Discussion Paper – Planning and Design Code Reform Options

Expert Panel for the Implementation Review

October 2022

Planning System Implementation Review

Government of South Australia

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Message from the Chair

South Australia's planning system has undergone significant change in recent years. Firstly, with the implementation of the *Planning, Development and Infrastructure Act 2016* and *Planning, Development, and Infrastructure (General) Regulations 2017* and more recently with the introduction of the state-wide Planning and Design Code.

In response to concerns raised by local communities and industry groups, the Minister for Planning, the Hon. Nick Champion MP, has commissioned a review of South Australia's planning system and the implementation of recent reforms made to it.

I am honoured to have been appointed Presiding Member of the independent panel of experts that has been established to undertake this review. Importantly, each of the Panel members has significant experience with the South Australian planning system, having all lived and worked in South Australia for many years.

I'm delighted to be joined on the Panel by **Lisa Teburea**, independent consultant and former Executive Director of Public Affairs with the Local Government Association of South Australia, **Cate Hart**, President of the Planning Institute of Australia (SA) and Executive Director, Environment Heritage and Sustainability for Department of Environment and Water, and **Andrew McKeegan**, former Chief Development Officer and Deputy Chief Executive for the Department of Planning, Transport and Infrastructure.

The Panel has been tasked with reviewing key aspects of the planning system and identifying opportunities to ensure planning decisions encourage a more liveable, competitive, affordable, and sustainable long-term growth strategy for Greater Adelaide and the regions.

We are pleased to present these Discussion Papers which outline the key areas in the Act, Code and e-Planning system that the Panel has identified warrant further examination. We encourage all South Australian's – whether industry groups, practitioners, community groups, local government, or the general public - to consider these Papers, share their feedback and contribute to the review.

After all, South Australia's planning system affects all of us.

John Stimson

Introduction

The South Australian planning reforms commenced in 2012 with the appointment of the former Expert Panel, which made a series of initial recommendations that shaped new legislation that we now know as the *Planning, Development and Infrastructure Act 2016* (the PDI Act).

For the past ten (10) years, South Australians have considered and contributed to planning policy, and have now lived with the provisions of the PDI Act and Planning and Design Code (the Code) for 18 months.

The Expert Panel for the Planning System Implementation Review was appointed by the Minister for Planning, the Hon. Nick Champion, to review the new system and to consider where there is scope for improvement.

The Panel has been given a Terms of Reference to review:

- the PDI Act;
- the Code and related instruments, as it relates to infill policy, trees, character, heritage and car parking;
- the e-Planning system, to ensure it is delivering an efficient and user-friendly process and platform; and
- the PlanSA website, to check usability and ease of community access to information.

Importantly, the Panel is not a decision-making body, but rather, a group of subject matter experts brought together to review, consider, consult, and make recommendations to the Minister as to what improvements to the new planning system could be. Those recommendations will, of course, be influenced by the feedback received from the community throughout this engagement process.

In preparing its Discussion Papers, the Panel has acknowledged the volume of submissions and representations that have been made by groups and individuals during previous engagement and review processes. Many of the issues that have been raised over the course of the past ten (10) years have already been thoroughly examined by various bodies, and the Panel considers that the fundamental elements of the PDI Act are sound.

However, this review is an opportunity to reconsider some of the details and the Panel is looking for new information, new feedback and experiences directly related to the implementation of the PDI Act and the Code, and how the community is interacting with the e-planning system.

In undertaking this review, the Panel will play a key part at a point in time. A time where the system is still young and arguably in its 'teething' phase, but equally a time that is ripe for considering what amendments – big or small – could make what is already a comprehensive planning regime, even better.

This Discussion Paper seeks to identify the known opportunities for improvement identified in the Code through addressing character and heritage, trees, infill and carparking policy.

It will guide you, as the reader, through how the Code addressed the feedback received during Phase Three of the implementation, what the current policy position is and identify areas of known frustration. It will then ask questions for your consideration and response. Notwithstanding, the Panel is, of course, interested to hear about all ideas for reform that may benefit the South Australian community and encourages you to raise any matters that have not otherwise been canvassed in this Discussion Paper.

Finally, and for the avoidance of doubt, the Panel acknowledges that that there are matters that have been (or are currently) the subject of proceedings in the Environment, Resources and Development Court relevant to the Code. The Panel recognises that the outcomes of those proceedings may require it to consider additional matters not otherwise addressed in this Discussion Paper and confirms that, where necessary, it will address those in its final report to the Minister.

The Panel acknowledges and appreciates the time and effort that will be put into preparing submissions for its consideration and looks forward to reviewing and considering all the feedback.

Implementation of the Planning and Design Code

To understand what reform options may be available for the Panel's recommendation, it is appropriate to consider the matters that were raised and/or addressed when the Code was initially consulted upon, in advance of its implementation.

The Panel has no intention to re-prosecute issues that were appropriately dealt with by the State Planning Commission (the Commission) in arriving at the iteration of the Code that was ultimately introduced. However, it also recognises that there are matters that were unable to be managed in the initial implementation because of not yet having a 'lived' understanding of how those provisions would operate practically.

The Code has now been operational for a period of 18 months and whilst there is still limited data arising from several aspects of its operation (including but not limited to the effect of infill housing and tree policy, discussed later in this Paper), consideration can now be given to the lived experience of the Code provisions and where there is opportunity for further refinement and/or improvement. For the avoidance of doubt, the Panel notes that there is limited operational data available not because the e-Planning system is unable to obtain the data, but because insufficient time has passed for matters to move through the lifecycle of planning approval to completion.

The following table summarises the key issues raised by stakeholders in the Phase Three consultation on the Code and how the final iteration of the Code responded to the feedback. This data was collated and summarised by the Commission in its 'What We Heard' Report.

Note: Where possible, the table has been divided into the relevant policy matters being considered by the Panel, as reflected in this Discussion Paper. However, it is noted that there are matters that necessarily overlap (particularly as they apply to infill) and which may be relevant in multiple policy categories.

Phase 3 Code – Feedback and Policy Response

Stakeholder	Key Issue or Feedback	Policy Response
Character and Heritage Policy Matters		
Localised Policy		
Councils, Community	More localised policy should be included in the Code to assist in protecting areas of heritage and character.	Introduction of Historic Area Statements and Character Area Statements to better reference the valued attributes of a particular area, and which could add additional details in relation to matters such as roof form and pitch, wall height, fencing types and the siting, design and scale of carports, garages, outbuildings and vehicle access points.

Stakeholder	Key Issue or Feedback	Policy Response
Various	The Code should provide a zone that reflected areas with stronger built form characteristics, as was contained in previous Development Plan policy.	Introduction of the Established Neighbourhood Zone. This zone includes Technical Numeric Variations (TNVs) for matters such as site areas, site frontages, side setbacks, site coverage and height, which provide room for local variation in policy.
Demolition Controls		
Various	• Stronger demolition controls should be provided in historic areas • Public notification should be required for proposals involving demolition of a property in a historic area	• Enhanced demolition controls applied to areas subject to the new Historic Area Overlay • Demolition tests within the Historic Area Overlay revised to replace the 'economic test' with one of 'reasonableness'.
Representative Buildings (formerly Contributory Items)		
Councils, Community	Contributory Items should be re-introduced into the Code	Contributory Items were transitioned into the final version of the Code as 'Representative Buildings', and are referenced in the Historic Area Statements and Character Area Statements and are mapped in the SA Planning and Property Atlas (SAPPA)
Tree Policy Matters		
Tree Planting		
Various	• Observations that the Urban Tree Canopy Overlay does not go far enough to increase urban tree canopy. Suggestions that minimum tree requirements be increased to reflect higher tree canopy targets and policy regarding the retention of mature trees be strengthened • Concerns that paying a fee in lieu of planting new trees was not appropriate (i.e. the Urban Tree Canopy Offset scheme), and that the fee would be too low and should be increased. Additional suggestions that the scheme should only apply where the cost of footings is unreasonable.	• Amend the Urban Tree Canopy Overlay to add a note referring to an Off-set Scheme established under section 197 of the PDI Act. • Further investigations were undertaken in relation to tree canopy cover which demonstrated that in the most common infill development scenario (which represents 75% of new houses), house footings are not affected by the Code's mandatory tree planting policy.

Stakeholder	Key Issue or Feedback	Policy Response
	• Requests for tree species and setbacks between buildings and trees to be stipulated in the overlay • Concern that the requirement to plant a tree will increase footing costs	
Infill Policy Matters		
Localised policy		
Councils, community, Planning Institute of Australia (PIA)	More localised policy needed to reflect neighbourhood characteristics and development plan policies (e.g. site areas, building heights, setbacks)	• Expand the suite of neighbourhood zones to provide more nuanced policy for areas with: ○ an established character (new Established Neighbourhood Zone) ○ waterfront areas (new Waterfront Neighbourhood Zone) ○ undulating land (new Hills Neighbourhood Zone) ○ residential parts of townships (new Township Neighbourhood Zone). • Provide for additional variations to populate policy in certain zones (including minimum site area/frontage in the Housing Diversity Neighbourhood Zone, building height in the Urban Renewal Neighbourhood Zone).
Minimum site dimensions, density		
Councils, community	Increase in minimum site areas in the General Neighbourhood Zone, particularly for row dwellings.	Amend the General Neighbourhood Zone (DTS/DPF 2.1) to increase the minimum site area for row/terrace dwellings from 200m2 to 250m^2.
Development industry	Seek higher densities in the Established Neighbourhood Zone, smaller site areas for retirement villages, larger sites where interface outcomes can be addressed (i.e. 'catalyst' sites).	**No policy change**: where supported accommodation, retirement living and student accommodation are envisaged forms of development in the zone and are performance-assessed, density higher than the minimum prescribed in a DTS criteria can be considered on merit. It was appreciated that amalgamated/ large development sites can often address interface issues in a more suitable manner than small-scale infill. However, such dispensation would be appropriately

Stakeholder	Key Issue or Feedback	Policy Response
		considered in a performance assessment, taking into account the site context and how interface is handled in the particular circumstance.
Soft landscaping		
Development industry	• The requirement for soft landscaping is too great an area, particularly for small/narrow sites, and should only apply to the front yard area. • Minimum pervious percentages should be reduced to align with POS requirements. • The policy should not apply in Housing Diversity, Urban Corridor or Urban Renewal Neighbourhood zones.	• Amend soft landscaping policy to: ○ increase the minimum proportion of soft landscaping forward of the building line to 30% ○ increase the minimum dimension of landscaping from 0.5 to 0.7m ○ include an additional category of dwelling Site Area (less than 150m2) with a 10% landscaping requirement • Create new administrative definition of soft landscaping to clarify that it does not include artificial lawn.
Councils	• More policy is needed in the Code to address urban heat effects. • The requirement to provide 15-25% soft landscape areas and a minimum of one (1) tree per dwelling is positive and strongly supported but should apply to all development regardless of type or scale. • An additional category of soft landscaping is needed to address very small allotments.	
Community	• Concerns about the impacts on urban heat, biodiversity and pollution resulting from Plastic lawns instead of porous paving, gravel or vegetation • Smaller sites should be required to have a higher proportion of soft landscaping • Policy to stipulate where greenspace should be located for maximum microclimate benefit • Permeable paving not be a predominant feature of soft landscaped areas.	

Stakeholder	Key Issue or Feedback	Policy Response
Councils	Request that soft landscaping policy should apply to ancillary structures such as outbuildings, verandahs and carports	Apply minimum soft landscaping criteria for ancillary buildings in neighbourhood zones (ancillary accommodation, outbuildings, verandah, carport) or maintain the current percentage of soft landscaping where it is already less than the criteria.
Rainwater tanks, stormwater management/Water Sensitive Urban Design (WSUD)		
Various	• Increase stormwater detention capacity (and reduce retention capacity) • Focus on controlling output rather than water re-use • Amend the criteria requiring 80% roof capture area to 50% for row dwellings and semi-detached buildings to help decrease risk of water damage to property due to complex design issues builders' face when facilitating an 80% capture • Concerns regarding the suitability of criteria to control stormwater pollutants and run-off quantities • Request for a portion of 2000L retention tanks <200m2 to be used for detention (1000L for detention and 1000L for retention) • Request for the water tank connections be made to all toilets (not just one toilet) • The installation of the rainwater tank and connection to approved uses should be mandated prior to occupying new houses	Amend the Stormwater Management Overlay to: • Require 60% of the roof area to be connected to tanks (not 80%) for detached (non-battle axe), semi-detached and row dwellings. • Require half (1000L) of the 2000L rainwater tanks for lots <200m^2 to be used for detention • Amend the stormwater management policies in the Design in Urban Areas, Design and Land Division General Development Policies to remove the Deemed-to-Satisfy/ Designated Performance Feature criteria regarding pollutant percentages and run-off quantities.
Private Open Space		
Councils, community	The total area of Private Open Space (POS) required for detached, semi-detached, row, group and residential flat dwellings was set too low at 24m^2.	Increase POS policy requirements in line with existing Residential Code (Res Code) parameters, wherein a minimum POS requirement of 60m^2 will apply for sites above 300m^2.
Setbacks		

