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Planning System Implementation Review
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PLANNING SYSTEM IMPLEMENTATION REVIEW - SUBMISSION

The City of Unley appreciates the opportunity to contribute to the Expert Panel Planning System Implementation Review.

The extension by the Minister for Planning for council submissions to the 30 January 2023 has helped the newly elected Council to better consider the issues.

The Review is broad and higher level, and more about fundamental directions than specific technical solutions. However, both are important, and within the resources and time available, input on both has been endeavoured to be provided.

The Commission has previously indicated the Code was thought to generally be working well. The review discussion papers, and previously identified issues, highlight there are certain areas of inefficiency, inequity and ineffective planning processes and policy that could be improved for better outcomes.

The Review affords an opportunity for a broader and deeper analysis to bring about valuable improvements to systems, processes, policy, and planning outcomes.

The Discussion Papers produced have been reviewed with operational focus and this submission is structured around the following identified review topics:

- Planning Development Infrastructure (PDI) Act and Regulations;
- Planning & Design Code; including more specifically:
  - Character and Heritage Policy;
  - Tree Policy;
  - Infill Policy;
  - Carparking Policy;
- e-Planning and PlanSA.

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The LGA Submission in October 2022 encompasses an amassed range of issues and detailed concerns from council experiences since implementation of the new system. This submission does not aim to repeat the breadth of its contents. This submission aims to focus on reinforcing specific and local areas of concern. The LGA Submission is supported and recommended to the Expert Panel for their careful and comprehensive consideration.

PLANNING DEVELOPMENT INFRASTRUCTURE ACT AND REGULATIONS

The LGA Submission (dated October 2022) canvasses a comprehensive suite of issues associated with the Act and Regulations. The submission is supported and recommended to the Expert Panel for its careful and comprehensive consideration.

Planning Authority

The assigned Planning Authority roles of the State Commission Assessment Panel (SCAP), and the local Council Assessment Panels (CAPs), is inconsistent and lacks logic in relation to larger or more complex development. SCAP is designated the relevant authority for Urban Corridor Zones for development over 4 storeys but there are several other, and more intensive, medium/high-rise zones, where it incongruously is not. It is also unclear as to why a development proposal over 4 storeys would trigger state-level intervention in assessment and decision making.

A more consistent and better balance between a genuinely higher-level role for SCAP and that of CAPs is appropriate. CAPs, supported by accredited Assessment Managers and their staff are highly capable and skilled to address the emerging range of medium-rise development.

SCAP should also engage in compliance and provide officers attached to SCAP who can liaise with local government compliance officers on SCAP approved developments. Alternatively, the State Government needs to provide additional funding to Councils to oversee compliance of SCAP assessed developments. Currently Council receives none of the fees associated with these large developments but is expected to undertake the compliance without support.

At a more operational level, the referral process to a Council CEO for comment on local issues only allows for 15 business days. In practice, an extended period of time is often allowed to coincide with other agency referrals and/or public notification. The exclusion from any planning assessment commentary and limitation to specific local public realm impacts, diminishes the Council role and its ability to comprehensively assess the implications for significant and complex developments and the long-term local implications.

The important input of Design Review can be maintained through coordination with the Office of Design and State Architect (ODASA) for higher-rise SCAP matters, and to CAPs for designated medium-rise major developments. ODASA offers a centralised consolidated and expert service for such major development. Local Design Review Panels are proving complex and costly to consider by Councils but with a clearer and ‘elevated’ role for CAPs, such panels could be tailored and justified for more complex, impactful, and involved major local development.

Issues identified by the Expert Panel are addressed below.

Development Application Public Notification and Appeal Rights

There is a growing recognition and level of frustration by the community regarding the lack of reasonable public notification and exclusion of reasonable rights of other parties. This is leading to alienation of neighbours, complaints, and extensive time delay in responding to community concerns. Reasonable scope of public notification would largely address problems of awareness and cases of warranted opportunity for a genuine say.

The limitation of appeal rights for development applications is based on the disingenuous view that people have an opportunity to provide considered and well-informed input into the Planning and Design Code policy development process. The Expert Panel should take into consideration that:

- many people often do not hear of the planning policy process;
- when people do hear about the process, they often have no idea how it might impact them (as they aren't familiar with spatial or built environment disciplines) and if they don't have relevant expertise, they are reluctant to provide input;
- there is widespread disillusionment with engagement processes, as people feel that their views are ignored;
- it is usually only when a development is proposed that people can focus their time on specific issues and begin to understand the implications of planning policies.

There are also some specific and fundamental issues with the current approach:

- 'minor variations' from policy criteria (such as in length or height) for individual elements may be beneficial to reduce unwarranted notification. Clarity in definition and scope would be necessary to minimise the challenge of interpretation and judgement;
- refinement of the requirements to limit notification to only those directly affected adjacent property owners/occupiers impacted by a specific building element, eg wall on one boundary, rather than the typical whole locality within 60 metres notification, and that the comments are only applicable for that subject element;
- a more tailored notification be considered, similar to previous Category 2A categorisation under the Development Act, for policy variations to specific elements of development with limited impacts (such as notification for a development proposing a boundary wall outside policy only being given to abutting owner/occupier along that boundary);
- for designated major development types and developments with more serious deviation from policy, notification with 3rd party appeal rights should be reinstated into the planning system. This would allow for appropriate natural justice, scrutiny, and reasoning for decisions. Refer to Code discussion on possible policy triggers.

The requirement for the display of an on-site sign (effectively replacing the requirement for an advertisement to be placed in a local newspaper for category 3 development) during public notification presents operational issues such as:

- concerns from applicants of privacy issues (due to plans indicating the layout of the dwelling).

