



AGENDA

**FOR POLICY AND PLANNING COMMITTEE MEETING TO BE HELD ON
23 JANUARY 2023 AT THE CONCLUSION OF THE SPECIAL COUNCIL
MEETING**

**IN LITTLE PARA CONFERENCE ROOMS, SALISBURY COMMUNITY HUB,
34 CHURCH STREET, SALISBURY**

MEMBERS

Deputy Mayor, Cr C Buchanan (Chairman)
Mayor G Aldridge
Cr G Bawden
Cr B Brug
Cr L Brug
Cr S Burner
Cr J Chewparsad
Cr A Graham
Cr K Grenfell
Cr D Hood
Cr P Jensen (Deputy Chairman)
Cr M Mazzeo
Cr S McKell
Cr S Ouk
Cr S Reardon

REQUIRED STAFF

Chief Executive Officer, Mr J Harry
General Manager Business Excellence, Mr C Mansueto
General Manager City Infrastructure, Mr J Devine
General Manager Community Development, Mrs A Pokoney Cramey
General Manager City Development, Ms M English
Manager Governance, Mr R Deco
Governance Support Officer, Ms K Boyd

APOLOGIES

LEAVE OF ABSENCE

PRESENTATION OF MINUTES

Presentation of the Minutes of the Policy and Planning Committee Meeting held on 15 August 2022.

REPORTS

Administration

1.0.1	Future Reports for the Policy and Planning Committee.....	9
-------	---	---

For Decision

1.1.1	Significant and Regulated Trees under the Planning, Development and Infrastructure Act 2016	13
1.1.2	Submission to the Expert Panel for the Planning System Implementation Review.....	33

QUESTIONS ON NOTICE

There are no Questions on Notice

MOTION ON NOTICE

PPC-MON1	Motion On Notice: Fuel Outlets.....	74
PPC-MON2	Motion On Notice: Smart City Technology.....	75

OTHER BUSINESS

(Questions Without Notice, Motions Without Notice, CEO Update)

CLOSE

THIS PAGE INTENTIONALLY LEFT BLANK



**MINUTES OF POLICY AND PLANNING COMMITTEE MEETING HELD IN LITTLE
PARA CONFERENCE ROOMS, SALISBURY COMMUNITY HUB,
34 CHURCH STREET, SALISBURY ON**

15 AUGUST 2022

MEMBERS PRESENT

Deputy Mayor, Cr C Buchanan (Chairman)
Mayor G Aldridge
Cr M Blackmore (Deputy Chairman)
Cr L Braun
Cr B Brug (*via Teams VC*)
Cr K Grenfell
Cr N Henningsen
Cr D Hood
Cr P Jensen
Cr D Proleta
Cr S Ouk
Cr S Reardon
Cr G Reynolds

STAFF

Chief Executive Officer, Mr J Harry
General Manager Business Excellence, Mr C Mansueto
General Manager City Infrastructure, Mr J Devine
General Manager Community Development, Mrs A Pokoney Cramey
General Manager City Development, Ms M English
Manager Governance, Mr R Deco
Team Leader Council Governance, Ms J O'Keefe-Craig
Governance Support Officer, Ms K Boyd

The meeting commenced at 7.39 pm.

The Chairman welcomed the members, staff and the gallery to the meeting.

APOLOGIES

Apologies were received from Cr A Duncan and Cr J Woodman.

LEAVE OF ABSENCE

Nil

PRESENTATION OF MINUTES

Moved Cr P Jensen

Seconded Mayor G Aldridge

The Minutes of the Policy and Planning Committee Meeting held on 18 July 2022, be taken as read and confirmed.

CARRIED

REPORTS

Administration

1.0.1 Future Reports for the Policy and Planning Committee

Moved Cr L Braun

Seconded Cr S Ouk

That Council:

1. Notes the report.

CARRIED

For Decision

1.1.1 Sustainability Strategy 2035

Moved Cr C Buchanan

Seconded Mayor G Aldridge

That Council:

1. Approves the draft Sustainability Strategy 2035, including draft Principles, Objectives, Actions and Indicators, contained within Attachment 2 for consultation purposes (Policy and Planning Committee, 15 August 2022, Item No. 1.1.1.)
2. Notes the draft Sustainability Vision “*A shared commitment, for Council and the community to enhance and protect the natural environment, responsibly manage resources, reduce carbon emissions and be resilient in a changing climate.*”
3. Approves the consultation process outlined in paragraphs 4.16 to 4.22 and requests Administration arrange formal consultation with the Youth Council and invites the Chair and Deputy Chair of the Committee to present to the Youth Council.
4. Notes that Administration will bring back a proposed budget and implementation plan for the draft Sustainability Strategy 2035 for Council’s consideration and approval.
5. Notes that Administration will bring back a report on the proposed public consultation process for Council’s consideration and approval.

-
6. Notes that the public consultation process would commence after the 2022 local government elections.

CARRIED
UNANIMOUSLY

1.1.2 Recommendations of the Youth Council Sub Committee meeting held on Tuesday 9 August 2022

Moved Cr M Blackmore
Seconded Cr G Reynolds

The information contained in the Youth Council Sub Committee of the meeting held on 9 August 2022 be received and noted with respect to the following recommendations contained therein to be adopted by Council:

CARRIED

1.1.2-YC1 Future Reports for the Youth Council Sub Committee

Moved Cr M Blackmore
Seconded Cr G Reynolds

That Council:

1. Notes the report.

CARRIED

1.1.2-YC3 Youth Council Projects Update

Moved Cr M Blackmore
Seconded Cr G Reynolds

That Council:

1. Notes the report.

CARRIED

1.1.2-YC4 Youth Programs and Events Update August 2022

Moved Cr M Blackmore
Seconded Cr G Reynolds

That Council:

1. Notes the report.

CARRIED

QUESTIONS ON NOTICE

There were no Questions on Notice.