Stakeholder	Key Issue or Feedback	Policy Response
Community, local government and planning practitioners	Concerns around the setbacks from side and rear boundaries, including: • Rear setback to match what is currently prescribed in the complying criteria of the Res Code • The front setback criteria in the Res Code (being the average of adjoining minus one metre) to form the DTS criteria in the neighbourhood zones • Use the average of adjoining policy to determine the front setbacks in neighbourhood zones • Transition existing upper level side setbacks from development plans into the Established Neighbourhood Zone.	• Amend the rear setback Deemed-to-Satisfy/Designated Performance Feature (DTS/DPF) to add a new category for sites >300m^2 for a rear setback of 4m for ground level and 6m for upper level in the following zones: ○ General Neighbourhood Zone ○ Suburban Neighbourhood Zone ○ Neighbourhood Zone ○ Waterfront Neighbourhood Zone. • Amend the side boundary setback Technical and Numerical Variation (TNV) in the Established Neighbourhood Zone and Township Neighbourhood Zone to transition upper level setbacks as well as ground levels (as per Development Plan parameters). • Amend the primary street setback policy to allow for the primary street setback to reflect the average of the adjoining buildings minus one metre in the General Neighbourhood Zone and Suburban Neighbourhood Zone.
Waste storage		
Councils, community	Waste storage criteria to apply to all dwellings and to include consideration of gradient for path of travel between waste bin storage and the street (<1:10).	Amend 'Waste storage' policy to: • Decrease the area from 3m^2 to 2m^2 and prescribe a minimum dimension of 0.9m. • Clarify the requirement for a continuous unobstructed path of travel doesn't include moveable objects like gates and roller doors
Development industry	The requirement for waste bin storage mandates additional area that may or may not be used by homeowners. Further, the 3m^2 area for waste and unobstructed path to the street would not be achievable for narrow sites and will require additional POS.	
External appearance		
Councils	Improve façade design policy by increasing the number of techniques required to achieve Deemed-to-Satisfy (DTS) and remove the mix of materials as a technique	Amend policies on front elevations and passive surveillance' to:

Stakeholder	Key Issue or Feedback	Policy Response
Development industry	• A minimum room width of 2.7m could have impact on internal design and overall built width will have a negative impact on narrow blocks. • The requirement for the entry door to the front elevation to address the street is too prescriptive and will preclude different design options. • The requirement for 3 minimum design features to the front elevation from 4 possible alternatives for single-storey dwellings is too restrictive and it is possible that streetscapes will become repetitive. Suggest additional option for at least two materials/colours on the front facade. • Additional design criteria should be provided for front and side/rear façades, especially façades which present to public spaces such as secondary streets.	• clarify that 2m^2 window area relates to the total aggregate area of all windows on front facade • allow a dwelling's entry door to be 'visible' from the street rather than facing the street. Amend policy on 'external appearance' to: • add new criteria to external appearance policy to allow a minimum of two different colours/materials incorporated on the front façade to satisfy 1 of the 3 required treatment options. • require dwelling façades facing a secondary street frontage to satisfy 2 treatment options. • Remove policy requiring recessing of the secondary street façade as articulation of secondary street frontages will be achieved through the other 'External appearance' policy.
Car Parking Policy Matters		
Car parking		
Councils, community	• Require at least one (1) on-site car park to be covered (i.e. carport or garage) • Concerns that provisions for off-street parking is too low.	• Increase on-site car parks from one (1) to two (2) spaces for 2-bedroom detached, semi-detached and row dwellings (except where rear loaded) • Require one (1) car parking space to be covered.
Garage dimensions		
Development industry	The proposed minimum internal garage widths of 3.2m (single garage) and 6.0m (double garage) and length 6.0m would exceed many builder's designs and Australian Standards.	Amend 'Car parking, access and manoeuvrability' policies to align minimum car parking and garage dimensions with current Australian Standards for carparks and enclosed garages.
Councils, community	Request to increase minimum internal garage dimensions to ensure	

Stakeholder	Key Issue or Feedback	Policy Response
	convenient parking and provide more room for internal storage	

Character and Heritage

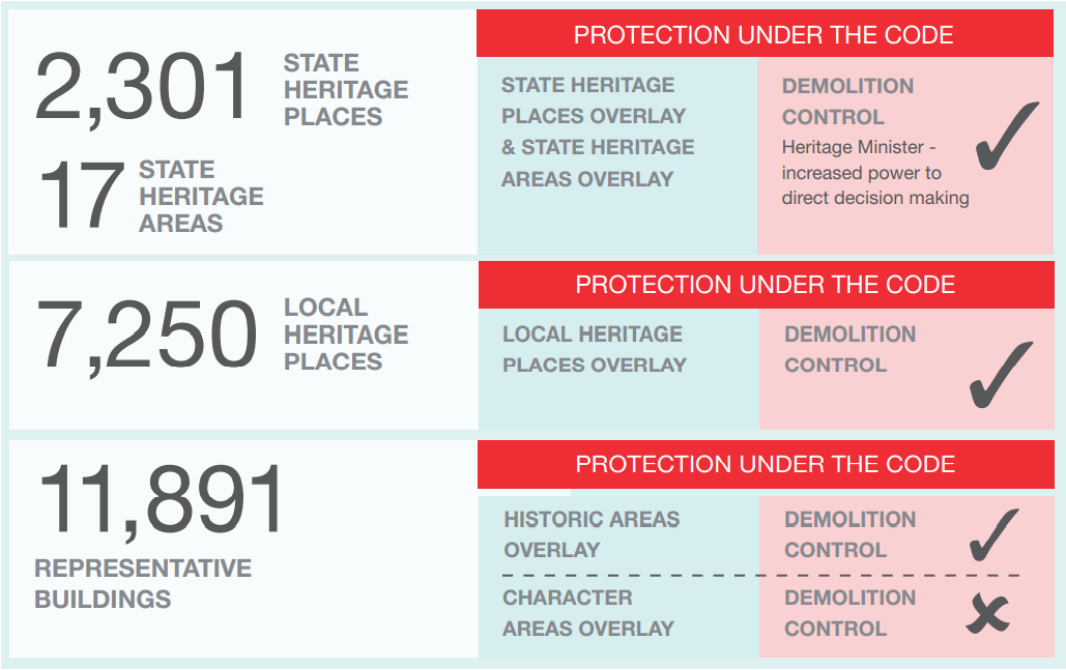
Background

Heritage in South Australia is protected by heritage specific legislation, primarily:

1. State Heritage – *Heritage Places Act 1993*; and
2. Local Heritage – PDI Act.

As such, heritage is a joint responsibility of the Minister for Planning and the Minister for Climate, Environment and Water.

This legislative framework provides protection to approximately **2,300** State Heritage Places, **17** State Heritage Areas and approximately **7,250** Local Heritage Places.



The number of heritage listings varies across local government areas, particularly in relation to Local Heritage. At present, 29 councils do not have Local Heritage Places and one (1) Council (Roxby Downs) has no heritage listings (neither State nor Local Heritage).

In addition, whilst not legislatively protected, 25 of 68 councils have Representative Buildings identified in the Code, totalling approximately **11,831** buildings. Of these, **11,752** are located within the Historic Area Overlay and have the benefit of demolition control; whilst **79** are located in the Character Area Overlay with no demolition control.

The cumulation of the above provisions results in the Code affording the following local government areas with a high percentage of heritage and character protection (excluding roads and open space):

- City of Unley – 72.89%
- City of Prospect – 77.39%
- City of Norwood, Payneham and St Peters – 49.47%
- Town of Walkerville – 41.9%

It is relevant to note that the Expert Panel on Planning Reform recommended in its 2014 report 'Our Ideas for Reform' that heritage laws ought to be '*consolidated into one integrated statute*'[1] rather than continue to sit across both planning and heritage legislative instruments.

In addition, it was also noted that local heritage is increasingly being confused with character issues and that '*character is not heritage*[2]*'*. It sought to distinguish the two (2) terms, and to outline a new heritage framework that would '*value the state's past, while also catering for future needs*'[3].

The Code has delivered a new policy approach to protect heritage and character by:

1. transitioning existing contributory items from Development Plans as 'Representative Buildings';
2. creating a new Heritage Adjacency Overlay to provide distinction between heritage places and areas surrounding such places;
3. creating a new Character Area Overlay and Historic Area Overlay to sit over zones which apply to areas of established heritage and character value;
4. accurately mapping all places of significance within the planning system (State Heritage, Local Heritage and Representative Buildings) in a way that is more transparent and accessible;
5. consistently applying demolition controls to State Heritage Places, State Heritage Areas, Local Heritage Places and Historic Areas (which include the majority of Representative Buildings) in a way that is equitable and fair;
6. elevating the role of State Heritage Guidelines, Statements of Significance for State Heritage Areas (such as Hahndorf and Colonel Light Gardens) and State Heritage Places in the planning system by including a link in the Code to these documents directly under Desired Outcome 1 of the State Heritage Area Overlay and Desired Outcome 1 of the State Heritage Place Overlay, respectively; and
7. including local policy that reflects the important elements of an area through the use of Historic Area and Character Area Statements (i.e. era, built form, architectural styles, street patterns etc) that underpin the Overlays. Depending on the applicable zone, Technical and Numeric Variations (TNV) are also used to

[1] South Australia's Expert Panel - Our Ideas for Reform (dit.sa.gov.au), 66.
[2] Ibid, page 63.
[3] Ibid, page 67.

address matters such as building heights and site areas within zones and provide room for local variation in policy e.g., allows for differences in building heights and minimum site areas from one area to another.

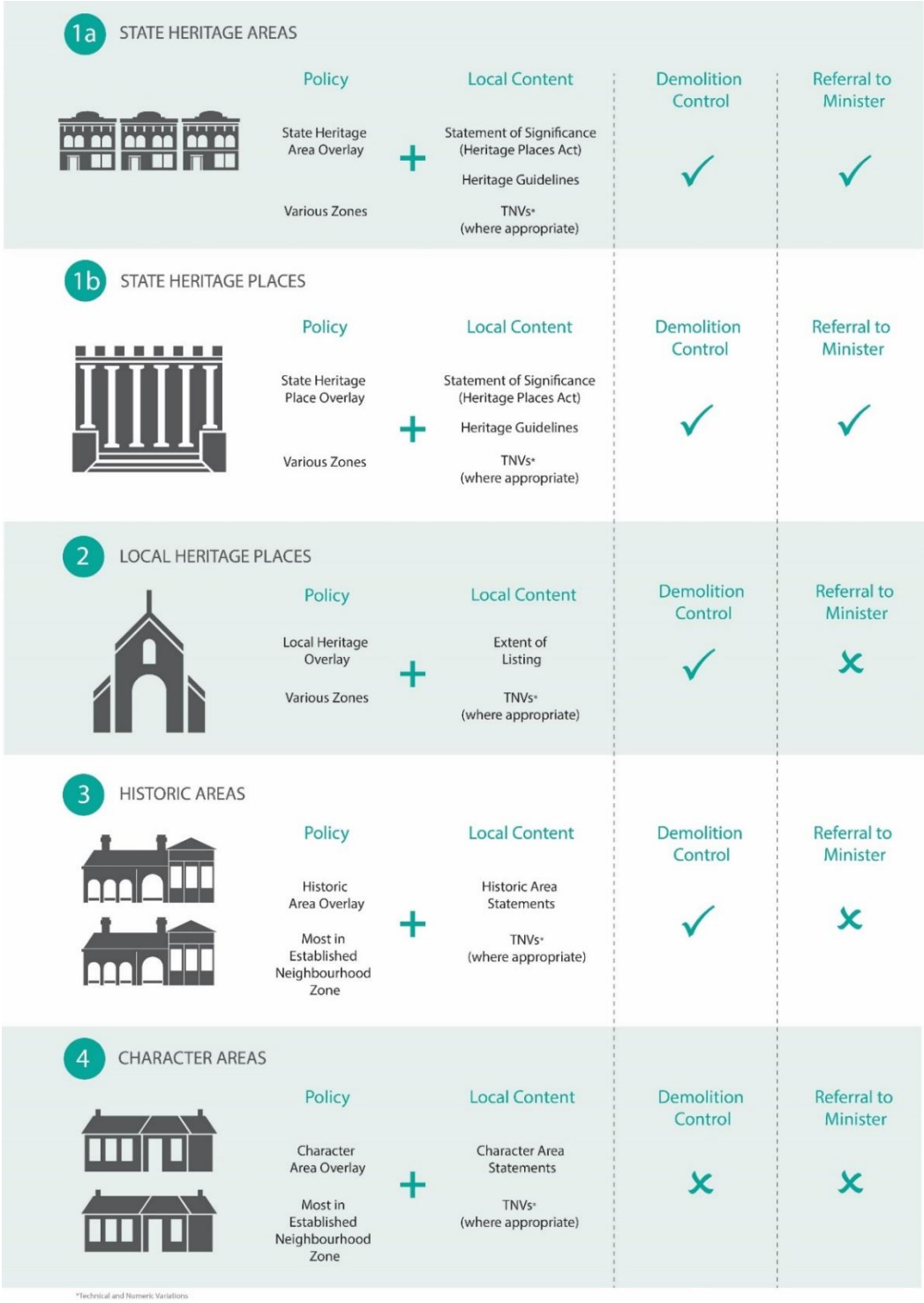
Importantly, prior to the implementation of the Code, the Commission engaged the Chair of the Expert Panel on Planning Reform, Mr Brian Hayes KC, to review the proposed heritage and character policy construct. Mr Hayes KC determined that the abovementioned approach was appropriate to address the matters raised in the previous Expert Panel's 2014 report.

A summary of the key policy changes introduced through the Code are set out in the Commission's brochure, 'Protecting Heritage and Character in the Planning and Design Code' (October 2022).

Relevantly, it is also acknowledged that the Miscellaneous Technical Enhancement Code Amendment (which is currently out for public consultation) proposes to move the identification of Representative Buildings from the reference layers of SAPPA and add them to the spatial mapping layer of the Historic Area and Character Area Overlays, as relevant. It is considered that this approach will ensure Representative Buildings become more visible within the Code, creating more certainty for property owners and relevant authorities without elevating their status.

Character and Heritage Overlays

The following graphic identifies the relevant Overlays found in the Code which relate directly to matters of character and heritage, and what each of those Overlays provides by way of application and protection.



The above graphic does not reference the Heritage Adjacency Overlay. However, for the avoidance of doubt, it is noted that that Overlay does not provide demolition control but does include a referral to the Minister responsible for the administration of the Heritage Places Act where development is proposed that may materially affect a State Heritage Place. The Minister is requested to provide expert assessment and direction on the potential impacts of development adjacent State Heritage Places.

State Heritage Standards

Linked to the State Heritage Area Overlay are Heritage South Australia's Heritage Standards, which provide principles and acceptable minimum standards for development proposals and form the basis of Heritage South Australia's decisions on proposed development referrals.

Heritage Standards are being progressively developed for all State Heritage Areas, in consultation with landowners and key stakeholders, replacing the current State Heritage Area guidelines for development.