- need for proof that the sign remains erected and maintained for the consultation period to avoid potential legal challenges and/or need to reset public notification process.
- the possibility of a sign being removed early by persons opposing the development to frustrate and confuse the process, aside from incidental vandalism.

The situation and risk to the process may be improved by enabling better access to the PlanSA website Public Notification list and/or enabling landowners/occupiers to sign up for email notifications for publicly notified development in their local area.

Local Heritage

There is a suggestion that the local heritage listing process (and any later decisions made in relation to a local heritage place) should be included in the *Heritage Places Act 1993*. This has merit for further investigation and could incorporate specialised advice and a responsive interim listing process. This would avoid the need to amass and await the necessary periodic, large, convoluted, and costly Code Amendment process.

The critical supporting policy and decision assessment logistics for coordination between the Heritage Places Act and the PDI Act, a state agency and the local planning authority would need to be well-resolved to ensure development assessment decision-making efficiency.

Local Heritage Places listing could be under the heritage Places Act, but development assessment should remain linked to the PDI Act. If listing of Places is consolidated under the Heritage Places Act, then an approach for Local Heritage Areas (viz Historic Character Areas) could be established similar to that for State Heritage Areas.

Sections 67(4) and (5) of the PDI Act have not been 'turned on' and it is agreed that those sections ought to be removed from the legislation. It is extremely challenging to achieve input of 51% of relevant owners and that they would agree to additional development restrictions out of self-interest or principle. The primary reason for these policies is to protect and keep historic areas for the greater community good, long-term legacy and identity of local areas. Their creation is justified by appropriate analysis of historic integrity, not by a popular vote.

Other character and heritage matters are explored in more detail under the discussion on the Planning & Design Code.

Accredited Professionals

Under the PDI Act, an accredited professional may act as the decision-maker for certain types of development. Each class of accreditation determines the functions they can perform. Currently, some building professionals can issue planning consents in limited circumstances.

The system needs better controls to avoid private certifiers issuing consents that they are not authorised to issue or issuing consents with numbers of "minor" variations to the policy. There should be tighter accreditation requirements, less ability to use "minor" variations in assessments, and more transparency in the documents that are submitted which will justify the variation(s) in the specific context.

The decisions of private certifiers should be more rigorous, transparent, and provide appropriate and clear justification for "minor" variations as part of the documentation. For full public transparency, consistency, and clarity, the ability of a certifier to call a variation "minor" should be limited to where the element does not have an impact beyond the site, eg excluding site area, frontage, setbacks, building heights, length on boundary and the like.

There should also be a streamlined process for reporting issues in each instance of a noted breech of requirements. This would allow more comprehensive monitoring and enforcement of standards by the Accreditation Authority. There should be follow-up of a breech and option for immediate suspensions of accreditation – short for first or minor breech but extending in length with level of multiple occurrences and ultimately dis-accreditation for regular continued and systemic occurrences.

Although recently reviewed by the Accreditation Authority, there remains the opportunity for a more independent review of accreditation requirements for, in particular, Level 1 Accreditation. In comparison with other professions, the level of training and frequency of renewal of accreditation remains overly onerous.

There is anecdotal evidence of planners leaving the profession because they are required to go through this onerous process year after year. This is a real loss of experience and expertise from the profession.

Level 1 accreditation (Planning Assessment Manager) requires the highest level of education, training and experience. It also has the highest level of responsibility. However, a Level 1 planner cannot sit on a Council Assessment Panel unless they also obtain Level 2 accreditation. It is appropriate for CAP to only assess publicly notified applications. The far more experienced and qualified Level 1 planners should not have to also obtain Level 2 accreditation, but rather automatically attain all lower accreditation levels and be enabled to sit on CAPs.

Land use planning is concerned first and foremost with socio-spatial relations. Designating a land use designates an activity on a particular site. That is, it designates a set of social and material relations. It indicates the social relations within, between and across sites. The focus of the current planning system is exclusively on the material, rather than the social aspects of planning. Allied professionals that can seek accreditation are limited to those in design, construction, and legal disciplines. The qualifications and experience should be changed to include the social sciences to broaden the range of input into the planning system.

Impact Assessed Development

Where forms of development are of such complexity, scale and major environmental, economic, or social importance that they need State Government oversight, it is considered that an overview beyond just the Minister for Planning and a whole-of-Government, and Cabinet Submission, assessment and decision-making process is appropriate.

Such an arrangement would better serve the public interest and ensure transparency and accountability in public decision-making.

Deemed Consents

The PDI Act prescribes the timeframe in which a development application needs to be determined. If a decision-making body does not decide an application within the time prescribed, an applicant may give the decision-making body a deemed consent notice. Since March 2021, only 31 applications of the approximately 70,000 applications made have had a deemed consent notice issued.

At the City of Unley this has not been an issue, with appropriate resources and a focus paid to the assessment process to ensure timely decision making.