MOTIONS ON NOTICE

There were no Motions on Notice.

OTHER BUSINESS

(Questions Without Notice; Motions Without Notice; CEO Update)

There were no Other Business items.

The meeting closed at 7.52 pm.

CHAIRMAN.....

DATE.....

ITEM	1.0.1
	POLICY AND PLANNING COMMITTEE
DATE	23 January 2023
HEADING	Future Reports for the Policy and Planning Committee
AUTHOR	Michelle Whibley, PA to General Manager, City Development
CITY PLAN LINKS	4.2 We deliver quality outcomes that meet the needs of our community
SUMMARY	This item details reports to be presented to the Policy and Planning Committee as a result of a previous Council resolution. If reports have been deferred to a subsequent month, this will be indicated, along with a reason for the deferral.
RECOMMENDATION	
	<u>That Council:</u>
	1. Notes the report.
ATTACHMENTS	
	There are no attachments to this report.
1. BACKGROUND	
1.1	Historically, a list of resolutions requiring a future report to Council has been presented to each committee for noting.
2. CONSULTATION / COMMUNICATION	
2.1	Internal
2.1.1	Report authors and General Managers.
2.2	External
2.2.1	Nil.

3. REPORT

3.1 The table below outlines the reports to be presented to the Policy and Planning Committee as a result of a Council resolution.

Meeting Item	Heading and Resolution	Officer
21/12/2020 4.1.3 Due:	Lindblom Park & Thomas More College Improvements 3. The working party to provide a recommendation to the Policy and Planning Committee by October 2021. March 2023	John Devine
24/05/2021 2.1.8 Due: Deferred to: Reason:	2021-22 New Initiative Bid Update - Sustainability 1. That New Initiative Bid OPN000691 - Sustainability Coordination and Partnerships be updated to incorporate a further provision of \$50,000 for 2021/22 and in-principle support for years 2 and 3 <u>subject to a further report within the first 12 months being presented to Council about the collaboration project with other Councils and consideration of other funding opportunities.</u> January 2023 February 2023 Stage 1 delivery still to be completed.	Michelle English
23/08/2021 4.2.4 Due:	Springbank Waters and Wetlands, Burton - Shared Use Path 3. Approves that staff bring back a report with a proposed policy on shared pathway lighting for consideration by Policy and Planning Committee by no later than December 2021. March 2023	Jamie Hosking
25/10/2021 1.1.1 Due:	Cities Power Partnership Program 2. Defers becoming a partner of the Cities Power Partnership program and that appropriate partnerships be considered following the completion and adoption of the Sustainability Strategy. March 2023	Dameon Roy
25/10/2021 1.2.2 Due:	Tourism - Ongoing Visitation & Activation Report 3. Notes that a further report will be brought back to Council to consider future initiatives identified in The City of Salisbury Visitor Experience 2021 report. March 2023	Julie Kushnir
28/02/2022 1.1.1 Due:	Salisbury North Oval – Precinct Plan Scope Summary 1. Notes, that a Salisbury North Oval Precinct Plan will be prepared next financial year subject to budget approval and be based on the scope summary as included in this report (Policy and Planning Committee, 21 February 2022 - Item No: 1.1.1) June 2023	Leandro Lopez Digon

27/06/2022	Climate Change Youth Forum Outcome	Leandro Lopez Digon
MWON1	2. Requests that staff bring back a report to the Policy and Planning Committee advising what strategies the City of Salisbury has in place in relation to the recommendations outlined in the Deputation report from Ms Emily Williams.	
Due:	February 2023	
25/07/2022	Strategic Growth Framework	Leandro Lopez Digon
1.4.1	Council has previously resolved this resolution to be confidential.	
Due:	April 2023	
25/07/2022	District Level Playground for Amsterdam Reserve	Jamie Hosking
US-MON1	3. Requests Administration to provide the draft Master Plan and associated costings to the Policy and Planning Committee meeting in six months' time.	
Due:	November 2023	
22/08/2022	Sustainability Strategy 2035	Michelle English
1.1.1	4. Notes that Administration will bring back a proposed budget and implementation plan for the draft Sustainability Strategy 2035 for Council's consideration and approval.	
	5. Notes that Administration will bring back a report on the proposed public consultation process for Council's consideration and approval.	
Due:	February and April 2023	

4. CONCLUSION / PROPOSAL

- 4.1 Future reports for the Policy and Planning Committee have been reviewed and are presented to Council for noting.

THIS PAGE INTENTIONALLY LEFT BLANK

ITEM	1.1.1
	POLICY AND PLANNING COMMITTEE
DATE	23 January 2023
HEADING	Significant and Regulated Trees under the Planning, Development and Infrastructure Act 2016
AUTHOR	Chris Zafiropoulos, Assessment Manager, City Development
CITY PLAN LINKS	1.1 Our City is attractive and well maintained 2.1 Salisbury has a balance of green spaces and natural environments that support biodiversity 4.2 We deliver quality outcomes that meet the needs of our community
SUMMARY	This report provides information for a draft submission to the Expert Panel for the Planning System Implementation Review on Significant and Regulated Trees.