At the present time, the only Heritage Standard that has been completed is for the Colonel Light Gardens State Heritage Area. The Panel understands that Heritage South Australia have commenced preparing Heritage Standards for Hahndorf, with other State Heritage Areas to follow.

In the meantime, Heritage South Australia will continue to use the existing Guidelines for Development for other State Heritage Areas as the basis for heritage assessments and decisions for any referred development proposals, until such time as new Heritage Standards are developed.

Design Guidelines

Also sitting beside the Code are three (3) advisory documents which assist with contextually responsive development in both heritage and character areas.

The first is the Historic Area Overlay Design Advisory Guidelines which provide guidance to applicants and designers on key design considerations to help achieve an appropriate contextually responsive design.

The guidelines identify a range of common design attributes that may be relevant when responding to Desired Outcome 1 in the Historic Area Overlay. The guidelines are not intended to be a 'check list' to the design or assessment process, but rather support the Desired and Performance Outcomes of the Code. They are not additional policy.

The second advisory document, the Character Area Overlay Design Advisory Guidelines, fulfil a similar role to the guidelines above, but are applicable to development in areas subject to the Character Area Overlay.

Both of these advisory guidelines are supported by Style Identification Advisory Guidelines. By providing examples of common styles of development (for example Victorian villas, Tudor revival, Federation cottages or Austerity houses) this guideline

can be used to assist applicants and designers to identify places that display the historic themes and characteristics expressed by the Historic Area Statements and Character Area Statements. It is these places that the design of new development (or additions or alterations) should contextually respond to. In some areas, these places have been identified as Representative Buildings.

The Panel also understands that a Local Design Review Scheme has recently been established under the PDI Act. While no councils are yet to establish a Local Design Review Panel (LDRP) for their area, a LDRP could assist in good decision making at the development application stage. Such an approach may also assist in up-skilling assessment staff in considering the design merit of a development application in a historic or character area.

Discussion

Matters of character and heritage are some of the most emotive and tumultuous to arise in connection with the planning framework.

Indeed, since the full implementation of the Code in March 2021, the Panel is aware that there has been significant public attention on these aspects, with an overarching implication that the new planning system 'waters down' previous heritage protections and therefore makes it easier to undertake infill development in areas of notable character and heritage.

However, in the Panel's view, the framework under the new planning regime has, in fact, strengthened character and heritage protection. This is through the introduction of the numerous mechanisms identified earlier in this Chapter, including but not limited to the creation of Character Area and Heritage Area Overlays and consistently applying demolition controls to State Heritage Places, State Heritage Areas, Local Heritage Places and Historic Areas.

It is also important to recall (and as will be repeated in numerous locations throughout this Discussion Paper) that the full effect of the Code's provisions may not have yet been witnessed in our suburbs. This is because the Code has only been operational for 18 months.

Consequently, several properties demolished and/or constructed in character and heritage areas since the implementation of the Code have resulted from approvals granted under the former *Development Act 1993*. That is, despite the Code being operational for 18 months, given the delays in the construction industry occasioned by the pandemic, we may still be witnessing demolitions and/or constructions that <u>were not</u> subject to the provisions of the Code.

Notwithstanding the above, specific matters that have been identified in the media and to the Department for Trade and Investment (the Department) directly include (but are not necessarily limited to):

- Representative Buildings not being clearly identified in the Code, and a need to identify additional Representative Buildings;
- the broad and non-specific nature of the Historic Area and Character Area Statements;
- the need for improvements to better guide built form outcomes within historic and character areas, and allow provision for greater local policy content; and
- the need for more local government and community contribution to decision making regarding development in character and heritage areas (including the demolition of buildings).

These matters indicate that there appears to be a lack of recognition and/or awareness of the period of time it takes to see the 'on ground' impacts of systemic change, particularly the scale of the PDI Act and Code.

State Planning Commission Proposal

Noting the significant public interest in character and heritage matters, the Commission has been working on a reform package for the consideration of the Minister for Planning (the Minister).

The Commission provided its proposed 'three (3) pronged' approach to character and heritage reform to the Minister in August 2022. The three (3) prongs of the Commission's proposal are:

1. **Elevate Character Areas to Historic Areas**

   Support and facilitate councils to undertake Code Amendments to elevate existing Character Areas to Historic Areas (where appropriate criteria or justification exists).

   This option will allow demolition controls to apply across a broader area of the State, while still maintaining the integrity and consistency of the Code. Councils would be required to consult with their communities on any proposed Code Amendments to elevate character areas to historic areas.

   To facilitate this body of work, the Commission plans to request Planning Land Use Services (PLUS) to prepare updated guidance materials to provide support to councils in undertaking this process. It is thought that those guidance materials will include detailed information requirements regarding the preparation of heritage surveys, as well as procedural requirements for undertaking Code Amendments.

2. **Character Area Statement Updates**

   Support and facilitate councils to review and update their Character Area Statements (and Historic Area Statements) to address identified gaps or deficiencies. This might include updating themes of importance, incorporating additional design elements, and including illustrations where appropriate.

   These enhanced Statements will provide a stronger focus on design which is bespoke to local character and heritage areas and will provide better tools for assessment of character and heritage values.

   To facilitate this body of work, the Commission plans to request that PLUS work with councils to better understand the current situation (that is, what is working, what is not working, and identify any gaps and deficiencies). PLUS will subsequently prepare guidance material to assist in the addition of policy content within the Statements for councils that want to pursue changes.

3. **Tougher demolition controls in Character Areas**

   Introduce a development assessment pathway that only allows for demolition of a building in a Character Area (and Historic Area) once a replacement building has been approved.

   This change is aimed at ensuring that existing buildings in Character or Historic Areas are only demolished when the replacement building is in keeping with the character or historic value of the area.

Following receipt of the three (3) pronged approach and noting that the Panel's Terms of Reference require it to consider character and heritage in the Code, the Minister referred the Commission's proposal to the Panel for its consideration. In doing so, the Minister also asked that the Panel provide its advice and early recommendations for those aspects of the Commission's proposal that it was willing to endorse. This is consistent with, and permitted by, the Panel's Terms of Reference.

The Panel has considered the Commission's proposal and determined to **provide its support** to 'prongs' one (1) and two (2). The Panel has advised the Minister of the same.

The Panel resolved to provide early support for these two (2) prongs of the proposal on the basis that they represent sensible improvements to the character and heritage framework in South Australia, and both can occur with limited intervention from the State. Indeed, the power already exists for councils to undertake the body of work envisioned by these reform proposals.

Despite this, the Panel recognises that the preparation of guidance materials by PLUS will substantially assist in empowering the local government sector to take responsibility for the transition to enhanced heritage protections at a local level.

Separately, the Panel also notes that the advancement of these two (2) prongs does go some ways toward addressing the concerns that have been raised in the media and with the Department, particularly those around local policy and seeking additional guidance in character and heritage statements

Notwithstanding, noting that prong three (3) is the most significant of the reforms proposed, the Panel determined that it was not willing to provide its early support for the reform in the absence of conducting public consultation on the same.

Whilst effecting such a change would only be able to be facilitated through both legislative change and a Code Amendment which would, itself, be subject to public consultation, the Panel considers that it is appropriate to ascertain the appetite to incorporate demolition controls of the nature proposed in advance of a Code Amendment being prepared.

The Panel now seeks community and stakeholder feedback in relation to this proposal and whether there is community and stakeholder support for requiring a replacement building to be approved in advance of demolition approval being granted.

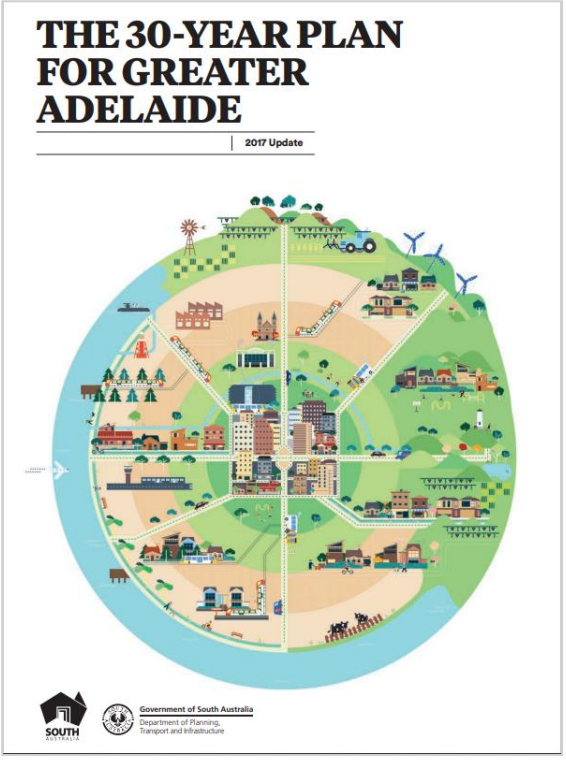
Questions for Character and Heritage Policy

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

Tree Policy

Background

The current policy position on urban trees is focused on the retention and increase of tree canopy cover.



The 30-Year Plan for Greater Adelaide (2017 update) contains a target that "*urban green cover is increased by 20% in metropolitan Adelaide by 2045*", noting that councils currently have varying amounts of tree canopy cover.

It is proposed that council areas that currently have less than 30% tree canopy cover should seek to increase their canopy by 20% by 2045. Council areas that currently have more than 30% tree canopy cover should maintain the current level of cover, ensuring no net loss over the years to 2045.

These current policy targets were based on a reported average 27.28% tree canopy cover across the local government areas, as captured in research undertaken in the national benchmarking report to the Institute of Sustainable Futures of the University of Sydney in 2014, where an indicative rating of canopy cover was provided as the original baseline data.

Since the release of the *30-Year Plan for Greater Adelaide* (2017 update) and the *2017 Update Report Card 2020-2021* progress has been made in data capture and analysis. Tree canopy cover was further measured across 18 metropolitan councils in 2018/19 using Light Detection and Ranging (LiDAR) data, providing a more accurate method of measuring tree canopy. This change in method means that it is not possible to measure progress against the original baseline data in the Plan.

New LiDAR data capture across metropolitan Adelaide is progressing this year (2022) and this will present an opportunity for a first like-for-like comparison of tree canopy change against those 18 councils and tree canopy data captured in 2018/19. It is anticipated that the analysis of tree canopy data will be available in the first half of 2023.

Tree Protections

Part 1 of the PDI Act provides the definition of ***development*** as including any tree damaging activity in relation to a regulated tree.

Pursuant to regulation 3F(1)(a) of the PDI Regulations, a ***regulated tree*** is:

> *A tree within a designated regulated tree overlay that has a trunk with a circumference of 2 m or more or, in the case of trees that have multiple trunks, that have trunks with a total circumference of 2 m or more and an average circumference of 625 mm or more, measured at a point 1 m above natural ground level.*

The PDI Regulations also provide that for a ***significant tree*** is:

> *A tree with a trunk with a circumference of 3 m or more or, in the case of a tree with multiple trunks, has trunks with a total circumference of 3 m or more and an average circumference of 625 mm or more, measured at a point 1 m above natural ground level.*

Trees and/or stands of trees are also able to be declared as significant pursuant to Section 68 of the PDI Act based on whether a tree:

1. makes a significant contribution to character or visual amenity in the local area; or
2. is indigenous to the local area, it is a rare or endangered species taking into account any criteria prescribed by the regulations, or it forms part of a remanent area of native vegetation; or
3. is an important habitat for native fauna taking into account any criteria prescribed by the regulations; or
4. satisfies any criteria prescribed by the regulations.

Trees declared as significant for the purposes of section 68 of the PDI Act are listed in Part 10 of the Code. Four (4) councils currently have listings in the Code – City of Adelaide, City of Unley, City of Burnside, and City of Prospect.

Code Overlays

The Code includes two (2) overlays that contain policy relevant to urban trees – the Urban Tree Canopy Overlay and the Regulated and Significant Tree Overlay.

The Urban Tree Canopy overlay provides policy for assessment of new dwellings within the overlay and seeks to ensure that residential development preserves and enhances urban tree canopy through the planting of new trees and retention of existing mature trees where practicable.

Conditions relating to the policies contained in the Urban Tree Canopy Overlay are prescribed in Practice Direction 12.