The deemed consent is aimed at ensuring relevant authorities undertake their assessment within the designated timeframe. Several issues and possible additional components to deemed consent provisions have been raised by the Panel, including:

- Council delay or refusal to issue the final development approval is primarily due to inconsistencies between the planning and building consents or a private certifier issuing a planning consent that they are not authorised to issue. A Deemed Consent in such cases seems to avoid the primary problem which should be addressed first. Rushing to a Deemed Consent could lead to premature decisions that could ultimately result in poor development outcomes.
- Final development approval being issued by an accredited professional is not supported as it does not address the primary issues with inconsistent consents and improper “minor “variations. Further, it would be problematic for councils given they administer inspections, compliance, and enforcement, apart from generally trying to ensure appropriate and good development outcomes.
- The circumstances for Deemed Consent and the timeframes should be reviewed to recognise legitimate delays (see information and verification steps below). Where a CAP decision is necessary, there should also be a facility to stop the clock to allow CAP to decide on the matter within its usual meeting cycle. This could simply be by entering the date of the CAP meeting which either stops the clock or extends the assessment timeframe accordingly. Whilst it is unlikely that an applicant would issue a Deemed Consent in such circumstances it gives rise to potentially unnecessary court actions and costs.

Verification of Development Applications

To verify an application, a receiving planning authority must determine its nature, the ‘elements’ for assessment, the category of development, public notification, and the relevant authority to assess the application. It has been indicated that a reasonably high proportion of applications are not verified within the required timeframe (5 business days). At the City of Unley this has not been an issue, with appropriate resources available and a focus paid to the process to ensure a timely verification.

Efficient internal processes, prioritisation and resources are required to meet these needs and the demand. Data could be published on the PlanSA Portal showing the number of applications verified within the correct timeframe or providing a ranking of relevant authorities by time taken to verify applications.

Simply 'shaming' councils that may not have the resources to assess applications in a timely manner is not appropriate. An alternative would be for Planning SA to identify and investigate issues within 'poor' performing councils and provide relevant support (for example on-call expertise and extra resources) to help improve their performance.

However, many submissions are in the process of verification with a request for further information issued or a fee request sent, but no response from the applicant. These applications sit within the system with no way to remove them, or to acknowledge the status and deduct the time on hold. There should be a timeframe within which the applicant must respond to the request or pay the fee, otherwise the submission is automatically cancelled.

Schedule 8 of the PDI Regulations (Required application information) is lacking in level of information and details for many developments such as change of use, tree removal and other less or undefined forms of development. Schedule 8 should have a more refined list of mandatory information for all types of development, such as a site plan or supporting reports. Without this the process is reliant on the assessment commencing and receiving the further information before being able to confirm the status of the application. It potentially compromises the ability to identify fees and all the elements as part of verification, identify the correct assessment pathway and notification requirements. It can also lead to extended timeframes, resolving changes and recommencement of processes for assessment.

Assessment Timeframes

A review of assessment timeframes has been suggested and would be supported for more complex assessments such as larger commercial, multiple dwelling and/or multi-rise type development that also involve large public notification and/or CAP assessment.

PLANNING & DESIGN CODE

The LGA Submission in October 2022 canvasses a comprehensive suite of issues relating to the Code that should be given full consideration.

The initial Code is a transition of the existing long evolution of policy from Council Development Plans into a single State-wide consolidated, simplified, and consistent template which has lost much local design detail, nuance, and context.

The aim was for following evolutions of the Code to improve content and quality. There has not been a clear program or process outlined for that improvement and incorporation of the principles of the overarching guiding State Planning Polices for strategic innovation, improvement and detail for local quality development outcomes. The State Planning Commission should establish such a program for improvement. The Expert Panel process has provided the first limited opportunity to address such improvement.

Local Policy Input

In general, the Objects and section 59 of the Act call for good design outcomes. This should be better reflected in the Code by:

- incorporating the ODASA Design Guidelines and good design principles into the Code as detailed Performance Outcomes;

- reintroducing detailed Desired Character Statements for zones and sub-areas to provide clarity in relation to desired development outcomes and enhancement of the current zone Desired Outcomes for greater development and design guidance. The ability for this has been proven through the spatial designation of areas in the Character and Historic Areas Overlays and the associated Character and Historic Area Statements which provide key local context and policy parameters. The previous Development Plan Desired Character Statements should be reinstated;
- inclusion of more refined Performance Outcomes policy that support the enhanced Desired Outcomes and help support greater policy guidance;
- inclusion of more localised policy, and zones with more tailored possible combinations of respective land use and built form policy, that reflect and guide appropriate local neighbourhoods and distinct local character variations;
- inclusion of more instructive Concept Plans and/or diagrams to help better explain and illustrate policy and desired development outcomes, eg consolidated access to arterial roads to distribute traffic movement away from side streets and rear lanes as a critical approach to manage cumulative traffic function and impacts in the long-term (eg Concept Plans Un/1-6 Unley (City) Development Plan).

Environmentally Sustainable Development

Environmentally Sustainable Development best practice principles should be reinforced, and improved policy incorporated into the Code to elevate and strengthen the standards, allow use of assessment tools to facilitate better design and increase the holistic performance of development, including:

- Indoor Environment Quality - passive design, noise mitigation
- Energy Efficiency – orientation, shading, ratings, and assessment tools
- Water Efficiency – minimise use and assessment tools
- Stormwater management – water capture, reuse, infiltration, discharge limits
- Building Materials – embedded energy, thermal performance, colour
- Transport – reduce car use and promote cycling, walking and public transport
- Waste Management – avoid, reduce, reuse, recycle
- Urban Ecology – green space, tree canopy, biodiversity
- Innovation – contemporary best and new practice, continuous improvement
- Construction and Building Management – efficient methods, low emissions

Private Code Amendments

Private Proponent Code Amendments are a feature of the new system, and in limited special cases a stand-alone site-specific zone change may be warranted. It is evident that there are some arbitrary, dispersed, and uncoordinated examples arising which can undermine strategic orderly and proper local area or precinct planning.

Councils limited resources and competing priorities make it challenging for them to initiate and lead timely and multiple area Amendments. A strategic view and guidelines for orderly planning should be considered, promoted, and maintained by the State Planning Commission, with a cautious approach to individual Amendments.

