandatory Schedule 8 information has been submitted, which is not the same detail as is required for planning. For example, structural specifications for retaining walls are rarely submitted with planning consents and are required to determine the structural soundness of a retaining wall. It is also necessary to identify the relevant fees and charge them accordingly. Applicants will often decide at a later date that they want to lodge their Building Rules with a Council and the system needs to be flexible enough to adapt to these scenarios. The Building Verification process is necessary and needs to be retained.

Concurrent Planning and Building Assessment

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

There is a high probability that a building rules consent would be inconsistent with the planning consent or that work would commence without all of the relevant consents or with inconsistent consents. This was the experience in Queensland under the Sustainable Planning Act 2009, which allowed planning and building to be assessed out of sequence. Inherently, this increases the number of complaints received and places an increased pressure on Councils which undertake compliance and enforcement functions.

Automatic Assessment Checks for DTS Applications

77. *What do you consider would be the key benefits of implementing an automatic system of this nature?*
78. *What do you consider would be the key challenges of implementing an automatic system of this nature?*
79. *Would you be supportive of the Government investing in developing this technology so that it may integrate with the e-Planning system?*

The City of Burnside will reserve judgement on this technology until the capabilities of the technology can be demonstrated to Councils.

3D Modelling for Development Application Tracker and Public Notification

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

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

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

3D renders are a necessity for considering any developments of four building levels or greater. The fine grain detail is necessary to properly consider the space to void ratio, as well as the final effect of the chosen materials and finishes, particularly within the context of the locality. Whilst there may be merit to such a function, there are several issues with the e-planning system that are more worthy of attention before advances in innovation are considered.

Augmented Reality Mobile Application

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

No. Whilst there may be scope in the future to consider advances of this nature there are more worthy causes that require strategic investment at the moment, as have been indicated earlier in this response.

Accessibility through Mobile Applications

84. *Do you think there is benefit in the e-Planning system being mobile friendly, or do you think using it only on a computer is appropriate?*
85. *Would you be supportive of the Government investing in developing this technology so that the PlanSA website and the e-Planning system is functional on mobile?*

Yes. It is currently difficult to use SAPPA, the DAP and the Plan SA website from a mobile device, which makes access on-site impossible. The City of Burnside consider that this is an urgent reform that is required.

Additional issues with the DAP

Finally, it is peritent that all enhancements required to make the DAP fit for purpose are prioritised as a matter of urgency. It has recenlty come to the staff's attention that the 4 days required to post the letters for public notification are being deducted from the overall time allocated for an application at lodgement. As per the Act, these four days should not be deducted from the 15 business days allocated for the notification period but should be added. We ask that the timeframes in the DAP be paused for the four day period before the commencement of the nofication period or the four day period is added. Images of the DAP clock can be provided for review upon request.