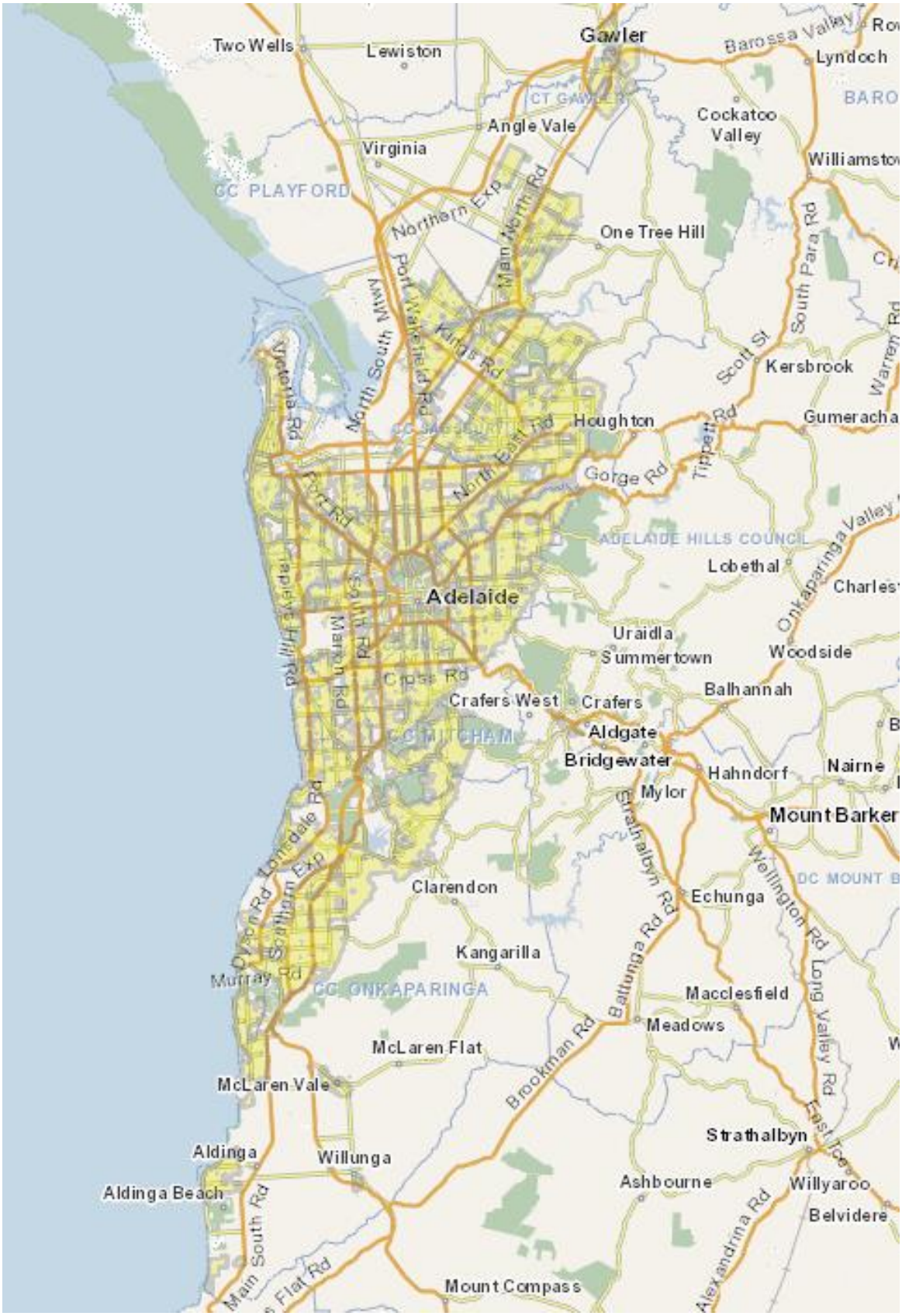
The Urban Tree Canopy Overlay seeks tree planting in accordance with the following:

Site size per dwelling (m^2)	Tree size* and number required per dwelling
<450	1 small tree
450-800	1 medium tree or 2 small trees
>800	1 large tree or 2 medium trees or 4 small trees

For the purposes of the above requirements, tree size is prescribed in the Code as:

Tree size	Mature height (minimum)	Mature spread (minimum)	Soil area around tree within development site (minimum)
Small	4 m	2 m	10 m^2 and minimum dimension of 1.5m
Medium	6 m	4 m	30 m^2 and minimum dimension of 2m
Large	12 m	8 m	60 m^2 and minimum dimension of 4m

The Urban Tree Canopy Overlay applies to the areas highlighted in yellow on the following map:



The Regulated and Significant Tree Overlay provides policies against which a proposal for tree damaging activity in respect of a regulated or significant tree can be assessed on its merits. It also serves to delineate the area that the regulated tree controls in the PDI Act apply – see highlighted area on the following map:

Trees not in metropolitan Adelaide

Trees that are not in the Adelaide metropolitan area are generally subject to regulation via the *Native Vegetation Act 1991* (Native Vegetation Act).

In terms of Code policy, there is policy that provides a framework for assessing the impact of development on native vegetation (the Native Vegetation and Significant Native Vegetation Overlays).

Tree canopy and stormwater

In formulating the draft policy improvements, feedback from the community and industry highlighted tree canopy, stormwater management and rainwater tanks as areas of particular concern.

In response, the Commission contracted engineering consultants to produce two (2) Options Analysis reports, addressing the costs and benefits of stormwater management and tree canopy cover.

This evidence-based research informed the Code's policy, resulting in new criteria:

1. mandatory tree planting policy in urban infill areas to ensure at least one (1) tree is planted per new dwelling (or option for payment into an offset fund where tree planting is not feasible on-site due to reactive soils or allotment size);
2. minimum soft landscaping of 10 per cent to 25 per cent over the whole site, with 30 per cent of front yards landscaped; and
3. retention and/or detention rainwater tanks required to be plumbed to at least one (1) toilet and water outlet. The combined use of retention (reuse) and detention (hold and release) tanks provide greater benefits to homeowners and the wider community.

It is noted that these criteria for tree planting and rainwater tanks for individual dwellings do not apply to master planned/greenfield development areas (e.g., Mount Barker, Aldinga, Gawler East).

In these master planned areas, the Code's policies seek the provision of public reserves/parks, street tree planting and stormwater management systems at the master planning and land division stage, ensuring that tree canopy and water sensitive urban design solutions are integrated at the neighbourhood level, rather than retrofitting site-specific measures into infill houses.

The Urban Tree Canopy Off-set Scheme

The Urban Tree Canopy Off-set Scheme (the Scheme) is an off-set contribution scheme established under Section 197 of the PDI Act and which has been established to support the Urban Tree Canopy Overlay in the Code.

The Scheme allows payment into the Urban Tree Canopy Off-set Fund (the Off-set Fund) in lieu of planting and/or retaining the required trees on site in designated areas where tree planting is not feasible.

While the Urban Tree Canopy Overlay affects most residential areas in metropolitan Adelaide, the Scheme only operates in selected zones or areas where tree planting is less feasible, being:

1. Housing Diversity Neighbourhood Zone;
2. Urban Renewal Neighbourhood Zone;
3. City Living Zone; and
4. any site with a 'Designated Soil Type' as described in the Scheme.

Payment in lieu of providing the tree or trees is only available in the abovementioned areas, as tree planting may not be as feasible due to soil type (specified in accordance with Australian Standard AS2870, highly reactive sites) or due to limited building setbacks.

A review of available data indicates that 193 applications for residential development were approved within the above zones between the commencement of full operation of the Code (19 March 2021) and 30 June 2022. Of these approvals, ten (10) (i.e. approx. 5% of eligible applications) have elected to pay into the Off-set Scheme.

> **Note:** At this stage it is not possible to quantify how many development proposals within the Urban Tree Canopy Overlay may be eligible for the Off-set Scheme due to a 'Designated Soil Type'.

The funds paid into the Off-set Scheme are to be used for the planting, establishment and maintenance of trees within reserves or public land anywhere within a designated local government area. It can also be used to purchase land within a designated local government area for the preservation or establishment of trees in areas with lower urban tree canopy levels or demonstrated loss of tree canopy.

Payments into the Off-set scheme are calculated as follows:

Tree Size	Rate ($ per tree)
Small - minimum mature height of 4 metres and minimum mature spread of 2 metres	$300
Medium - minimum mature height of 6 metres and minimum mature spread of 4 metres	$600
Large- minimum mature height of 12 metres and minimum mature spread of 8 metres	$1,200

In addition to the above, section 127(4) to (8) of the PDI Act provides that where a development approval authorises the killing, destruction, or removal of a regulated or significant tree, an applicant can elect to plant replacement trees or pay a fee into a relevant fund (being either the relevant urban trees fund or, if no fund has been established, the Planning and Development Fund). Conditions relating to these requirements are prescribed in Practice Direction 12.

The *Planning, Development and Infrastructure (Fees) Notice 2022* prescribes that the relevant fee for each replacement tree prescribed in Section 127 (6) that is not planted is **$156.00**.

State Planning Commission Open Space and Trees Project

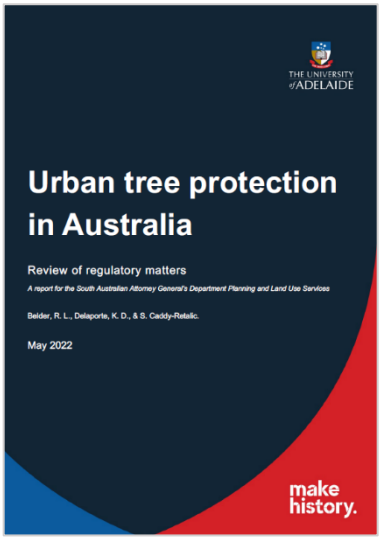
The Commission has commenced the Open Space and Trees Project (the Project) which includes a review of exempt tree species in relation to regulated and significant trees, a review of regulatory matters in relation to trees, as well as additional investigations including reporting on the Scheme and infill development.

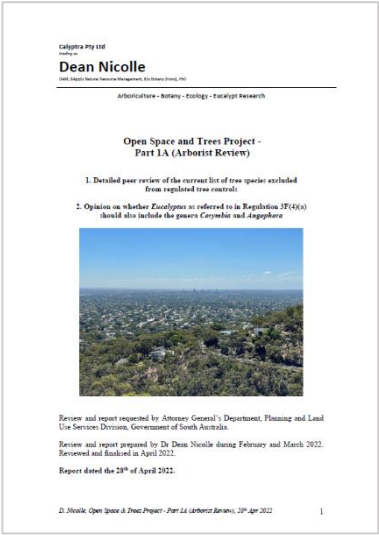
The scope of the Project includes:

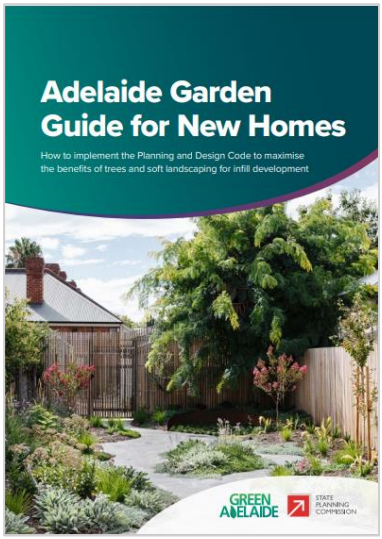
- 1 - Review of regulated tree species and off-set contributions
  - 1A—A review of the types of trees exempt from regulated tree controls
  - 1B—Research work to quantify appropriate offset contribution from the removal of regulated and significant trees (in lieu of planting replacement trees)
- 2—Review of regulated tree legislation (informed by Parts 1A and 1B)
- 3- Review of urban greening and the impact of infill development
  - 3A—Review of the Urban Tree Canopy Off-set Scheme
  - 3B—Review of infill policy in the context of urban tree policy
  - 3C—Review of tree canopy targets in *The 30-Year Plan for Greater Adelaide* (2017 Update).

In the course of undertaking Part 1 and Part 2 of the Project, the Commission obtained two (2) reports; the first being an Arborists Report titled '*Open Space and Tree Project – Part 1A (Arborist Review)*' and the second a Research Report titled '*Urban Tree Protection in Australia: Review of Regulatory Matters*'. Both reports were made available to the public on 1 September 2022 together with the release of the '*Adelaide Home Garden Guide for New Homes'*.

The '*Adelaide Home Garden Guide for New Homes*' represents collaborative efforts by the Department of Environment and Water (DEW) and PLUS in providing landscaping guidance and assistance in interpreting current landscaping policies in the Code.







The Arborist's Report contains a detailed peer review of the current list of tree species excluded from regulated tree controls and makes recommendations to contemporise the same.

The Research Report was commissioned to provide data and analysis of South Australia's tree protections, as compared to other Australian states and territories, including the size of trees protected and the various exemptions which currently apply. The Research Report identified that whilst:

> *metropolitan Adelaide does not have the weakest tree protections in the country…South Australia's laws [are] markedly less stringent than local governments in New South Wales, Victoria and Western Australia*[4].

It also noted that *"the vast majority of local governments in Australian capital cities have laws designed to protect urban trees more effectively than South Australia's laws*"[5].

In summary, further analysis and consideration of the Reports has found that:

1. exempt tree species list as per regulation 3F of the PDI Regulations is not contemporary and should be updated;
2. circumferences for a tree to be considered regulated or significant in the PDI Regulations are too generous and should be reviewed;
3. exemptions with respect to certain tree species located within ten (10) metres of a dwelling or swimming pool are too broad, and should be considered in light of the approach in other jurisdictions; and

[4] Belder, R.L, Delaporte, K.D, & S. Caddy-Retalic, *Urban Tree Protection in Australia: Review of Regulatory Matters* (University of Adelaide, 2022),2.
[5] Ibid.

4. current offset fees for the removal of regulated or significant trees are inadequate and should be reviewed.

The Arborists Report and Research Report will inform further work into potential regulatory matters on regulated and significant trees.

Parts 3A and 3B of the Commission's Project, which relate to a review of the Urban Tree Canopy Off-set Scheme and a review of infill policy in the context of urban tree policy, as well as Part 3C relating to reviewing tree canopy targets in *The 30-Year Plan for Greater Adelaide* (2017 Update), will be informed by the outcomes of the Expert Panel's review.

Government Initiatives

The State Government is currently developing an Urban Greening Strategy for metropolitan Adelaide (looking at urban trees as well as urban greening) to achieve protection and enhancement of habitat, biodiversity, promotion of green infrastructure and the protection of waterways, systems that improve amenity, urban environments, and wellbeing.

PLUS and Green Adelaide are collaborating on this project and there are obvious synergies in dealing with tree protection and urban canopy enhancements and delivery of an Urban Greening Strategy.

Jurisdictional Comparison

The Research Report prepared for the Commission and referred to the Panel provides a detailed jurisdictional comparison of tree laws in Australia. In doing so, the Research Report considered the tree protections provided by a sample size of 101 interstate local government councils against a sample size of 23 South Australian councils, to facilitate a comparison with those protections afforded in South Australia.

Of the 101 interstate councils considered, the Research Report found that:

- 51.5% (52 councils) provided a tree register or list as a form of tree protection;
- 65.3% (66 councils) provided dimension-based tree protections;
- 15.8% (16 councils) provided species-based tree protections;
- 52.5% (53 councils) provided location-based tree protections;
- 5% (5 councils) provided environmental based tree protections; and
- 6.9% (7 councils) provided additional protections deemed as 'other'.

South Australia does not currently provide species, location, or environmental based tree protections. However, South Australia does provide exemptions for certain trees based on their species or location, from the definition of Regulated or Significant tree (as described above).

To further distil these figures, with respect to dimension-based tree protections:

- 51% provided tree protection based on the **overall height** of a tree, with the average minimum height protected across the sample size being **6.32 metres tall** (it is noted that majority of the councils reviewed had a minimum height requirement of 6 metres of less, but the average was skewed by outlier councils with significantly higher minimum heights);
- 50% provided tree protection based on **trunk circumference**, with the average minimum circumference protected across the sample size being **53 centimetres**; and
- 21% provided tree protection based on the spread of the crown of the tree, with the average minimum crown spread afforded protection being **3.5 metres**.