There needs to be a clear and direct link established between the SA Planning Strategy (The 30-year Plan for Greater Adelaide and associated sub-regional plans) that support orderly and proper changes in the Planning & Design Code policies.

Alternative models for private, Council, and/or SPC contribution and collaboration to support local area or precinct Amendments should be explored.

Public Notification

As referred to earlier under the heading *Planning Development and Infrastructure Act and Regulations*, new categories of public notification are warranted and could be applied to revised Code policy, such that:

- criteria are clear, consistent, and as unequivocal as possible to avoid opinion open to judgement, inconsistency, and challenge, eg demolition of elements 'not in keeping with heritage value or historic attributes', 'minor variations' from policy criteria (length, height) for individual elements;
- more substantial deviations from envisaged land uses, development of major scale or complexity, or consequential design departures from policy with inherent impacts should trigger notification with 3rd party appeal rights;
- Court pathways and processes, or simpler Tribunal mechanisms, could be tailored to the nature and complexity of developments and issues to facilitate quicker and simpler resolution but allow detailed analysis and decision justification.

The trend to reduce Restricted Development, and 3rd party appeals rights generally, reinforces the need for a comprehensive review of public notification and associated appeal rights by the Expert Panel.

Restricted Development

The number of listed Restricted Development is tending to be reduced and included in the Performance Assessment pathway. For example, in Neighbourhood Zones all industry except light industry was Restricted, but it is now proposed that the broader range of all industrial (except special industry with noxious emissions) not be Restricted Development in Neighbourhood Zones. Also Wrecking Yard and Waste Reception, Storage, Treatment or Disposal are suggested to be removed from Restricted in Employment Zones (eg Goodwood Road (north) and South Road (south).

There is insufficient general policy to properly guide performance assessment and avoid unintended and/or negative outcomes for these changes. Reduction in Restricted Development has not been sufficiently justified and greater policy clarity is needed with changes in assessment pathways. Without clear and detailed policy, considerable investment of an applicants' and planning authority's energy, resources, and time can be expended on dubious proposals.

Exempt Development

Schedule 4 in the Regulations lists 'exempt' development that does not need planning assessment. This is generally for minor matters and the criteria is clear. However, at the point where a criterion is not met, and the development is no longer exempt, there is a lack of recognition in the Code. This forces the development to fall into the "all code assessed" category and a full performance assessment. This assessment is further complicated by there being a lack of applicable guiding policy in the Code, eg decks.

Paving needs to be identified as development to enable its control and limitation. With changing rainfall patterns, increased intensity of stormwater runoff, heat loading and increasing importance of greening means paving needs to be better regulated. A challenging move, but one that needs to start being considered in relation to how best to incorporate into development design and assessment and to address the associated issues identified above.

Transport Overlays

The Transport Overlays and their building and site set-back requirements to facilitate possible future road widening, have huge implications for all local governments and the extent of the built environment more generally. Road widening is largely an exercise in increasing private motor vehicle traffic flow and it is at the discretion of the Commissioner for Highways. There needs to be a review of the strategic need and a coordinated transport plan and policies derived from that plan that can allow for an appropriate foundation and update to the Planning and Design Code and these Overlays.

Discussion Papers

In relation to the specific issues raised in through the Discussion Papers further comments are provided below.

Character and Heritage Policy

The State Planning Commission Proposals are noted and generally supported:

- Elevate Character areas to Historic areas is positive, but noted still subject to appropriate criteria and justification, which will be critical to actual outcomes;
- Character Area Statement updates likely necessary given the haste and policy vacuum when originally prepared. Inconsistencies in content and format could be addressed;
- Tougher demolition controls in Historic Character Areas are fully supported. For Historic Character areas the first and foremost separate key test is if demolition is warranted in-and-of-itself based on integrity, condition, and safety. Prior replacement approval is not a relevant test for Historic Character areas. It may only be an additional relevant step for Character Areas. Approval may be obtained for an ideal replacement, but there is no guarantee it will proceed, or not be amended (substantially) or later or when a vacant site or when a new owner or applicant a new proposal may be submitted. Each time assessment is made on merit in the context of the individual case.

The opportunity for further exploration of Historic Areas is welcomed. The City of Unley was in the progress of pursuing additional such areas, eg Black Forest, in 2015 but various issues led to this portion of the *Village Living and Desirable Neighbourhoods DPA - Stage 2 Residential Character, Growth Areas and Council Wide Residential Policy Review* not ultimately being implemented in 2017. This initiative should be further investigated.

It is hoped that in the near future the guidelines and criteria for Historic Areas will be fully developed. As part of regional planning and update of The 30-Year Plan for Greater Adelaide Plan, the strategic analysis of the spatial designation of respective conservation and growth opportunities can be resolved.

The current Historic Area Overlay Design Advisory Guidelines are useful but not directly effective. Their contents should be reviewed, and specific policy integrated into the Code and Historic Area Overlay; including diagrams and information about how to identify, understand and weigh elements of historic value and how to approach appropriate new development design.

Representative Buildings are only partly identified and mapped in the Code, leading to a lack of clarity for owners, purchasers, applicants, and the public. While it is purported that the policies equally apply for Representative Buildings, mapped or not, a difference in status could be seen and argued. A process should be facilitated, and as necessary a Code Amendment, to complete comprehensive mapping of all current Representative Buildings to provide the clear and public identification of the historic status of such buildings in all cases.