RECOMMENDATIONThat Council:

1. Notes the information contained in this report.
2. Approves the draft submission on Tree Policy to the Expert Panel for the Planning System Implementation Review contained in Attachment 1 Policy and Planning Committee, 23 January 2023. Item No. 1.1.1).

ATTACHMENTS

This document should be read in conjunction with the following attachments:

1. Draft Tree Policy Submission to Expert Panel
2. Letter to Hon Nick Champion, Minister for Planning - Regulated and significant Trees and Response from Hon Nick Champion, Minister for Planning
3. Previous Advice - Significant and Regulated Trees
4. Discussion Paper - Planning and Design Code Reform Options (Previously circulated under separate cover)
5. Expert Panel Summary Paper - Tree Policy (Previously circulated under separate cover)

1. BACKGROUND

- 1.1 At the Council meeting held 25 July 2022, Council resolved the following:

**4.1.5-AMSC-MON1 Regulated and Significant Tree Removal
Process**

Moved Cr C Buchanan
Seconded Cr L Braun

That Council:

1. Requests the Mayor to meet with and write to the South

Australian Minister for Planning as a matter of priority in relation to the ongoing issues with Significant and Regulated trees experienced by members of our community, and requests consideration of the introduction, and/or appropriate amendment, of relevant legislation to simplify the process to manage trees causing community nuisance and/or property damage.

2. Requesting staff to bring back a draft submission to be presented to the expert Planning, Development & Infrastructure Panel and suggested amendments to the relevant act and regulations in relation to Significant and Regulated Trees.

**CARRIED
1412/2022**

- 1.2 Council deferred this report at its meeting on 28 November 2022 following an announcement from the Minister for Planning that all councils would be provided until 31 January 2023 to make submissions to the Expert Panel, given the timing of the Local Government elections. Furthermore, Council resolved:

A working group comprising of Chairman of Policy and Planning Committee, General Manager City Development, Assessment Manager City Development meet in December 2022 for the CEO Briefing Session to enable Council to further discuss, and for a report to be presented for consideration at the Policy and Planning Committee in January 2023.

- 1.3 A meeting of the Working Group was held on 5 January 2023 and the feedback received has informed this report and the proposed submission to the Expert Panel.

2. REPORT

- 2.1 The Mayor wrote to the Minister for Planning by letter dated 19 August 2022. A copy of the letter and his response are provided in Attachment 2. The Minister for Planning met with the Mayor on 23 September 2022 where concerns regarding the cost implications for managing significant and regulated trees that cause community nuisance and property damage were raised.
- 2.2 Large trees within Metropolitan Adelaide make an important contribution to the character or amenity of a local area and assist to reduce the impact of heat in urban areas. Council was provided with advice in the previous report about the legislation and policies that provide protection for significant trees. Refer to Attachment 3.
- 2.3 The Expert Panel on the Planning System Implementation Review is seeking comments by the 16th December 2022 and has released three discussion papers to inform their review. One of the papers on *Planning and Design Code Reform Options* has canvassed Tree Policy. A copy of the discussion paper is provided in Attachment 4 – see pages 26 to 45 of the paper). A summary paper on Tree Policy is provided in Attachment 5.

2.4 The discussion paper:

- 2.4.1 Provides the context and challenges faced with achieving the 20% increase in tree canopy that is provided in the 30 Year Plan for Greater Adelaide, noting a decline of urban trees.
- 2.4.2 Highlights recent investigations by the State Planning Commission into open space and trees, noting 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...* This project is considering issues such as updating the exempt tree species, whether the circumference for regulated and significant trees is too generous, whether the exemptions for certain trees within 10 metres of a dwelling or pool are too broad and whether the offset fees (\$156) are inadequate.
- 2.4.3 Poses a series of questions on Tree Policy to guide feedback, suggesting a strengthening policy and inviting submissions on this topic. The questions more relevant to Council's consideration in this report include:

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 flexosa* (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?*

- 2.5 It is understood that while Council acknowledges large trees in Metropolitan Adelaide make an important contribution to the character or amenity of a local area, there are circumstances where some large trees may not be appropriate within a residential setting and may impact on the ability for affected residents to enjoy the full use of their property. In other circumstances, residents may have ongoing costly maintenance responsibilities that they are unable to sustain.
- 2.6 It is understood that Council supports the retention of significant and regulated tree controls when land is developed (particularly infill development) and developers being subject to the current controls or possibly stronger controls suggested in the discussion paper.
- 2.7 On this basis of Council's preliminary concerns, the following has been drafted for Council's consideration as a submission to the Expert Panel for the Planning System Implementation Review.
- 2.8 *Council would like to see amendments to the Significant and Regulated Trees controls under the Planning, Development and Infrastructure Act 2016 to include the following:*
- 2.8.1 *The legislative scheme recognises the relative cost for maintaining large trees and that some community members are not able to sustain these costs. Council's experience is that Regulated and Significant Trees on private residential properties are problematic for some residents and costly or unfeasible for them to maintain. Residents who unable to maintain a Regulated or Significant Tree, should be able to remove the tree and replace it with a more appropriate tree. A common complaint is that these trees are simply too large within close proximity to residences. Perhaps tree policy and funding could be directed towards supporting removal in situations where the trees are simply too large for their immediate environment (recognising that would need to be quantified/explained) with direct funding to support offset planting on the same site with more appropriately selected species, or offset planting nearby/offsite?*
- 2.8.2 *Amending the current exemption based on the distance from a dwelling by increasing the distance to 15 metres and including Eucalyptus (any tree of the genus). A large proportion of resident complaints and requests for removal are a result of residents dealing with nuisance regulated or significant street trees that are causing damage to adjacent private or public infrastructure e.g. stormwater, sewer, footpath, driveways, boundary walls/fence.*
- 2.8.3 *Trees that are not native to South Australia should be more readily replaced with a tree that is appropriate in a residential setting and the local environmental constraints.*
- 2.8.4 *Furthermore, trees such as Eucalyptus sideroxylon, intertexta, camaldulensis, leucoxylon which have been inappropriately planted in streets do cause significant damage to public and private infrastructure such as sewer, stormwater systems pavements. As these are important issues for Council and the community, these street trees should be identified as an exempt species from regulated tree controls.*