By comparison, South Australia does not currently provide tree protections based on height or crown spread, and the minimum trunk circumference to qualify for protection is 2 metres (regulated trees).

Regarding the ability to remove protected trees in certain circumstances, the Research Report found that of the 101 councils considered:

- 16.8% permitted removal to maintain clearance of a building or dwelling;
- 3% permitted removal to maintain clearance of a garage or outbuilding;

- 1% permitted removal to maintain clearance of a carport;
- 2% permitted removal to maintain clearance of a swimming pool;
- 2% permitted removal to maintain clearance of a driveway;
- 1% permitted removal to maintain clearance of dam wall;
- 7.9% permitted removal to maintain clearance of a property line; and
- 3% permitted removal in other circumstances.

It was also recognised that in the circumstances where removal was permitted, majority of councils required a tree to be within three (3) metres of a building and even closer to other structures.

In South Australia, the PDI Act allows removal of protected trees within ten (10) metres of an existing dwelling or an existing in-ground swimming pool other than *Agonis flexuosa* (Willow Myrtle) or Eucalyptus (any tree of the genus).

Discussion

The conversation around trees is diverse. It gives rise to discussions around urban heating and cooling, biodiversity, and climate change, as well as conversations pertaining to safety, cost of development and obstacles to development.

This is because trees provide more than just amenity in our urban environments. They affect the liveability of our city through the provision of urban cooling and urban biodiversity, and add to the rich history of the State, being that many trees are culturally significant to certain communities, including Indigenous communities.

It is a complex and multifaceted policy area which is demonstrated by the significant body of work that is being undertaken by multiple agencies and stakeholder interest groups.

In its considerations to date, the Panel has received and reviewed a number of reports that have been commissioned on trees. Most notably, all these reports share the notion that South Australian tree canopy is in decline and that it needs to improve.

The Panel wholly agrees that South Australia's tree canopy needs to improve and recognises that we are unlikely to meet the tree canopy targets set out in the 30 Year Plan. However, achieving the tree canopy target is not just a planning issue and will rely on actions and improvements from the non-planning sector.

Despite this, from a planning perspective, the Panel again notes that the policy requirements set out in the Code are too early in their implementation to enable a comprehensive assessment to be undertaken as to their effectiveness. Trees take years to establish, and it will only be through LiDAR data capture and analysis, and systems monitoring on the uptake of the Urban Tree Canopy Off-set Scheme that an understanding of improvements in canopy coverage will be known.

To this end, and as noted in the background of this Chapter, the advanced LiDAR data capture that is slated for release in 2023 will act as a 'first step' to identifying whether South Australia's tree canopy is improving and whether as a State, we are heading in the right direction.

Considering the interactions between trees and the South Australian planning system, what has been published by others in relation to trees and the work undertaken by the Commission to date, it appears to the Panel that the **key issues** are:

1. **decline of urban trees** across metropolitan Adelaide leading to a decline in overall urban tree canopy cover;
2. real and perceived view that **urban infill policies** and resultant development is contributing to the loss of trees i.e. tree removal, loss of private open space on which to plant trees and impacts on tree roots and health due to proximity to structures; and

3. exacerbation of this loss of trees (canopy) with **anticipated increases in temperature due to climate change** – acknowledging that mitigation is needed to reduce heat hazard and provide for greater urban cooling.

In addition, trees in the public realm should be considered, particularly in the context of individual council tree planting strategies and own tree canopy targets. The Panel understands that the management and asset value of street trees (sometimes the lack thereof) is a point of consideration for the community. Whilst the Panel has identified that there is opportunity for further work to be undertaken specifically in relation to street trees and has posed relevant questions in the discussion that follows, for the avoidance of doubt, the Panel is primarily focused on trees in the private realm, in the context of the Code (and the PDI Act).

The Panel is also aware of distinguishing differences between inner city councils and larger, middle to outer councils, in relation to the availability of land on which to plant replacement trees as part of the Urban Tree Canopy Offset Scheme or future tree planting targets.

Trees, their healthy establishment, and ongoing management, along with their resilience to climate change (be they located on public or private land) are also key considerations. Related measures in achieving sustainable landscaping as part of new developments and Water Sensitive Urban Design (WSUD) across the State, may be considered as part of forthcoming policy and/or regulatory improvements around trees and canopy cover (and is intrinsically related to infill policy).

In light of the above, the Panel now seeks community and stakeholder feedback pertaining to a range of improvements that may be available for implementation, to aid in South Australia's efforts to increase its urban tree canopy.

Native Vegetation

Prior to the commencement of the Code and the establishment of an effective referral trigger to the Native Vegetation Council, there was limited consideration given to native vegetation in the planning and development process. This often resulted in impacts on vegetation being considered very late in the planning process, and often after Development Approval had been granted. This resulted in the loss of opportunities available to avoid or minimise impacts on native vegetation.

The lack of legislative alignment and coordination between the former planning regime and the Native Vegetation Act led to inconsistent decision making, confusion and uncertainty for applicants, duplication in process and often delays in finalising decisions. It also often resulted in increased impacts on native vegetation that likely could have been avoided if considered earlier in the process.

The introduction of the Native Vegetation Overlay and the State Significant Native Vegetation Areas Overlay in the Code has been successful in addressing many of

these issues, and the Panel acknowledges that the relationship between planning policy and native vegetation has improved under the new planning regime.

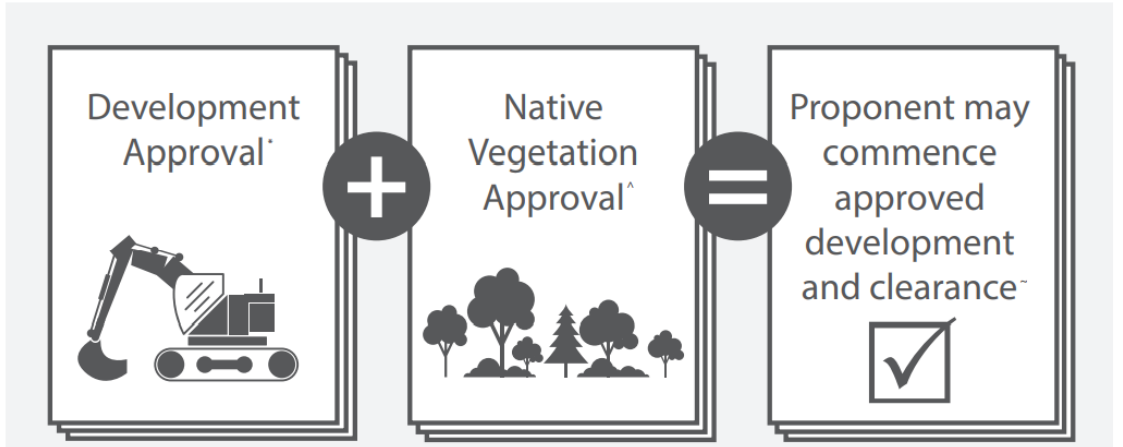


Figure 2: Approvals required for development involving the clearance of Native Vegetation

* issued under the *Planning, Development and Infrastructure Act 2016*
^ issued under the *Native Vegetation Act 1991*
~ subject to landowner consent and other legal requirements

However, the Panel also recognises that further improvements could be made to the interaction between the two (2) systems as, although improved, they remain quite separate and are not complimentary. An example of this may be the ability for applicants to access information about whether native vegetation is present on their land, and if so, how they can avoid impacting the same.

In addition, it is this lack of connectivity that can cause confusion and result in the clearance of protected trees. For example, pursuant to section 27(1)(b) of the Native Vegetation Act and Schedule 1, clause 14 of the *Native Vegetation Regulations 2017*, native vegetation may be cleared within five (5) metres of a fence line in certain circumstances. This may be erroneously understood to include the removal of a regulated tree in the absence of an approval under the PDI Act. However, this is not the case, and the requirement to obtain approval under the PDI Act for tree-damaging activity in relation to a regulated tree applies irrespective of whether the activity may be permitted under the Native Vegetation Act.

Whilst the interaction between planning policy and native vegetation is not strictly a Code matter, the Panel acknowledges the important contribution native vegetation makes to our tree canopy. In circumstances where the retention and increase of tree canopy is a key priority, it follows that consideration ought to be given to the issues being experienced in the interface between the planning system and native vegetation, and how those may be overcome.

Questions for consultation:

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

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

Tree Canopy

As identified in the background section of this Chapter, with the implementation of the Code, it was determined that the tree planting policies would not apply to master planned/greenfield developments. The rationale was that sufficient trees would be planted throughout the development through open space, parks, road reserves etc and it was therefore unnecessary to also require a tree (or trees) to be planted on individual dwelling sites.

However, noting the increased requirement for tree canopy coverage in South Australia, the Panel has considered whether there is merit in requiring master planned/greenfield development areas to also ensure that at least one (1) tree is planted on the site of each new dwelling.

It has also considered whether there would be further merit it requiring such a tree to be planted in the rear of a dwelling site to increase the potential for it to grow large enough to provide passive shade to neighbouring allotments.

Questions for consultation:

1. What are the implications of master planned/greenfield development areas also being required to ensure at least one (1) tree is planted per new dwelling, in addition to the existing provision of public reserves/parks?
2. If this policy was introduced, what are your thoughts relating to the potential requirement to plant a tree to the rear of a dwelling site as an option?

Tree Protections

The Panel recognises that there are numerous ways to protect trees through our regulatory system, each with their own costs and benefits. These mechanisms are highlighted in the Research Report obtained for the Commission, as discussed earlier in this Discussion Paper.

However, due to the implications of amending and/or extending the current framework, the Panel considers that it is both appropriate and necessary to seek community and stakeholder input as to what tree protection mechanisms should operate in South Australia.

As it stands, Regulation 3F(1) of the PDI Regulations provides that in order for a tree to be deemed ‘regulated’, it must have a trunk circumference of at least two (2) metres. The Research Report states that the minimum trunk circumference used to ‘trigger’ regulated and significant tree protections is too generous and recommends it be revised.

It appears that this is because, by comparison to other jurisdictions (as identified earlier in this Chapter), South Australia requires the highest minimum trunk circumference in the Nation before legislative tree protection is triggered.

In addition, the Research Report identifies that South Australia is behind other jurisdictions in that it does not currently afford tree protections based on the height or crown spread of a tree. It is indicated that protecting taller trees and trees with larger crowns would ensure canopy structure is preserved, and would maximise biodiversity, amenity and public health benefits associated with the urban forest[6].

The Panel also notes that both the Research Report and the Arborists Report identify the opportunity to introduce additional tree protection mechanisms specifically relating to tree species. It is thought that this would promote biodiversity in the urban forest through the protection of rare or unusual species[7] and would also go some ways in preparing for the predicted increased stress caused to urban trees because of climate change.

Notwithstanding the findings in the Research Report, for the avoidance of doubt, the Panel does not intend to make any specific recommendations as to what the revised minimum tree circumference should be (or if it should be amended), or what any minimum height or minimum canopy spread protections ought to be introduced (if it is inclined to recommend any of the same).

This is because the Panel acknowledges the need for significant economic analysis to be undertaken before such figures could be arrived at. The economic analysis would need to identify what the broader implications of amending and/or introducing the regulations would be, and not only how that would impact development outcomes and land supply, but equally whether there is sufficient professional capability in South Australia to manage increased regulation (i.e., trained arborists to undertake tree analysis and reporting).

Question for consultation:

1. What are the implications of reducing the minimum circumference for regulated and significant tree protections?
2. What are the implications of introducing a height protection threshold, to assist in meeting canopy targets?
3. What are the implications of introducing a crown spread protection, to assist in meeting canopy targets?
4. What are the implications of introducing species-based tree protections?

Distance from Development

The South Australian regulatory framework currently provides that a tree that would otherwise be protected based on its trunk circumference may be removed if it is within ten (10) metres of an existing dwelling or an existing in-ground swimming pool

[6] Ibid, 59.
[7] Ibid, 60.

(regulation 3F(4)(a) of the PDI Regulations). This exemption does not apply to *Agonis flexuosa* (Willow Myrtle) or Eucalyptus (any tree of the genus).

As is identified in the Research Report, the existing ten (10) metre proximity "*is likely to effectively remove protections for many urban trees in Adelaide, given ongoing urban infill*"[8].

Accordingly, having considered the analogous opportunities permitted for removal in other Australian jurisdictions, the Panel considers that this provision is too generous, and that consideration needs to be given to reducing the same.

The Panel also considers there is scope for reducing, or otherwise further refining, the circumstances that are deemed suitable triggers for removing a protected tree based on its proximity. This could potentially include a requirement for the tree to be posing a significant threat to safety or infrastructure but could also be refined to only permit removal to occur if the tree is within a certain distance to a substantial building or infrastructure (this is an approach taken by some councils in other jurisdictions).

As with the tree protections discussed earlier in this Chapter, the Panel is unlikely to make specific numeric recommendations for revision of these regulations in the absence of further economic analysis. However, it deems it appropriate and necessary to obtain community and stakeholder views on the potential revision of this aspect of the tree protection framework.

Question for consultation:

1. 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?
2. 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 Urban Tree Canopy Off-set Scheme

The Panel understands that the Commission intends to look at the Urban Tree Canopy Off-set Scheme as part of Part 3 of its Project. However, the Panel also recognises that the Scheme has the capacity to be an integral part of the tree policy framework under the Code.

Whilst it has only been used a small number of times since the implementation of the Code, there is potential for this to increase as development (and particularly infill development) increases.

[8] Ibid.

However, in the Panel's view, the cost associated with electing not to plant a tree and instead paying into the Scheme is not high enough and does not reflect the actual costs borne by local government in having to plant and maintain replacement trees elsewhere. The Panel believes there is scope to refine the fees associated with the Scheme to better reflect this.

In addition, the Panel agrees with the recommendations arising from the reports prepared for the Commission that the current offset fees for the removal of regulated or significant trees are inadequate and should be reviewed.