Tree Policy

The State Planning Commission Open Space and Trees Project is a positive initiative. The supporting reports released on 1 September 2022, including '*Open Space and Tree Project – Part 1A (Arborist Review)*', '*Urban Tree Protection in Australia: Review of Regulatory Matters*' and 'Adelaide *Home Garden Guide for New Homes'*, provide valuable and comprehensive research.

The recognition of the increasing importance of trees and canopy in the urban environment is welcomed. The greater protection for established trees, and design policy for increased provision of new trees (and landscaping) with new developments, is supported. This is critical if the desired canopy targets and climate mitigation goals are to be achieved. It may be necessary for such matters to be considered in conjunction with a review of policies relating to issues such as site coverage, trees and provision of soft landscaping (shrubs and vines), together with their size, location and cohesiveness to be effective in the greening of a site.

The review of Regulated and Significant Tree protections by the State Planning Commission and Expert Panel is also welcomed. Greater retention and protection of established trees is required. The criteria for trees captured by general circumference control should be revised and broadened to capture more trees, eg reduce circumference dimension, include height, breadth of canopy, as well as specific or rare species.

The criteria for specific identification and listing of Significant (Special) Trees under the PDI Act should similarly be enhanced to allow for broader capture, recognition, and protection of iconic, special and/or specific established trees. The list should form a complementary adjunct to the general controls for significant trees.

The regulatory framework should be simplified and clarified. Exemptions should be avoided from the general circumference control, eg within ten metres of an existing dwelling or existing in-ground swimming pool (some species exempt).

This distance should be removed, as multiple complex factors, eg type, nature and size of tree etc, determine impacts upon buildings. At the very least, the dimension from a dwelling or pool should be minimised. The assessment process can determine the circumstances and merit in the applicable context.

There are good reasons to protect trees and effort needs to be made to avoid a dis-incentive and a reason for trees to be removed prior to achieving their potential. Trees should be promoted as making valued and beneficial contributions in private sites and development. This could be supported by greater and stronger provisions to integrate with new (re)development.

Increased tree canopy is a key target and factor recognised for general and development amenity and climate mitigation.

The current planting of a minimum of one tree for each new dwelling (including for new master planned/greenfield areas currently exempt) needs to be enhanced. Tree number and size obligations and area of available spaces around buildings needs to be increased to be effective. Greater building street and boundary set-backs, smaller overall building footprints, and reduced excessively paved areas need to be incorporated into design policy, eg Housing Diversity Neighbourhood Zone primary street setback is 3 metres to the dwelling front wall which is further reduced by the depth of a verandah and paving of possibly 0.9 to 1.8 metres and therefore impractical space of 2.1 to 1.2 metres to accommodate a meaningful canopy tree. Increased number of trees, canopy size and overall landscaping need to form an expected and beneficial component of all development.

Soft landscaping percentage and accommodating space around buildings needs to be greater to be effective and reinforced in policy with more rigor to justify refusal if not achieved. What constitutes 'soft landscaping' in terms of nature of plants and desired quality needs to be defined, including indigenous trees, shrubs and groundcovers and the overall scale and substance comparable to that of the development.

The Deep Soil policy, that supports trees of scale for development, needs review to define what it means, ie natural ground, not inadequate planter beds. The proportion of the site, relative to the nature of zones and type of development, generally need to be increased not only for deep soil, but also the associated trees ultimate mature tree canopy in proportion to the size of the site. For example, the City of Brisbane requires natural ground deep soil and recently increased area and tree canopy from 10% to 15% https://www.abc.net.au/news/2022-12-07/brisbane-deep-planting-subtropical-trees/101743810?utm_campaign=abc_news_web&utm_content=link&utm_medium=content_shared&utm_source=abc_news_web.

Development approvals and conditions need to include, and be clear, that the planted tree(s) must be maintained and nurtured in the long-term to facilitate compliance and enable effective enforcement. Removal of the tree(s) and/or change to the area of soil and/or paving over the allocated space necessary to support the tree(s) should not be feasible and readily remedied.

The Urban Tree Canopy Offset Scheme allows payment in lieu of planting and/or retaining trees. While this is intended to be applied where tree planting is not feasible, the planning zones and soil types applicable to the Offset Scheme are too liberal.

As mentioned above, zone and design policy should be reviewed to increase feasible areas for tree planting with the development to accommodate space and allow for clay soils. Much of the Adelaide plains, and the majority of the City of Unley, have reactive clay soils allowing for an offset to be paid, and too easily avoid the need for beneficial trees with development.

Payments into the Offset Scheme, eg Small Tree ($300); Medium Tree ($600); and Large Tree ($1200), are not set high enough nor are they reflective of the actual costs for planting, nurturing, and maintaining replacement trees. Furthermore, they provide an inadequate disincentive for avoiding planting on-site. There are recognised formulas for determining the monetary value of a tree. Such formulas should form the basis for payments made to compensate the removal of a regulated/significant tree. It is therefore recommended that the actual value of a tree be reflected in any offset scheme that may be applied.

The planting of trees off-site also often fails to address the issue of tree canopy within the locality and context of the needs of the new development. Incremental new development and failure to provide trees compounds overall loss and lack of canopy for an ever-widening area of suburbs.

Public realm tree planting is one concept that affords an opportunity for more planting, but in most established areas the remaining space available and conflicting services limit the potential for this concept to be valuable. Further funding options to councils for public tree planting and maintenance in order to encourage the planting of more substantial trees, will help. However, as has been widely reported, the future urban tree canopy will not be achieved if the substantial loss and inadequate new canopy in the private realm is not addressed.