- 2.8.5 *Trees can be more readily removed or trimmed where the tree affects access to sun light for solar panels and the like.*
- 2.8.6 *Street trees are not subject to the Significant and Regulated Tree controls. Council actively manages street trees through existing operational and capital programs. Council allocates approximately \$1.2M to an extensive streetscape renewal program that seeks to enhance streetscapes across the city through the removal of unsuitable trees and the planting of approximately 1,200 new street trees each year. Council should not be subject to the Significant and Regulated Tree controls where street trees are proposed to be removed as part of a program of works that seeks to maintain and enhance the public realm, noting that Council will generally use semi mature replacement trees that will help facilitate the growth of the tree canopy. This variation to the PDI Act should not apply where development is proposed on private land. e.g. a driveway for a proposed development or any development that has potential to impact on regulated or significant trees within the verge.*
- 2.8.7 *Council acknowledges the risk of amending the legislation could result in greater tree loss in the metropolitan area which will lead to detrimental environmental and social impacts, including those identified with the urban heat island effect reports. Therefore, a carefully balanced approach is required. To this end, consideration should also be given to:*
- Surface treatments that provide the opportunity for mitigation of urban heat.*
 - An increase in irrigated areas.*
 - An increase in biodiversity planting areas.*
 - Targeted strategies to install trees to provide shade to areas of existing hardstand on private land, such as shopping centre carparks as a means of mitigating urban heat sinks.*
- 2.8.8 *The retention of Significant and Regulated Tree controls when land is developed, particularly for infill development and developers wanting to develop land should be subject to the current controls. The policy should encourage tree planting to the front of dwellings as this will contribute to public realm amenity and can be more readily monitored.*
- 2.8.9 *Typically, Agonis flexuosa are of low stature and generally of low significance, it is unclear why these trees are specifically excluded if within ten (10) metres of a dwelling or swimming pool. Generally, these nuisance trees are inappropriate for the streetscape environment and are detrimental to the quality of life for residents. Most residents are unable to relieve the nuisance caused by the tree or undertake repairs to property damage. Increasing the distance and including Eucalyptus Sp. would provide a mechanism to better deal these trees.*
- 2.8.10 *It is agreed that offset fees should be increased significantly as this would have the effect of encouraging increased planting. Furthermore, payments that are made should be readily available for councils to allow for more meaningful outcomes in local areas.*

- 2.8.11 *It should be noted that policing of tree planting and landscape maintenance on private property is a compliance burden which councils may not be able to readily resource. In addition, Code policy represents a point in time approach, and there is no mechanism to prevent existing sites from removing landscape areas and creating large areas of hardstand which result in poor visual and environmental outcomes. Programs that clearly spell out the benefits of trees and landscaping more generally in the urban environment should be used to complement regulatory systems.*

3. CONCLUSION / PROPOSAL

- 3.1 That Council consider the information contained in this report and approve the draft submission to the Expert Panel for the Planning System Implementation Review contained in Attachment 1.



City of Salisbury
ABN 82 615 416 895

34 Church Street
PO Box 8
Salisbury SA 5108
Australia

Telephone 08 8406 8222
Facsimile 08 8281 5466
city@salisbury.sa.gov.au

www.salisbury.sa.gov.au

Date to be inserted

Mr John Stimson
Presiding Member
Expert Panel
Planning System Implementation Review

DTI.PlanningReview@sa.gov.au

Dear Mr Stimson

City of Salisbury Submission – Tree Policy

The City of Salisbury has considered discussion paper on *Planning and Design Code Reform Options*, particularly in relation to Tree Policy and provides this submission in order to assist in understanding the issues that the City encounters in relation to trees. Council appreciates the opportunity to make a submission.

Council would like to see amendments to the Significant and Regulated Trees controls under the *Planning, Development and Infrastructure Act 2016* to include the following:

1. The legislative scheme recognises the relative cost for maintaining large trees and that some community members are not able to sustain these costs. Council's experience is that Regulated and Significant Trees on private residential properties are problematic for some residents and costly or unfeasible for them to maintain. Residents who unable to maintain a Regulated or Significant Tree, should be able to remove the tree and replace it with a more appropriate tree. A common complaint is that these trees are simply too large within close proximity to residences. Perhaps tree policy and funding could be directed towards supporting removal in situations where the trees are simply too large for their immediate environment (recognising that would need to be quantified/explained) with direct funding to support offset planting on the same site with more appropriately selected species, or offset planting nearby/offsite?
2. Amending the current exemption based on the distance from a dwelling by increasing the distance to 15 metres and including Eucalyptus (any tree of the genus). A large proportion of resident complaints and requests for removal are a result of residents dealing with nuisance regulated or significant street trees that are causing damage to adjacent private or public infrastructure e.g. stormwater, sewer, footpath, driveways, boundary walls/fence.