The off-set fees are charged in circumstances where a replacement tree is not planted. However, the overall cost to amenity, history, biodiversity and the urban heat effect is not, and cannot be, appropriately compensated with $156.00, nor can a council plant a replacement tree for this fee.

Questions for consultation

1. What are the implications of increasing the fee for payment into the Off-set scheme?
2. 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?
3. What are the implications of increasing the off-set fees for the removal or regulated or significant trees?

Public Realm Tree Planting

Whilst the work of the Panel is primarily focused on private realm tree canopy, it would be remiss of it not to identify that there are significant complications arising from:

- street trees being removed (lawfully or otherwise) and not replaced;
- street trees dying;
- land costs and availability of land to plant trees for inner city councils; and
- the fact that in circumstances where street trees are planted and cared for, they are often not of a sufficient size or species to grow into a tree that will provide significant future canopy cover.

To this end, the Panel believes that there is opportunity to explore the funding options available to councils for public realm tree planting and maintenance, as a manner to encourage the planting of more substantial trees that will make a significant impact on the future urban tree canopy.

The Planning and Development Fund (the Fund) operates in accordance with Part 15, Division 1 of the PDI 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 made in lieu of meeting the 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 section 195 of the PDI Act and enables the Government to adopt a state-wide approach to strategically implement open space and public realm projects in an objective manner.

To achieve this, the Fund provides grant funding opportunities for local government through the Open Space Grant Program (the Grant Program). The Grant Program is application based and assists councils to provide quality open space in their areas (which can necessarily include green space).

In addition, together with the Pocket Park election commitment by the Government to help green suburbs, the Panel is aware that other Government initiatives have, in recent years, supported planting and greening of our neighbourhoods. An example of this is the Greener Neighbourhoods Grant Program operated by DEW (through Green Adelaide), which provides grant funding to eligible councils to keep suburban streets and open space green and cool.

Questions for consultation:

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

Questions for Tree Policy

Native Vegetation

1. What are the issues being experienced in the interface between the removal of regulated trees and native vegetation?
2. Are there any other issues connecting native vegetation and planning policy?

Tree Canopy

1. What are the implications of master planned/greenfield development areas also being required to ensure at least one (1) tree is planted per new dwelling, in addition to the existing provision of public reserves/parks?
2. If this policy was introduced, what are your thoughts relating to the potential requirement to plant a tree to the rear of a dwelling site as an option?

Tree Protections

3. What are the implications of reducing the minimum circumference for regulated and significant tree protections?
4. What are the implications of introducing a height protection threshold, to assist in meeting canopy targets?
5. What are the implications of introducing a crown spread protection, to assist in meeting canopy targets?
6. What are the implications of introducing species-based tree protections?

Distance from Development

7. 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?
8. 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)?

Urban Tree Canopy Off Set Scheme

9. What are the implications of increasing the fee for payment into the Off-set scheme?
10. 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?

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

Public Realm Tree Planting

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

Infill Policy

Background

The *30 Year Plan for Greater Adelaide* (2017 Update) encourages the reduction of our urban footprint and the provision of more housing diversity close to public transport options.

Target 1 – Containing our urban footprint and protecting our resources – seeks for **85 per cent** of all new housing in metropolitan Adelaide to be built in established urban areas by 2045. To achieve these targets, minor infill has become increasingly important to the overall settlement pattern of metropolitan Adelaide.

Indeed, minor infill was identified as the **single greatest provider** of new housing in Greater Adelaide in the then Department of Transport and Infrastructure's summary of minor infill activity in Greater Adelaide 2012-2018 report. This report found that minor infill development contributed to 39 per cent of the region's net dwelling increase in this time period, as compared with major/other infill (32 per cent) and broadhectare (29 per cent) sites.

Further, the 2019 'A Missing Middle Case Study' by Dr Damien Madigan (commissioned to inform the Code) observed that in areas experiencing high minor infill development activity, an opportunity exists to place a strong focus on providing diverse housing options that are universally designed, affordable, support 'ageing in place' and reflect the changing needs of our community.

2006-2016 percentage change of residential infill in SA

It follows that it was not only important, but imperative, that the new planning regime reflected the increased presence of infill development in our neighbourhoods.

The residential infill policy was consequently identified as a policy construct of the Code, with the intention of enhancing the State's liveability and prosperity in furtherance of the objects of the PDI Act.

Implementation of Infill Policy

As part of the implementation of the Code in March 2021, the Commission recommended improvements to the policies which guide residential infill in urban areas.

A 'People and Neighbourhoods' Discussion Paper was released in the course of the consultation process to explore the proposed Code policy framework that will best support the future development of homes and neighbourhoods.

Following this consultation, the Code delivered a suite of new policies to increase the design quality of infill development in residential urban areas, including:

1. increasing tree planting, urban green cover and space for gardens;
2. more effective management of stormwater associated with residential infill developments;
3. ensuring adequate on-site parking and reducing the loss of on-street parking; and
4. increasing street amenity by incorporating design features to enhance building façades.

A summary of the key policy changes introduced through the Code is set out in the Commission's brochure, 'Raising the Bar on Residential Infill Development'.

Infill policy encompasses and entwines the key areas of the Code policy that the Panel has been tasked with reviewing, and is reflected in the following areas of the Code:

- Overlays:
    - Stormwater Management Overlay and
    - Urban Tree Canopy Overlay;
- General Development Policies
    - Design in Urban Areas; and
    - Transport, Access and Parking.

Minimum site dimensions/density

The suite of zones where residential infill development is typically envisaged includes:

1. Established Neighbourhood Zone;
2. General Neighbourhood Zone;
3. Hills Neighbourhood Zone;

4. Housing Diversity Neighbourhood Zone;
5. Suburban Neighbourhood Zone;
6. Waterfront Neighbourhood Zone; and
7. Urban Renewal Neighbourhood Zone.

The policies guiding minimum site areas/densities in the Established Neighbourhood Zone, Hills Neighbourhood Zone, Housing Diversity Neighbourhood Zone, Suburban Neighbourhood Zone and Waterfront Neighbourhood Zone each have reference to any relevant Technical and Numeric Variation (TNV), providing for local variations to guide the appropriate densities.

The General Neighbourhood Zone and Urban Renewal Neighbourhood Zone have minimum site dimensions / densities set within the Site Dimensions and Land Division Policy in the zone as follows:

General Neighbourhood Zone		
Dwelling Type	**Minimum site/allotment area per dwelling**	**Minimum site/allotment frontage**
Detached dwelling (not in a terrace arrangement)	300m^2 (exclusive of any battle-axe allotment 'handle')	9m where not on a battle-axe site 5m where on a battle-axe site
Semi-detached dwelling	300m^2	9m
Row dwelling (or detached dwelling in a terrace arrangement)	250m^2	7m (averaged)
Group dwelling	300m^2 (average, including common areas)	15m (total)
Dwelling within a residential flat building	300m^2 (average, including common areas)	15m (total)
Urban Renewal Neighbourhood Zone		
Allotments/sites for residential purposes achieve a net density of up to 70 dwellings per hectare.		

Development with a net residential density over 70 dwellings per hectare on sites with a minimum area of 1200m^2 and minimum frontage width of 35m.

A fixed density policy was considered appropriate in these zones to provide a consistent set of policies for standard residential areas within Greater Adelaide.

The General Neighbourhood Zone seeks to provide greater standardisation of minimum frontage and site area requirements to deliver a steady supply of well-designed and diverse infill housing compatible with existing suburban streets and suburbs.

Importantly, in response to various requests to increase/decrease minimum site dimensions, the General Neighbourhood Zone sets minimum site areas and frontages that are designed to be in harmony with typical allotment patterns and are wide and big enough to comfortably accommodate a range of housing options.

Investigations demonstrated that:

1. sites **over 200m²** can comfortably accommodate a range of 1-storey, 2-bedroom dwellings and 2- storey, 3-bedroom dwellings with single garages;
2. sites **over 300m²** can comfortably accommodate a range of 1-storey, 3-bedroom dwellings and 2- storey, 4+ bedroom dwellings;
3. sites with a **frontage of 9m** can comfortably accommodate a 1-storey dwelling with single garage and a street-facing room and 2-storey dwellings with double garages; and
4. terrace housing/row dwellings can be developed on sites as **narrow as 4.8m**, however at 7m these can be more sensitively integrated into existing areas by providing adequate separation from neighbours and retaining on-street parking and landscaped street frontages.

Discussion

The Panel recognises that since implementation of the Phase Three (Urban Areas) Code Amendment in March 2021, issues associated with infill development such as car parking and trees/landscaping have continued to arise as key concerns of the South Australian community. Indeed, this is one (1) of the reasons that the Panel has been established and further, why it has been tasked with considering the broader impacts of carparking and trees, as well as those associated with infill development.

It is noted, however, that houses approved under the Code are only now becoming evident throughout our suburbs, as the building consent, development approval and construction process following planning consent generally takes up to one (1) year.

This is evidenced in the fact that there have only been 79 Deemed to Satisfy (DTS) infill applications assessed and approved against the new provisions (but not necessarily construction completed) since the implementation of the Code in metropolitan Adelaide (between March 2021 and October 2022). Each of these applications is identified in red on the map below. It is relevant to note that this number is lower than it could have been because:

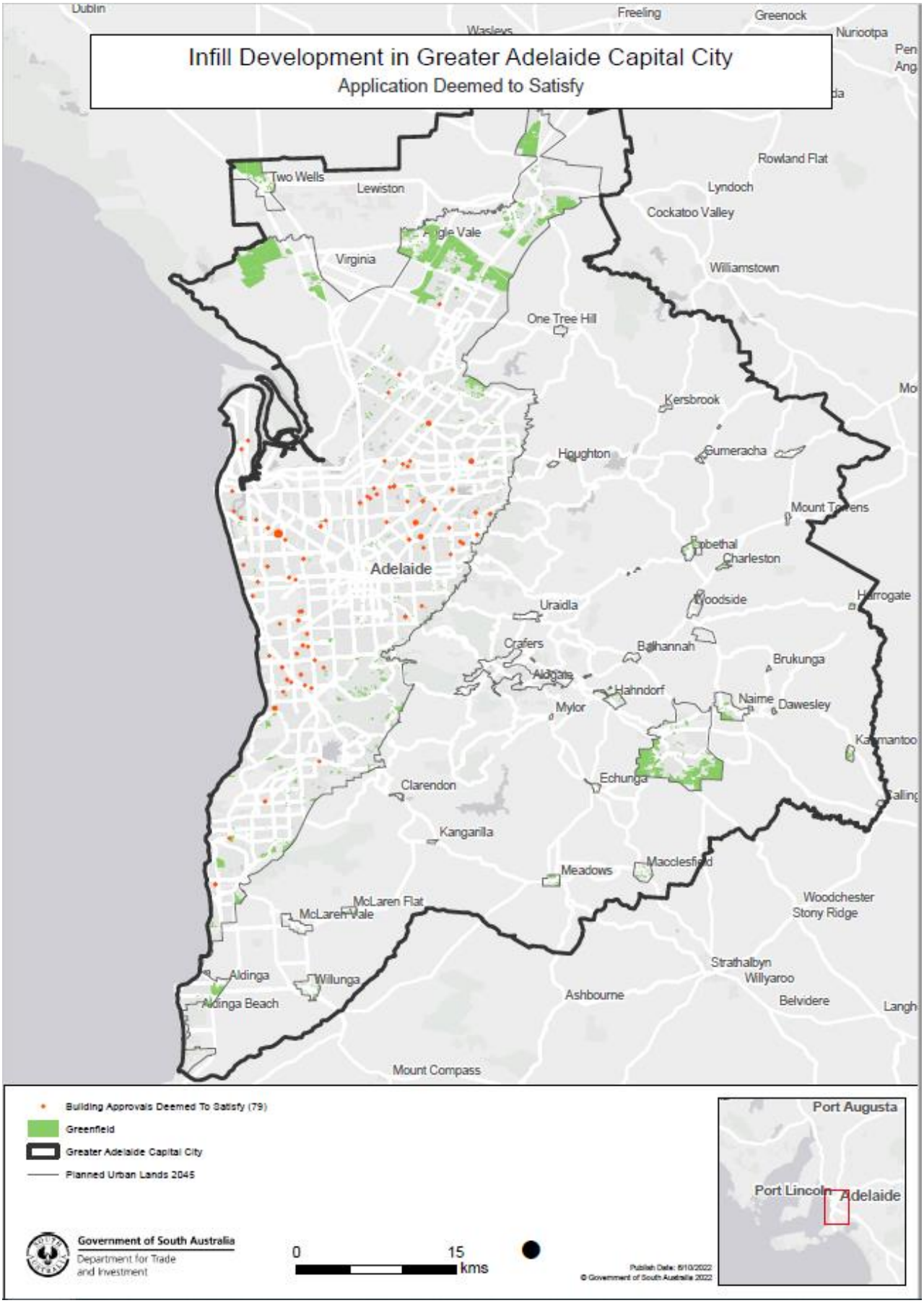
1. the Code was deferred to allow for the HomeBuilder Scheme dwellings (approximately 12,000 homes[9]) to be assessed under the former system; and
2. of delays in the residential construction sector due to COVID-19.

Accordingly, it is difficult to analyse the success of residential infill policies in our neighbourhoods at this early stage. As with the Code's tree policy, it will be necessary for further time to pass before substantive data is available evidencing how effectively the infill policies are working.

Notwithstanding, for the purposes of obtaining an early indication of how the policy is performing, the Panel has requested that additional data analysis be undertaken on the development applications that have received approval to ascertain what percentage of those applications comply with the infill criteria. The Panel intends to report on these findings in its final report to the Minister.

Despite this, the Panel understands that there may remain opportunities for improvement in the infill policies and explores those ideas below.

[9] This dataset is approximate as it relied, in-part, on councils identifying if an application was lodged under the HomeBuilder Scheme, which not all councils did.