Optimised planting in the public realm is already near saturation in Unley. With only 3% of public open space and opportunities in streets very constrained for further planting. given the extent of services, poles, and crossovers that need to be accommodated, there is little opportunity to plant a significant number of trees on existing council land. The ability to achieve the State's 30% canopy cover target relies heavily upon maintaining and increasing the tree canopy cover on private land to at least a minimum of 15% or more.

Tree canopy cover (trees over 3 metres in height) can be very accurately measured through LiDAR aerial imaging (Light Detection and Ranging 3-D mapping to a 10cm resolution) to calculate the canopy cover area and percentage and apply the increased rates. Refer to https://www.unley.sa.gov.au/News-articles/National-award-for-mapping-tree-canopy-change and Unley's MyCanopy app https://mycanopy.unley.sa.gov.au/#home

Canopy cover (trees over 3 metres in height) has been measured for all properties in the City of Unley and this data has been provided to all owners via their rates notice.

Over the last four years the City of Unley has been exploring several ideas to complement enhanced planning policy and offer financial incentives to ensure a minimum of 15% of tree canopy cover is achieved on all private property.

Recently, the Council resolved at its meeting on the 12 December 2022 that:

1) *Administration is authorised to prepare a submission to the Expert Review Panel for the Planning System Implementation Review, and the following points to be included:*
   a) *A statement which indicates the City of Unley's desire to implement a Tree Offset Fund;*
   b) *The Tree Offset Fund would only apply to new developments that result in an increase in the built footprint and which do not have a 15% tree canopy cover;*
   c) *An additional 10% of council rates would be paid on an annual basis to the Tree Offset Fund until a 15% canopy cover was achieved on the property; and*
   d) *The Tree Offset Fund would be used to purchase land to plant trees on within our local area.*

Whilst the new Planning Code ensures that all new developments can plant and grow trees, there is no mechanism for ongoing effective enforcement. There is also no incentive for owners of these properties to allow the planted trees to grow. Observations indicate that many new developments with a tree planted as part of the development approval, have removed the tree within 12 months of the development being completed. Council is limited in what it can do to enforce planning conditions relating to trees.

The City of Unley loses over four (4) hectares of tree canopy cover each year. Half of this loss comes from new developments that increase the built form. Managing canopy cover in new developments that increase the built form is therefore crucial for the City of Unley to achieve a long-term tree canopy of 31% canopy cover across the city. To achieve a city-wide 31% tree canopy cover, planting and growth on private property must increase from the current 22% to 27% overall.

Over the last four years, Council has had several discussions with the Minister for Planning in relation to Council implementing a tree offset scheme for new developments that result in an increase to the built footprint. Under Council's proposal, all new developments (including extensions) which increase the built footprint would have to provide for a minimum 15% area of tree canopy as part of the development, or an additional 10% of annual rates would be payable for the period during which the tree canopy remained below the minimum of 15% canopy cover.

The additional funds collected would be paid into a specific Unley Tree Offset fund that over time would enable Council to purchase land for additional tree planting. Alternatively, there would be an incentive to keep, plant and maintain trees to attain the minimum 15% canopy cover on the subject site and avoid the additional annual cost.

In discussions with the Minister for Planning, the suggestion has been made that developers could contribute a one-off payment rather than an annual payment. This is not considered to be practical, as a one-off payment is not an incentive for increasing the canopy cover on a private property. In other words, developers could see this as a similar concept to the provision of open space, whereby many developers choose to contribute to an open space fund rather than provide open space as part of a new development.

Any one-off payment is likely to be tokenistic.

Council is therefore seeking support from the Minister for Planning to approve Council trialling a Tree Canopy Land Offset fund subject to our community's support. The offset fund is both an incentive and a solution towards enabling the City of Unley achieving an overall 31% tree canopy.

The City of Unley would be keen to work with the State Government to finalise the details about the trial as well as the community consultation process so that it is meaningful and valid.

Infill Policy

It was a positive initiative of the State Planning Commission for the Code to include policies to increase the design quality of infill development in residential areas, including tree planting, management of stormwater, on-site parking and on-street parking, and design features to enhance building façades.

In reality though, the policy requirements are still inadequate, lack rigour and have proven not to realise reasonable outcomes, or the idealistic representations in promotional brochures.

The policy requirements should be increased and strengthened to reduce building footprints and increase setbacks, open-space, areas of soft landscaping and tree number, size, and canopy.

This is especially the case with contemporary narrow dwellings and multiple group dwelling configurations with resulting extensive areas of crossover, hard paved access and manoeuvring areas, minimal and compromised minimal private open space areas largely covered in and negligible green areas leading to hot environments and poor living amenity.

Key factors that would help is larger overall sites, and particularly wider street frontages and for group dwelling and flat buildings to divorce vehicle parking from each dwelling. Further, the location of multi-unit infill should be more strategic with ready access to, or location along, main roads with high quality, efficient, and convenient public transport to address problems of excessive car ownership and requirements for parking.

This approach could minimise the number and width of access driveways, consolidate group parking to rear (covered owner and open visitor spaces), together with reduced overall building footprint, increased street and boundary setbacks, increased landscape areas, trees, and amenity.