3. Trees that are not native to South Australia should be more readily replaced with a tree that is appropriate in a residential setting and the local environmental constraints.
4. Furthermore, trees such as *Eucalyptus sideroxylon*, *intertexta*, *camaldulensis*, *leucoxylon* which have been inappropriately planted in streets do cause significant damage to public and private infrastructure such as sewer, stormwater systems pavements. As these are important issues for Council and the community, these street trees should be identified as an exempt species from regulated tree controls.
5. Trees can be more readily removed or trimmed where the tree affects access to sun light for solar panels and the like.
6. Street trees are not subject to the Significant and Regulated Tree controls. Council actively manages street trees through existing operational and capital programs. Council allocates approximately \$1.2M to an extensive streetscape renewal program that seeks to enhance streetscapes across the city through the removal of unsuitable trees and the planting of approximately 1200 new street trees each year. Council should not be subject to the Significant and Regulated Tree controls where street trees are proposed to be removed as part of a program of works that seeks to maintain and enhance the public realm, noting that Council will generally use semi mature replacement trees that will help facilitate the growth of the tree canopy. This variation to the PDI Act should not apply where development is proposed on private land. e.g. a driveway for a proposed development or any development that has potential to impact on regulated or significant trees within the verge.
7. Council acknowledges the risk of amending the legislation could result in greater tree loss in the metropolitan area which will lead to detrimental environmental and social impacts, including those identified with the urban heat island effect reports. Therefore, a carefully balanced approach is required. To this end, consideration should also be given to:
 - Surface treatments that provide the opportunity for mitigation of Urban Heat. While the Tree Canopy Overlay within the Code is a good initiative, it is only one component of a councils capacity to increase canopy cover within the City. Another effective initiative is increased irrigated areas or increased biodiversity planting areas that could provide a significant impact.
 - Targeted strategies to install trees or provide shade to areas of existing hardstand on private land, such as shopping centre car parks as a means of mitigating the Urban Heat sinks.
8. The retention of Significant and Regulated Tree controls when land is developed, particularly for infill development and developers wanting to develop land should be subject to the current controls. The policy should encourage tree planting to the

2 of 3

front of dwellings as this will contribute to public realm amenity and can be more readily monitored.

9. Typically, *Agonis flexuosa* are of low stature and generally of low significance, it is unclear why these trees are specifically excluded if within ten (10) metres of a dwelling or swimming pool. Generally, these nuisance trees are inappropriate for the streetscape environment and are detrimental to the quality of life for residents. Most residents are unable to relieve the nuisance caused by the tree or undertake repairs to property damage. Increasing the distance and including *Eucalyptus* Sp. and would provide a mechanism to better deal these trees.
10. It is agreed that offset fees should be increased significantly as this would have the effect of encouraging increased planting. Furthermore, payments that are made should be readily available for councils to would allow for more meaningful outcomes in local areas.
11. It should be noted that policing of tree planting and landscape maintenance on private property is a compliance burden which Council are not able to readily resource. In addition, Code policy represents a point in time approach, and there is no mechanism to prevent existing sites from removing landscape areas and creating large areas of hardstand which result in poor visual and environmental outcomes. Programs that clearly spell out the benefits of trees and landscaping more generally in the urban environment should be used to compliment regulatory systems.

Yours faithfully

John Harry
Chief Executive Officer

THIS PAGE INTENTIONALLY LEFT BLANK



City of Salisbury
ABN 82 615 416 895

34 Church Street
PO Box 8
Salisbury SA 5108
Australia

Telephone 08 8406 8222
Facsimile 08 8281 5466
city@salisbury.sa.gov.au

www.salisbury.sa.gov.au

19 August 2022

Hon Nick Champion MP
Minister for Planning
GPO Box 11032
ADELAIDE SA 5001

Office of the Mayor

Dear Minister

RE: Regulated and Significant Tree Removal Process

I write in relation to the concerns that have been expressed to Council by our community in relation to significant and regulated trees.

While the Council supports the value of large trees within Metropolitan Adelaide in making an important contribution to the character or amenity of a local area, there are circumstances where some large trees are not appropriate within a residential setting and affected people are not able to enjoy the full use of their property or have ongoing maintenance responsibilities that they are unable to sustain.

As a consequence of these concerns, at the meeting held on 25th July 2022 Council resolved to:

"Requests the Mayor to meet with and write to the South Australian Minister for Planning as a matter of priority in relation to the ongoing issues with Significant and Regulated trees experienced by members of our community, and requests consideration of the introduction, and/or appropriate amendment, of relevant legislation to simplify the process to manage trees causing community nuisance and/or property damage."

Council welcomes your consideration of the concerns expressed by our community.

If you have any further enquiries please do not hesitate to contact Mr Chris Zafiroopoulos, Assessment Manager on 8406 8222.

Yours faithfully

Gillian Aldridge JP
Mayor
Ph: 08 8406 8212
E: galridge@salisbury.sa.gov.au

Hon Nick Champion MP

22MP11499

Ms Gillian Aldridge OAM
Mayor
City of Salisbury

By email: galridge@salisbury.sa.gov.au



Government
of South Australia

Minister for Trade and
Investment

Minister for Housing and
Urban Development

Minister for Planning

GPO Box 11032
ADELAIDE SA 5001

T: (08) 8235 5580

E: ministerchampion@sa.gov.au

Dear Mayor Aldridge 

Thank you for your recent correspondence regarding the resolution of the City of Salisbury to seek feedback for the community in relation to regulated and significant trees.