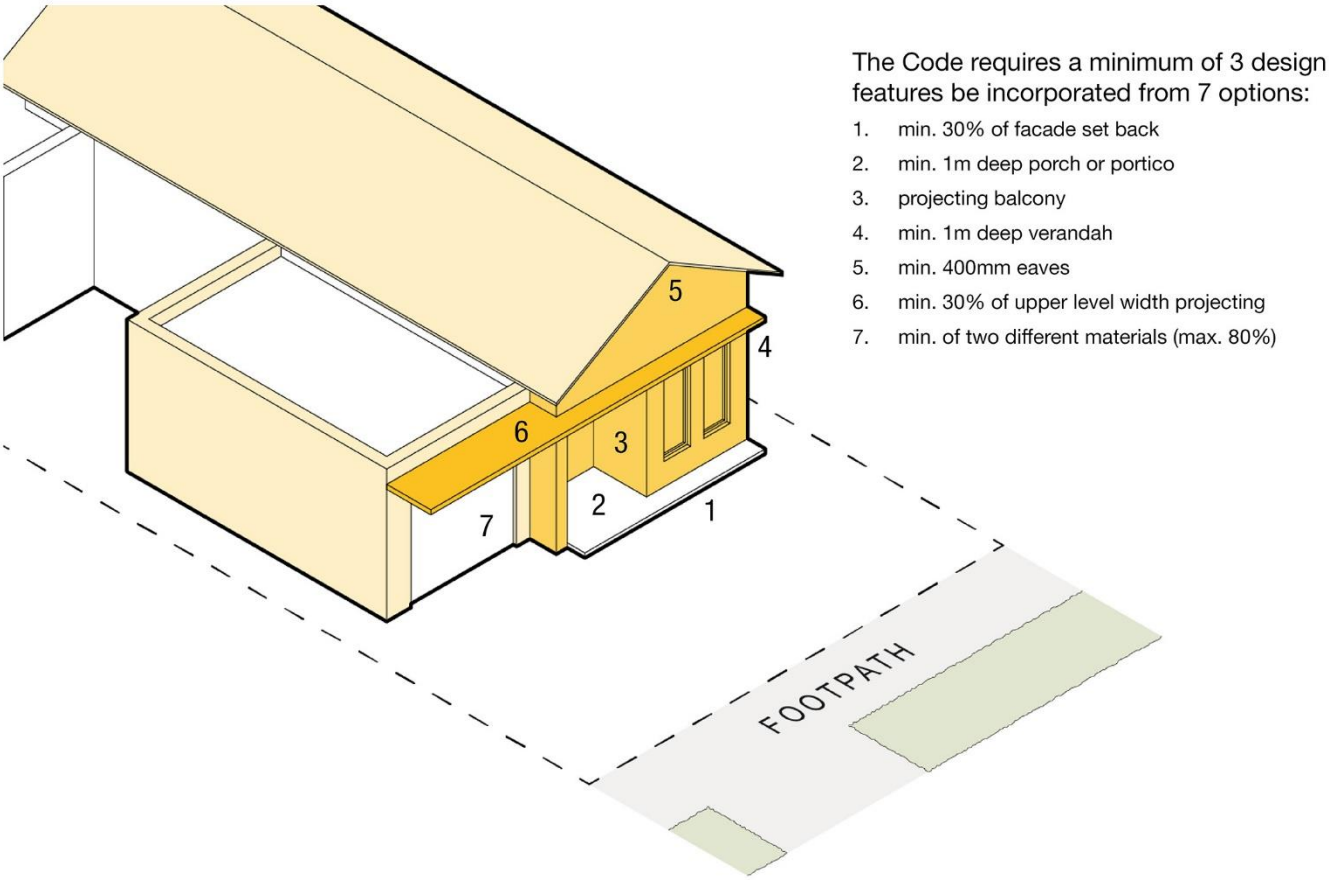

Infill Development in Greater Adelaide Capital City
Application Deemed to Satisfy
Dublin
Freeling
Greenock
Wasleys
Nuriootpa
Rowland Flat
Two Wells
Lewiston
Lyndoch
Cockatoo Valley
Virginia
Williamstown
One Tree Hill
Kersbrook
Houghton
Gumeracha
Adelaide
Charleston
Woodside
Uraidla
Crafers
Balhannah
Brukunga
Aldgate
Hahndorf
Mylor
Naime
Dawesley
Echunga
Clarendon
Kangarilla
Meadows
Woodchester
Stony Ridge
McLaren Flat
McLaren Vale
Strathalbyn
Willyaroo
Aldinga
Willunga
Aldinga Beach
Ashbourne
Belvidere
Mount Compass
Building Approvals Deemed To Satisfy (79)
Greenfield
Greater Adelaide Capital City
Planned Urban Lands 2045
Port Augusta
Port Lincoln
Adelaide
Government of South Australia
Department for Trade and Investment
0
15
kms

Design features

Design improvements were introduced through the new residential infill policy to improve the streetscape appearance of dwellings, including:

1. a minimum of three (3) design features (out of seven (7) design options) on front façades, including eaves, porches, balconies, different materials, stepping, etc., to improve visual interest and building articulation;
2. entry doors visible from the primary street boundary to create a sense of address;
3. a minimum 2m^2 habitable window area facing the street to improve street appeal and increase passive surveillance; and
4. allocation of a dedicated area for bin storage behind the building's façade.

These policies can be found in the Design and Design in Urban Areas General Development Policies in the Code.



Whilst these guidelines go some way to encouraging more appropriate design outcomes for residential infill, in the Panel's view, they still leave room for variation. That is, the Panel considers there is opportunity to provide more specific guidance materials to support the provision of well-designed infill development.

Infill development does not necessarily need to be provided only through narrow, typically detached, often abutting housing. There are a broad range of infill development outcomes and designs that are available for exploration and further consideration in South Australia. Indeed, the Commission has initiated the 'Future Living' Code Amendment which seeks new forms of housing and housing diversity in established suburbs. If approved, this Code Amendment would go some way to diversifying the types of infill development that is being established.

Notwithstanding, the Panel considers that there would be benefit in guidance material being prepared outlining what alternative or innovative options for infill development may be suitable for our neighbourhoods.

In this regard, the Panel also notes the ability for the Code to be supported by *'advisory material in the form of planning or design manuals or guidelines'* under section 66(5) of the PDI Act.

If there were appetite for more specific design guidelines to be prepared in relation to infill development, there may be opportunity to have the same designated as advisory material for the purposes of section 66(5), thus giving it greater force.

Questions for consultation:

1. Do you think the existing design guidelines for infill development are sufficient? Why or why not?
2. Do you think there would be benefit in exploring alternative forms of infill development? If not, why not? If yes, what types of infill development do you think would be suitable in South Australia?

Strategic Planning

Commentary on infill policy often focuses on numerical provisions such as minimum allotment sizes, with the assumption that larger allotments lead to better development outcomes.

However, investigations were undertaken in advance of the Code's implementation which demonstrated the types of housing that could be supported on a range of allotment sizes.

This analysis noted that allotments **over 200m²** (of which all minimum allotment sizes identified in the General Neighbourhood Zone exceed) can comfortably accommodate a range of 1-storey, 2-bedroom dwellings and 2- storey, 3-bedroom dwellings with single garages. Indeed, in the Panel's experience, allotments far smaller than 200m^2 can accommodate the range of housing types identified in the analysis.

As the evidence shows that smaller allotments can deliver a range of housing types, it is important that greater attention is paid to where infill policies are spatially applied to make sure that the Code has the right policies in the right locations.

The Panel acknowledges that opportunities to undertake strategic planning activities (such as the development of growth strategies, structure plans and concept plans) have been limited during the transition to the new planning system.

The current forthcoming reviews of Regional Plans and the 30-Year Plan for Greater Adelaide present an opportunity to reinvigorate local strategic planning to bridge any gap between regional planning and the spatial application of the Code.

The Panel is seeking feedback on the best mechanisms for state and local government and the private sector to work together to align plans and ensure that Code policies are being applied in the right locations to achieve State Policies and regional strategic objectives.

Questions for consultation:

1. What are the best mechanisms for ensuring good strategic alignment between regional plans and how the policies of the Code are applied spatially?
2. What should the different roles and responsibilities of State and local government and the private sector be in undertaking strategic planning?

Questions relating to Infill Policy

Design Guidelines

1. Do you think the existing design guidelines for infill development are sufficient? Why or why not?
2. Do you think there would be benefit in exploring alternative forms of infill development? If not, why not? If yes, what types of infill development do you think would be suitable in South Australia?

Strategic Planning

1. What are the best mechanisms for ensuring good strategic alignment between regional plans and how the policies of the Code are applied spatially?
2. What should the different roles and responsibilities of State and local government and the private sector be in undertaking strategic planning?

Car Parking Policy

Background

During the Commission's investigations and consultation on the Code, car parking and garaging was identified as a particular area of concern, with submissions from community members and residents' associations commonly stating insufficient on-site car parking was an issue.

In preparing the car parking policy, and prior to the implementation of Phase Three of the Code, the Department commissioned a review of car parking rates by traffic engineers, who considered modern traffic and car parking survey demand data. This work included analysis of off-street car parking rates for all land uses and a review of access and car parking policy in relation to residential and infill development in the draft Code.

The draft Code consequently required that only one (1) car park needed to be provided for two-bedroom homes. Car ownership data (using the vehicle registration system and information from the Australian Bureau of Statistics) demonstrated that this would be sufficient, as 2016 statistics indicated that the highest proportion of households owned one (1) or no cars (42 per cent) and approximately 35 per cent of the population owned two (2) cars.

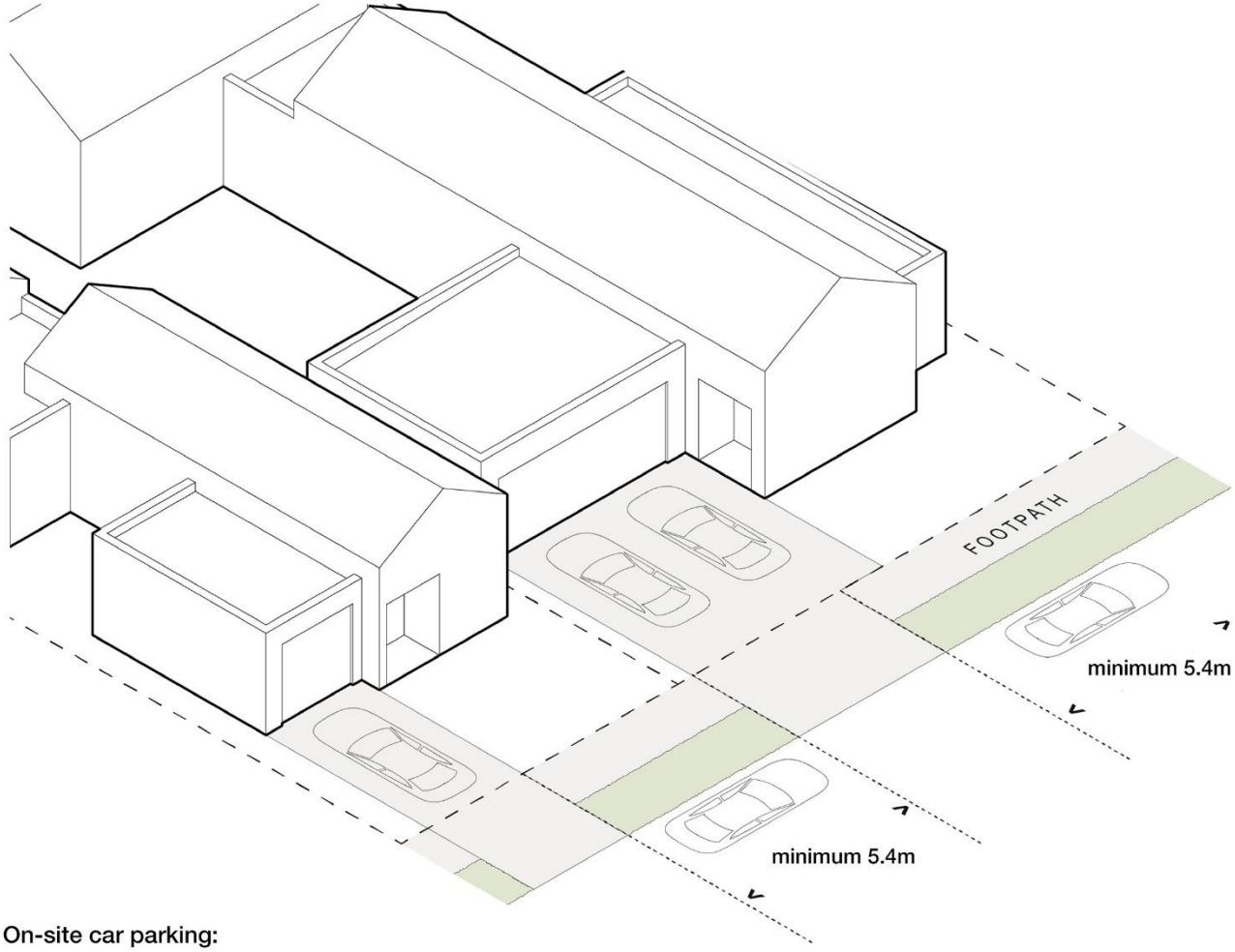
However, in response to feedback from the public and councils during consultation on Phase Three of the Code, the car parking rates were increased to provide at least two (2) car parks for two-bedroom infill housing, increased from one (1) car park originally proposed, and required at least one (1) of those car parks to be covered (e.g. carport or garage). These changes brought the car parking policy in line with the former Residential Code, which was the complying housing standard introduced into the *Development Regulations 2008* in 2009.

The Code as we now know it seeks to promote both the use and sufficiency of functional on-site car parking by introducing the following policies:

1. minimum garage dimensions (mandated in accordance with the Australian Standard), ensuring garages are large enough to park a car (the Australian Standard dimensions fit most 'large' cars like a Holden Commodore, but not 4x4 vehicles, such as a Ford Ranger, due to length);
2. retention of on-street parking, ensuring driveways are located far enough apart to park a car on the street; and
3. minimum on-site car parking rates, ensuring:

a. one (1) on-site car park for one-bedroom dwellings (row houses, townhouses, semi-detached dwellings in infill neighbourhood zones); and

b. at least two (2) on-site car parks for houses with two (2) or more bedrooms, one (1) which must be covered.