There is current inconsistent policy for medium and high-rise zones which requires attention to address seemingly arbitrary application (or non-application) of:

- Interface Envelope (30 degrees from 3m agl), eg Urban Renewal Neighbourhood Zone or any zone contemplating over 3 storey;

- side set-backs originally established for creating building gaps and site landscaping removed in favour of convenient building to boundary at ground level contrary to zone intent, eg Urban Corridor (Boulevard) Zone;
- rear set-backs to adjoining low-rise and neighbourhood zones, eg no provision in Suburban Activity Centre whereas nature of zone emulates that of the Urban Corridor Zones settings;
- indiscriminate Significant Site height bonus of 30%. Significant Sites dimensions are inadequate to be beneficial and the bonus is not reflective of the context. Introduced in Code without evidence and adequate analysis. Such a change undermines what was determined and would be a desired substantive height for normal sites. There is no justification for the reasonable extra height for appropriate larger sites. There should be a review considering the arbitrary bonus and a tightening of the normal height controls, knowing the bonus that is now applicable. Effective and tailored genuine larger sites bonus could prove to be a good incentive for site amalgamation, and avoiding small site inferior compromised development, and warranted exceptional design quality, highly efficient environmental sustainability, extensive landscaping and tree planting, and extra community access and services, along with being justifiable in the urban design context;
- SCAP designation as planning authority, eg Urban Corridor Zones over 4 storeys but not for other similar medium/high-rise zones and review of limiting SCAP to high-rise scale of development.

Strategic Planning should be objective and selective about areas for raised densities and the focus on the maintenance of most traditional neighbourhoods established patterns and character. The focus should be on primarily Corridors and Centres for raised densities and alternative dwelling options, and selective suitable suburban areas. Indiscriminate wide-spread infill is not effective, productive, or supported.

The State Government may lead the case for increased density and justify the broader strategic goals and targets, but Local Government is best placed to rationalise where there are suitable opportunities for changes in the local environment. It won't be the same in every area given the different circumstances, and not a simple matter of numbers, but a considered approach to physical constraints and opportunities.

The private sector's arbitrary and ad-hoc spot rezoning of sites, even if large, is not generally strategic, orderly, or effective and often an underutilisation of the potential of the site due to short term market considerations.

Carparking Policy

The most prevalent car parking challenge being experienced in many streets and suburbs is new development over-spill parking in a local street. It is particularly problematic in rapid growth, inner city, and commercial areas where impacts from incremental development compound.

It is not so much about the amount of on-site parking being required, the standards are reasonable, and hopefully in time there will be an overall transition to lower car use, but the inefficiency of the parking provision provided on-site, which is often not convenient or used, and the compounding loss of on-street parking.

Residential on-site parking provided is both inadequate in size to be convenient and useful, and compromised by the need to be used for storage of typical household goods and chattels. There is inadequate storage space provided in most new developments, leading to off-street garages/vehicle parking spaces being used for storage purposes rather than their vehicle, and accordingly vehicles displaced to the street.

The parking space dimensions should be increased to at least 6.0 x 3.5 and 6.0 x 6.0 metres for single and double garages/carports respectively, when provided to be effective at accommodating contemporary sized vehicles and to afford sufficient surrounding space for convenient access. Seven of the top selling cars for many years now comprise large vehicles exceeding the typical size of cars from 2000 when current standards were developed. Refer to LGA submission.

Further, the compromise of the use of the garage/carport space(s) should be avoided by provision of adequate separate storage space(s) for typical household, garden, hobbies, sport etc goods associated with every dwelling. The $8m^3$ per apartment provides a starting guide for storage. For example, this number is around 10% of a typical apartment floor area which may be a good indicative measure for all houses, eg 10% of $200m^2$ dwelling would equate to $20m^3$ of storage. The size for storage should proportionally be larger for separate and larger dwellings.

The separate storage space and convenient access to the street for waste receptacles, if reinforced with dwelling designs, should largely address the primary problem of displacement of vehicles to the street, noting that displacement will likely not be entirely avoided. Minimised parking provisions and convenience for visitors', together with incremental development compounds the pressure placed upon streets.

As per the previous Development Plan, there should generally be one on-street space per two dwellings with new development. The one per three dwellings adopted during the Code transition is generally inadequate, particularly as infill development pervades a local street and the pressures compound. The situation for major roads like arterials may require a different policy approach to on-site parking given the associated on-street capacity limitations and/or clearways that should be considered.

Requirements to cover at least one parking space per dwelling should be maintained. While more flexibility may be achieved without cover structures, in the Adelaide climate and expectations of owners, the covering of car spaces will subsequently be pursued. It will either not be possible due to policy criteria (eg front yard set-backs) and/or not be integrated as part of a positive design, leading to future tensions and challenges with owners.

All on-site parking rates would benefit from review based upon contemporary data, trends, and various circumstances. In the end, the desire is for adequate on-site provision for typical demand, but not undue excess (or shortage). This can be a delicate balance and varies for many development types and spatial circumstances. Nuanced standards and future-proofed rates are needed.

Discounting for designated circumstances may be appropriate but these need to be carefully defined and practically realistic. Simple discounts for arbitrary distances from public transport or activity centres or employment zones does not reflect the full reality of the situation or needs of most users. More investigation of experience and circumstances for particular rates and discounts needs to be undertaken with clear, justified, and practical criteria identified.

Similarly, Car Parking Off-Set Schemes need to be carefully applied and used to ensure the required off-set site parking and/or efficiencies are actually provided in useful proximity to the demand. There are strong benefits in consolidated shared parking areas in precincts, but segregated ownership and individual self-interest presents difficulties in this being achieved. An Off-Set Scheme needs to be associated with an outline of potential/proposed consolidated shared parking areas and supported through developments being party to contributing to integrating shared areas. The financial contributions need to be high enough to afford support for the achievement of the integration of segregated site rear yards and parking areas.