I acknowledge the community's concerns regarding regulated and significant trees seen not to be appropriate within a residential setting. I appreciate that a balance needs to be struck between legislative requirements and policy aiming to preserve trees and allowances for pruning or removal of trees where these constitute a threat to personal safety or property.

Section 136 of the *Planning, Development and Infrastructure Act* (the Act) enables the removal of a regulated tree (or its branches) without development approval as a matter of urgency to 'protect any person or building'. If this occurs, the person who removes the tree must notify the relevant authority (likely the council), must cause as little damage to the tree as possible and must subsequently apply for retrospective development approval. I encourage the City of Salisbury to make members of the community aware of this provision in instances where a regulated or significant tree presents an urgent threat to someone's safety or property.

Like the City of Salisbury, the State Government values trees and is concerned with tree loss. This led to an election commitment to improve how the planning system can improve urban tree canopy coverage across metropolitan Adelaide through policies and legislative measures.

I have recently convened an Expert Panel to review the Act and the Planning and Design Code (the Code) to ensure planning decisions encourage a more livable, competitive, and sustainable long-term growth strategy for Greater Adelaide and our regions. The Expert Panel will be reviewing the Code and related instruments as they relate to infill policy, trees, character, heritage, and car parking. The Expert Panel therefore has scope to consider whether section 136 of the Act is sufficient in allowing pruning or removal of a regulated or significant tree in instances where these constitute a threat to personal safety or property.



The pending review work of the Expert Panel will build upon the 'Open Space and Trees Project' being progressed by the State Planning Commission. This Project is seeking to better understand the use and benefits of open space and trees in an urban context and the impact of infill development on our urban tree canopy. Two key reports informing the Project have recently been made public:

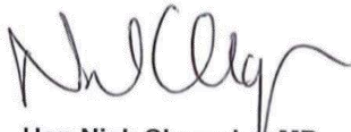
- An Arborists Report – 'Open Space and Trees Project Part 1A (Arborists Review)' by Dean Nicolle, 28 April 2022
- A Research Report – 'Urban tree protection in Australia' by the University of Adelaide, May 2022.

Further information about the Project is available from the Commission's website at https://www.saplanningcommission.sa.gov.au/projects_and_engagement/commission_projects.

Further information about the Expert Panel and progress of the review is available at https://plan.sa.gov.au/planning_review. You can participate in this process and contribute to the Expert Panel's deliberations by providing a submission to the Panel prior to the close of submissions on 16 December 2022. Contact details for submissions are available on the PlanSA website.

I trust this information is of assistance.

Yours sincerely



Hon Nick Champion MP
Minister for Planning

11 / 11 / 2022

THIS PAGE INTENTIONALLY LEFT BLANK

ITEM AMSC3

ITEM	AMSC3 ASSET MANAGEMENT SUB COMMITTEE
DATE	11 July 2022
HEADING	Motion on Notice: Regulated and Significant Tree Removal Process
AUTHOR	Beau Brug, Councillor - Levels Ward, Mayor & Elected Members

Cr Beau Brug has submitted the following Motion on Notice:

That Council:

1. Approves to submit a motion to the Local Government Association ordinary or annual general meeting on the ongoing issues with Significant and Regulated trees experienced by members of the community, and requests advocacy on the introduction, and/or appropriate amendment, of relevant legislation to simplify the process to manage trees causing community nuisance and/or property damage.
2. Authorises the Mayor to write to the South Australian Minister for Planning in relation to the ongoing issues with Significant and Regulated trees experienced by members of our community, and requests consideration of the introduction, and/or appropriate amendment, of relevant legislation to simplify the process to manage trees causing community nuisance and/or property damage.

Administration Comment:

The concept of a significant tree was first introduced by the South Australian Parliament in 2000 as a result of community and local government recognition of the value of large trees within Metropolitan Adelaide making an important contribution to the character or amenity of a local area. The Government's policies essentially provided for the protection of a significant tree unless a specific criterion is satisfied to warrant the removal of the tree.

The policies apply to all trees in the metropolitan area, including trees on council reserves. In 2012, the Parliament introduced a two-tier system of tree classification and assessment with the introduction of a regulated tree (with a circumference of 2 metres or more) where the relevant authority would undertake a 'planning assessment' of the tree removal, with generally less requirements for expert reports. The policy allowed circumstances for the removal of a regulated tree where reasonable development would otherwise not be possible. A significant tree (with a circumference of 3 metres or more) retained essentially stronger criteria for the removal of such trees.

The development application process for the removal of regulated and significant trees involves the submission of the application on the state Development Assessment Portal together with plans, supporting information and application fees. The application process is relatively simple within the context of the planning system.

ITEM AMSC3

As the assessment of a development application for tree damaging activity is made against policy criteria in the Planning and Design Code, Council may wish to consider additional policy considerations for the particular circumstances in the proposed motion, noting that the policies essentially seek the retention of regulated and significant trees unless the tree is dying, causing unacceptable risk to safety or preventing development that is reasonable for regulated trees, or all other options have been exhausted for significant trees. Nuisance issues have generally not been accepted criteria for the removal of regulated or significant trees and could be seen to undermine the intent of the current tree protection legislation.