On-site car parking:

2 x spaces per 2+ bedroom dwellings
1 x space per 1 bedroom dwelling

On-street car parking:

1 x space per 3 new houses @ 5.4m length

Car parking rates can be found in Tables 1 and 2 of the Transport, Access and Parking General Development Policies in the Code.

Car Parking Off-Set Schemes

Part 15, Division 2 of the PDI Act enables councils to establish off-set schemes and associated funds for particular purposes. This mechanism can be utilised to establish a car parking fund as referred to in Table 1 General Off-Street Car Parking Requirements and Table 2 – Off-Street Car Parking Requirements in Designated Areas of the Code.

Payments into a fund created for this purpose can be utilised to off-set shortfalls in car parking provided for a development, by enabling a council to construct public car parking facilities in lieu of provision by a developer.

In a practical sense, payment into a car parking fund may be seen as a less desirable option than providing on-site car parking in accordance with the Code, due to perceived flow-on effects related to the under-provision of on-site car parking, such as increased congestion, competition for on-street or communal parking spaces and/or reduced convenience and/or accessibility. Ordinarily, a developer will be asked to demonstrate why an on-site car parking shortfall is appropriate in the context of a development by way of a traffic and parking analysis that considers the provision of all publicly accessible car parking in the surrounding area.

The intended advantage of a car parking fund is that it assists funding the provision of centrally located car parking by councils, particularly in areas where individual sites are constrained and have not traditionally provided on-site car parking (e.g., historic character areas). For example, the multi-level car park at Commercial Lane in Gawler was part-funded through a car parking fund established under the *Development Act 1993* and provides centrally located car parking within the historic township.

Discussion

The Panel understands and recognises that there is a perceived congestion issue in some parts of metropolitan Adelaide, and that the significant number of vehicles being seen on our local streets is occurring not only in areas of infill development growth, but also around public transport corridors through 'ad hoc' Park 'n' Rides.

In addition, the expectation that the on-street parking space outside of a dwelling is 'reserved' for the visitors or occupants of that dwelling is potentially adding to the perception of congestion, particularly in circumstances when that parking space is occupied.

Whilst there appears, at least anecdotally, to be a desire to increase the off-street car parking rates prescribed in the Code, the Panel does not consider that it is either reasonable or practical to increase the current requirement for two (2) off street car parks for homes of two (2) or more bedrooms. Indeed, it may be suggested that as a society, we may be heading in the other direction, and the need for provision of off-street vehicle parking may reduce over time.

In the Panel's view, although car parking is a legitimate issue for South Australians, there is not significant work to be done to the Code, but rather in the appropriate management of both on and off-street car parking and local road design. These matters largely fall to local government authorities to manage and enforce.

Notwithstanding, the Panel has considered what opportunities for investigation and/reform in the Code may be available to assist in alleviating the consternation surrounding car parking and seeks further feedback on the topics that follow.

Planning and Design Code Policy

The argument for embedding minimum car parking rates in the planning system is driven by the dominance of motor vehicles as a means of urban mobility in Adelaide. For example, the 2016 Census revealed that 79.9% of respondents travelled to work by car as the driver[10]. This was the highest in Australia.

This argument is further driven by the fact that many people use garages for storage and not vehicle parking, which has a consequent impact on local streets.

However, there is emerging thinking that the provision of car parking spaces enables the choice to drive, and that a modal shift will not occur while there is a generous provision of car parking space within both the public and private realm. This is, at its core, a cultural issue and demonstrates a need to progressively uncouple existing car parking demand from development.

Whilst the Panel recognises that modal shift is multifaceted and relies upon investment occurring in many areas of the State (public transport and infrastructure most

[10] Transport data from the 2021 Census is expected to be released in October. This may reveal whether changes in working patterns post-Covid have influenced travel patterns.

obviously), the provision of off-street car parking, together with the appropriate use of off-street car parking, is a relevant consideration.

In this regard, there is opportunity to explore:

1. in an urban context, a nuanced approach in relation to the spatial application of car parking rates that is dependent on proximity to the Central Business District (CBD), other employment centres and/or public transport corridors;
2. whether the Code should offer more generous car parking rate dispensation for a broader number of land uses based on proximity to public transport or employment centres and what those discounts should be; and/or
3. whether car parking rates should be reviewed to ensure that they meet an average expected demand, rather than peak demand, to minimise future over-provision.

In addition, the Code's requirement for at least one (1) car park to be covered when two (2) car parks are provided may not be a contemporary proposition in 2022. The Panel is investigating where this requirement was borne from (noting its existence in development control policies under the *Planning Act 1982* the *Development Act 1993*) but seeks feedback as to whether there would be general support to remove it.

This may provide opportunity for improved design outcomes on smaller allotments (if no garaging is required), whilst also retaining the flexibility for developers to provide a covered car park if they so choose.

Questions for consultation:

1. What are the specific car parking challenges that you are experiencing in your locality? Is this street specific and if so, can you please advise what street and suburb.
2. Should car parking rates be spatially applied based on proximity to the CBD, employment centres and/or public transport corridors? If not, why not? If yes, how do you think this could be effectively applied?
3. Should the Code offer greater car parking rate dispensation based on proximity to public transport or employment centres? If not, why not? If yes, what level of dispensation do you think is appropriate?
4. What are the implications of reviewing carparking rates against contemporary data (2021 Census and ABS data), with a focus on only meeting average expected demand rather than peak demand?
5. Is it still necessary for the Code to seek the provision of at least one (1) covered carpark when two (2) on-site car parks are required?

Design Requirements

Design requirements such as setbacks and driveway layouts can influence the design of development in a way that constrains the space available for provision of off-street car parking. This can, in turn, impact the practicality and availability of on-street car parking.

There may be an opportunity to undertake a holistic review of the various design elements that influence the interaction between a property and the primary street to ensure that sufficient provision for off-street car parking exists, together with other intersecting elements of design, such as urban greening, façade, driveway layouts and so on. This could lead to the development of a fact sheet or design guideline that builds on and/or updates the existing Commission fact sheet *Raising the Bar on Residential Infill in the Planning and Design Code*. This may be appropriately included in any review of, or addition to, infill development guidelines, as discussed in an earlier Chapter of this Discussion Paper.

The design of off-street car parking also has the capacity to impact associated policy areas including urban heat, urban greening and/or stormwater run-off from impervious surfaces.

There is scope to investigate means by which the planning system could encourage an uptake of design solutions to support improved environmental performance such as permeable paving materials or creating more space for tree planting within car parking areas. Again, this is necessarily connected to other policy areas of the Panel's review, namely trees and infill development.

Question for consultation:

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

Electric Vehicles

The State Government released South Australia's Electric Vehicle Action Plan in December 2020. Action 10 in the Electric Vehicle Action Plan outlines potential interactions with the planning and building regulatory system, including:

1. investigating opportunities to streamline approval processes for Electric Vehicle (EV) charging infrastructure;
2. considering emerging transport mobility technologies in future growth management strategies; and
3. considering improvements in energy management in buildings (building policy).

The installation of EV charging infrastructure is not development as defined in the PDI Act. This means there are no impediments to installation of such infrastructure presented by the planning and building regulatory system. In the Panel's view, consideration needs to be given to the appropriateness of EV charging infrastructure

remaining unregulated, noting that the lack of regulation may result in undesirable consequences in certain locations (i.e installation near to heritage buildings, amenity impacts etc).

There are also 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. EV charging stations are envisaged to occur in conjunction with highway service centres (DTS/DPF 1.1 of the Roadside Service Centre Subzone), which may assist to provide for more streamlined consideration of EV charging stations as a component of such development proposals.

The anticipated take-up of EVs, and any associated changes to the Australian Road Rules, may drive a need to review car parking rates in the context of the demand for dedicated EV car parking.

Such a review would need to delve into the potential impacts of the provision of dedicated parks for EV parking and charging to ensure an appropriate rate of car parking provision remains in the event that certain parks are reserved for the drivers of EVs, particularly in association with commercial land uses.

The Panel seeks community and stakeholder views on this topic, noting that whilst not a contentious issue now, it is likely to be relevant in the not-too-distant future.

Questions for consultation:

1. 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?
2. 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?

Car Parking Off-Set Schemes

Whilst the Panel understands that car parking funds previously had a place in the planning regime, it questions whether they are contemporary in modern society, noting the disproportionality between the fee to be paid into a fund and the cost of constructing a multi-level car park.

It may be desirable to consider whether the car parking fund is able to instead be used for active transport initiatives such as separated bike lanes, improved footpaths/shared paths, or other initiatives that may assist to reduce the demand for car parking.

Alternatively, or in addition, it could also be considered whether the car parking fund could be used by councils to fund the planting of additional street trees, thus aiding to offset the carbon emitted by the vehicles on our roads.

Questions for consultation:

1. 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)?
2. 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?

Commission Prepared Design Standards

The PDI Act makes provision for the Commission to prepare Design Standards for the public realm. The Commission's first set of Design Standards are currently being prepared in connection with driveway cross-overs, and the design of narrower driveways to allow for more on-street parking.

It follows that Design Standards could also be prepared to address matters such as street design and layout which would further seek to enable appropriate rates of on-street car parking to complement off-street car parking, while retaining high levels of amenity, preserving traffic flow and maximising pedestrian safety.

Consideration could be given to the nexus between public and private realm car parking provisions and seek to improve congestion via improvements to street design and layout rather than increased off-street parking rates.

Question for consultation:

1. Do you think there would be benefit from the Commission preparing local road Design Standards under the PDI Act?

Planning System Implementation Review

Questions relating to Car Parking Policy

Code Policy

1. What are the specific car parking challenges that you are experiencing in your locality? Is this street specific and if so, can you please advise what street and suburb.
2. Should car parking rates be spatially applied based on proximity to the CBD, employment centres and/or public transport corridors? If not, why not? If yes, how do you think this could be effectively applied?
3. Should the Code offer greater car parking rate dispensation based on proximity to public transport or employment centres? If not, why not? If yes, what level of dispensation do you think is appropriate?
4. What are the implications of reviewing carparking rates against contemporary data (2021 Census and ABS data), with a focus on only meeting average expected demand rather than peak demand?
5. Is it still necessary for the Code to seek the provision of at least one (1) covered carpark when two (2) on-site car parks are required?

Design Guidelines

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

Electric Vehicles

7. EV charging stations are not specifically identified as a form of development in the PDI Act. Should this change, or should the installation of EV charging stations remain unregulated, thereby allowing installation in any location?
8. If EV charging stations became a form a development, there are currently no dedicated policies within the Code that seek to guide the design of residential or commercial car parking arrangements in relation to EV charging infrastructure. Should dedicated policies be developed to guide the design of EV charging infrastructure?

Car Parking Off-Set Schemes

9. What are the implications of car parking fund being used for projects other than centrally located car parking in Activity Centres (such as a retail precinct)?
10. What types of projects and/or initiatives would you support the car parking funds being used for, if not only for the establishment of centrally located car parking?

Commission Prepared Design Standards

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

Planning System Implementation Review

Summary of Questions Posed

Character and Heritage

1. In relation to prong two (2) pertaining to character area statements, in the current system, what is and is not working, and are there gaps and/or deficiencies?
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?
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?
4. What difficulties do you think this assessment pathway may pose? How could those difficulties be overcome?

Trees

Native Vegetation

5. What are the issues being experienced in the interface between the removal of regulated trees and native vegetation?
6. Are there any other issues connecting native vegetation and planning policy?

Tree Canopy

7. What are the implications of master planned/greenfield development areas also being required to ensure at least one (1) tree is planted per new dwelling, in addition to the existing provision of public reserves/parks?
8. If this policy was introduced, what are your thoughts relating to the potential requirement to plant a tree to the rear of a dwelling site as an option?

Tree Protections

9. What are the implications of reducing the minimum circumference for regulated and significant tree protections?
10. What are the implications of introducing a height protection threshold, to assist in meeting canopy targets?
11. What are the implications of introducing a crown spread protection, to assist in meeting canopy targets?
12. What are the implications of introducing species-based tree protections?

Distance from Development

13. Currently you can remove a protected tree (excluding Agonis flexuso (Willow Myrtle) or Eucalyptus (any tree of the genus) if it is within ten (10) metres of a dwelling or swimming pool. What are the implications of reducing this distance?
14. What are the implications of revising the circumstances when it would be permissible to permit a protected tree to be removed (i.e. not only when it is within the proximity of a major structure, and/or poses a threat to safety and/or infrastructure)?

Urban Tree Canopy Off Set Scheme

15. What are the implications of increasing the fee for payment into the Off-set scheme?
16. If the fee was increased, what are your thoughts about aligning the fee with the actual cost to a council of delivering (and maintaining) a tree, noting that this would result in differing costs in different locations?
17. What are the implications of increasing the off-set fees for the removal or regulated or significant trees?

Public Realm Tree Planting

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

Infill

Design Guidelines

19. Do you think the existing design guidelines for infill development are sufficient? Why or why not?
20. Do you think there would be benefit in exploring alternative forms of infill development? If not, why not? If yes, what types of infill development do you think would be suitable in South Australia?

Strategic Planning

21. What are the best mechanisms for ensuring good strategic alignment between regional plans and how the policies of the Code are applied spatially?
22. What should the different roles and responsibilities of State and local government and the private sector be in undertaking strategic planning?

Carparking

Code Policy

23. 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.
24. 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?
25. 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?
26. 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?
27. 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?

Design Guidelines

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Electric Vehicles

29. 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?
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Car Parking Off-Set Schemes

31. 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)?
32. 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?

Commission Prepared Design Standards

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

Planning System Implementation Review

How can you get involved?

You can participate in this process and contribute to the Expert Panel's deliberations by providing a submission to the Panel:

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

Via post: Attention: Expert Panel, GPO Box 1815, Adelaide SA 5001

Via phone: 08 7133 3222

You can also complete a survey on the Expert Panel's YourSAy page: https://yoursay.sa.gov.au/planning_review

For more information about the Expert Panel and the engagement events that it is facilitating, please visit www.plan.sa.gov.au/planning_review

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