Design Standards for the public realm to manage driveway crossovers, on-street parking, street trees, street design and layout is challenging. The range of varied circumstances, street and verge dimensions and local desired character, eg bluestone kerbs, lead to a need for multi-varied, nuanced, and contextual standards. State typical and basic standards may be a starting point, and suit typical scenarios, but flexibility for specific assessment where there are varied circumstances should be maintained.

Given the expected significant growth in Electric Vehicles, EV charging stations should become a form of development. Policy is also required in the Code to encourage integration, appropriate design, and number of charging points in commercial, mixed-use, multi-dwelling development and/or for stand-alone charging facilities development. Similar to the bicycle parking requirements, it could be a ratio per dwellings and/or commercial floor area provided with charging ports and dedicated parks over and above visitor's parks.

The Code should also support and encourage car share schemes to be part of new large developments to support the reduced reliance on the car, as well as better end-of trip facilities (change rooms, showers, etc) to support more people to walk and/ or bike ride for transport purposes both from a resident and commercial perspective.

Bicycle Parking Policy

One of the more prevalent concerns around on-site parking provisions is not so much the number of bicycle parking spaces, but rather the poor location of the spaces provided that don’t adequately meet the needs of the user, from either a safety or usability perspective.

The Code should further support the appropriate location and type of occupant and visitor bicycle parking spaces integral with development, including:

- Location to provide convenient access to other bicycle facilities, including showers and change rooms;
- Facilities in underground and enclosed car parks to address safe and convenient access and movement via suitable ramp paths and grades and internal accessways that need to be shared with vehicles;
- Fully enclosed storage areas for occupant parking spaces;
- Storage areas able to be locked and individual bicycles secured;
- Weather protection for bicycles to be parked outside;
- Visitor parking facilities provided at grade level and convenient to public entry points.

In addition, there is a significant issue with a lack of end-of-trip facilities to help support bicycle parking for employees, including showers and change rooms. The Code needs to support the provision of showers and change rooms to encourage cycling by inclusion of specified rates, for example at least:

- For 5 or more employee bicycle spaces, 1 shower for the first 5 employee bicycle spaces, plus 1 for each 10 employee bicycle spaces thereafter;
- 1 change room, or direct access to a communal change room, for each shower. The change room may be a combined shower and change room.

E-PLANNING AND PLANSA

The LGA Submission in October 2022 canvasses a comprehensive suite of issues that should be given full consideration.

Issues identified by the Expert Panel are addressed below.

Medium Term (6 – 12 Months) improvements:

- Re-Design of the PlanSA website to make it easier to find the information you need and improve how users interact with the website. Certain functions such as lodging an application are not immediately obvious. The key to a good website is that you shouldn't need to scroll to find the most used sections you are looking for and its use is intuitive.
- Mobile applications for submission of building notifications and inspections and on-line submission forms that will allow applicants to submit development applications without a PlanSA login and receive notifications via email, is supported.
- Increasing the ability for relevant authority users to 'self-service' changes to development applications in the Development Application Processing, to reduce (or potentially remove) the need for PlanSA to provide validation of any amendments, is supported.
- Inspection Clocks added to the PlanSA Portal to improve the management, monitoring, and reporting on inspection compliance would be beneficial.

Longer term (Legislative amendments required) improvements:

- Collection of lodgement fee at submission (currently fees are only payable after verification) which would have the effect of 'locking in' the Code provisions relevant to the application. Verification is a useful time to establish the exact nature of development. If a lodgement fee is paid and the Code rules are "locked" in, there would be no opportunity to change the nature of development. Applicants don't generally select the correct or all of the applicable elements when submitting an application, eg a dwelling not including fencing, retaining walls and maybe other elements. If these are not included, the policy is not extracted from the portal. To add the elements afterwards requires the application to be resubmitted which is of no benefit to anyone. Further, it is the role of the relevant authority to determine the nature of development, not the applicant. Combining the verification and assessment processes, even if for apparent more straight-forward applications, presents the same issues as above.

- The automatic issue of a decision through the e-Planning system, upon payment of the relevant planning fees following verification and assessment, commits councils to a full assessment with the risk of no financial compensation if the applicant doesn't pay the fees at the end of the process. If the fee is never paid, Council would receive nothing for the time and work put into the assessment.
- To remove Building Consent verification to simplify the assessment of an application for a straightforward building consent presumably would rely on a request for information to address any shortcomings with the application.
- Concurrent Planning and Building assessment through the e-Planning system may offer some benefit for simple applications that do not require alterations, although this is often unknown at the time. It could be a poor outcome and loss of more time for applicants if planning requires changes after building consent has been assessed, or vice-a-versa, than if done sequentially. Changes would require a second assessment where there would need to be additional fees and a reset of the time clock. Assessment timeframes need to be accurate, and as each consent has its own assessment clock, the clock would need to be able to be paused once each consent has been assessed (or altered and reassessed).

Conclusion

The Planning System Implementation Review affords a valuable opportunity for a broader and deeper analysis to address more comprehensive issues around evidence of the poor development design and process outcomes.

Climate Change and good design implications for sustainability and quality of development are becoming ever more critical to address future desired character, amenity, lifestyle and health of communities and the urban environment. The aims of the Planning Strategy, State Planning Policies and best practice principles need to be incorporated into the Planning System as the front-line delivery instrument for better development.

It is trusted these comments and all issues raised will be given due consideration by the Expert Panel and a consolidated, comprehensive, and justified commentary provided regarding input and reasoning for nature and scope of changes.

If there are any queries, or an opportunity to contribute to further enhancement of policy, please contact Mr David Brown, Principal Policy Planner on 8372 5185 or dbrown@unley.sa.gov.au

Yours sincerely

Peter Tsokas
Chief Executive Officer