Council's then Development Assessment Panel provided the following advice to Council in its 2016/17 annual report that could be relevant for this motion...*given the extensive nature of Council's Streetscape Renewal Program, it may be appropriate for Council to seek the Minister for Planning's approval for amendments to the Development Plan for the consideration of street trees in such programs, given that the Development Plan criteria were created by the State Government.*

In making a formal submission to the Local Government Association (LGA), it is noted that the LGA Policy Manual has agreed positions in relation to Urban Greening that includes ...*Local government understands that having higher levels of natural plant life (trees and shrubs located in street verges, parks and on private properties) in their local communities has many social and environmental benefits, particularly in urban communities. Councils shall continue to explore and implement strategies that maintain and increase levels of urban greenery to maximise the benefits of green cover.*

It is also noted that the new State Government as part of their election commitment indicated that '*A Malinauskas Labor Government will commission an implementation review of the Planning, Development and Infrastructure Act and the Planning and Design Code, with the aid of an expert panel, to ensure that planning decisions encourage a more liveable, competitive and sustainable long-term growth strategy for Greater Adelaide and our regions.*' While the State Government has not announced when this process will commence, Council may wish to consider making a submission on significant and regulated trees as part of this process.

Attachment 4

Significant and Regulated Trees under the Planning, Development and Infrastructure Act 2016

Discussion Paper - Planning and Design Code Reform Options (Previously circulated under separate cover on 28 November 2022 and available on the public website)

THIS PAGE INTENTIONALLY LEFT BLANK

Attachment 5

Significant and Regulated Trees under the Planning, Development and Infrastructure Act 2016

Expert Panel Summary Paper - Tree Policy (Previously circulated under separate cover on
28 November 2022 and available on the public website)

THIS PAGE INTENTIONALLY LEFT BLANK

ITEM	1.1.2		
	POLICY AND PLANNING COMMITTEE		
DATE	23 January 2023		
PREV REFS	Policy and Planning Committee	1.3.1	17/02/2020
	Policy and Planning Committee	1.3.1	21/09/2020
	Policy and Planning Committee	1.1.3	14/12/2020
	Policy and Planning Committee	1.1.1	18/07/2022
	Council	GB3	26/09/2022
	Policy and Planning Committee	1.1.2	21/06/2021
	Policy and Planning Committee	1.1.3	21/06/2021
	Policy and Planning Committee	1.3.1	17/07/2017
	Policy and Planning Committee	1.3.1	18/04/2017
	Policy and Planning Committee	1.3.2	17/07/2017
	Policy and Planning Committee	1.3.3	17/06/2019
HEADING	Submission to the Expert Panel for the Planning System Implementation Review		
AUTHORS	Peter Jansen, Strategic Planner, City Development Sally Jenkin, Team Leader Strategic Urban Planning, City Development Chris Zafiropoulos, Assessment Manager, City Development		
CITY PLAN LINKS	3.4 Our urban growth is well planned and our centres are active		
SUMMARY	<p>The State Government made a commitment as part of its election platform to review the planning system. It has initiated an Expert Panel to undertake the review with a focus on seeking new information, responses and experiences directly related to the implementation of the <i>Planning, Development and Infrastructure Act 2016</i> (PDI Act) and the Planning and Design Code, and how the community is interacting with the e-Planning system.</p> <p>Comments from the public were due by 16th December 2022 and councils have been provided until 31 January 2023 to make submissions to the Expert Panel.</p>		

RECOMMENDATION

That Council:

1. Notes the information contained in this report.
2. Approves Administration's draft submission to the Expert Panel for the Planning System Implementation Review contained in Attachment 1 Policy and Planning Committee, 23 January 2023. Item No 1.1.2).

ATTACHMENTS

This document should be read in conjunction with the following attachments:

1. Draft Submission to Expert Panel
2. Discussion Paper - PDI Act Reform Options (Previously circulated under separate cover)
3. Discussion Paper - PD Code Reform Options (Previously circulated under separate cover)
4. Discussion Paper - e-Planning System Reform (Previously circulated under separate cover)
5. Council Assessment Panel Submissions

1. BACKGROUND

- 1.1 Council deferred this report at its meeting on 28 November 2022 following an announcement from the Minister for Planning that all councils would be provided until 31 January 2023 to make submissions to the Expert Panel, given the timing of the Local Government elections. Furthermore, Council resolved:

A working group comprising of Chairman of Policy and Planning Committee, General Manager City Development, Assessment Manager City Development meet in December 2022 for the CEO Briefing Session to enable Council to further discuss, and for a report to be presented for consideration at the Policy and Planning Committee in January 2023.

- 1.2 A meeting of the Working Group was held on 5 January 2023 and the feedback received has informed this report and the proposed submission to the Expert Panel.

- 1.3 The South Australian Government undertook a comprehensive review of the planning system in 2012 resulting in a series of reforms such as the new *Planning, Development and Infrastructure Act* in 2016, and the replacement of all the 72 Council Development Plans in 2021 with a single, standardised Planning and Design Code that is maintained by the State Planning Commission.
- 1.4 During the reform process the City of Salisbury made a number of submissions on various administrative processes, technical matters and land use policies and controls.
- 1.5 There has been a substantial number of ongoing changes to the Planning and Design Code (PD Code) and the *Planning, Development and Infrastructure Act* and Regulations since their inception.
- 1.6 Requests by the public and practitioners for a change to the PD Code can be made through an online portal. This has been used to submit a number of matters that have been raised through Council consideration, and is often used for matters of technical nature or rectification of errors.
- 1.7 The State Government has recently commissioned a review of the planning system reforms and has engaged an independent Panel. The *Expert Panel for the Planning System Implementation Review* held its inaugural meeting on the 23rd August. The Terms of Reference are to review:
 - 1.7.1 The Planning, Development and Infrastructure Act;
 - 1.7.2 The Code and related instruments, as it relates to infill policy, trees, character, heritage and car parking;
 - 1.7.3 The e-Planning system to ensure it is delivering an efficient and user-friendly process and platform; and
 - 1.7.4 The PlanSA website, to check usability and ease of community access to information.
- 1.8 On 17th October the Panel released three Discussion Papers. These are Attachments 2, 3 and 4 which are under separate cover, and can also be found at the following link https://plan.sa.gov.au/planning_review, as are seven summary papers.
- 1.9 The Expert Panel has acknowledged the many previous submissions and representations made by groups and individuals, and also indicates that those issues have been examined by various bodies. The Expert Panel considers the fundamentals of the PDI Act are sound, and will not re-prosecute issues that were dealt with by the State Planning Commission when it introduced the Planning and Design Code (PD Code).
- 1.10 The Expert Panel is seeking new information, responses and experiences directly related to the implementation of the PDI Act and the PD Code, and how the community is interacting with the e-Planning system.
- 1.11 The Expert Panel has held workshops for practitioners, Mayors and CEOs, and community members.
- 1.12 The Expert Panel consultation timeline included the Local Government Elections period which triggered the Caretaker Policy of Council. The Caretaker period commenced on the 6th September 2022, and ended when the election results were

certified by the Electoral Commission. This is an unfortunate situation, as the formal position of councils was unable to be obtained. As a consequence, the Minister for Planning provided all councils until 31 January 2023 to make submissions to the Expert Panel.

- 1.13 The Expert Panel is not a decision-making body, but will report and make recommendations to the Minister for Planning.
- 1.14 A separate report on Significant and Regulated Trees under the PDI Act 2016 is being considered by Council at this January 2022 meeting.
- 1.15 The Council Assessment Panel has also considered reports at its 25th October 2022 meeting on:
 - 1.16.1 Elected Members on the Panel and Council Representation (Item 8.2.2).
 - 1.16.2 Non-Residential Uses in the General Neighbourhood Zone in the PD Code (Item 8.2.3). This is contained within Attachment 5.

2. CITY PLAN CRITICAL ACTION

- 2.1 Nil

3. CONSULTATION / COMMUNICATION

- 3.1 Internal
 - 3.1.1 Development Services
- 3.2 External
 - 3.2.1 Planning and Land Use Services

4. REPORT

- 4.1 This report seeks to inform Elected Members of the key policy, legislative and administrative process and e – Planning system issues that aligns with the Terms of Reference of the Expert Panel in seeking new information, responses and experiences directly related to the implementation of the PDI Act and the PD Code, and how the community is interacting with the e-Planning system.

Planning and Design Code Reform options

4.2 *Places of Worship*

- 4.2.1 A number of submissions and approaches on this matter have occurred as a result of the introduction of the PD Code. The PD Code has enabled the consideration of Places of Worship in all zones in the City of Salisbury, but without the assessment criteria on impacts that used to exist. A submission to the Minister for Planning and the Planning and Land Use Services is being updated to incorporate the recent Census results when the relevant data is available.
- 4.2.2 A copy of the draft submission that has previously been presented to Council is to be submitted to the Expert Panel in the meantime advising of the changing demographic shift increasing the demand for Places of Worship for the increased population practicing non-Christian faiths. As a result, there is the need to incorporate the previous Development Plan policy of the City of Salisbury so that there are additional policies in the

PD Code to assess the issues associated with local, neighbourhood, and regional level Places of Worship (Policy and Planning 1.1.1, 18th July 2022, Minute 1408/2022). Furthermore, it is understood that Council is also wanting the consideration of additional zones for such facilities such as Rural and Rural Horticultural Zones, given the difficulty some community groups have accessing land. The loss of this important local policy and the difficulty for Council to have such policy reintroduced in the Code is a matter that Council considers requires further consideration.

4.3 *Airport policy*

- 4.3.1 Airport policy across the PD Code is still inconsistent across the Adelaide, Edinburgh and Parafield Airports. Unlike Adelaide Airport and the City of Adelaide area, Edinburgh and Parafield Airports are not recognised with finer grained building height contour mapping. A much-simplified defined area that triggers all assessments to require assessment applies to the Parafield Airport surrounds, and a differing height recognition applies to Edinburgh Airport. There is also a continued absence in the PD Code of a recognition of the Department of Defence as a referral body.
- 4.3.2 A number of applications for employment development in Strategic Employment Zones have been delayed around the Salisbury airports in their application processing due to ambiguous information requirements. The delays are also caused by the airports having to consider and respond to individual approaches by proponents seeking consideration, instead of having pre-defined parameters contained in the PD Code.

4.4 *Tree Policy*

- 4.4.1 A separate report has been prepared for the consideration of tree policy in response to Council's resolution on 25 July 2022 which requested the Mayor write to the Minister for Planning and a draft submission to the Expert Panel for the Planning System Implementation Review on Significant and Regulated Trees. (Refer to Item 1.1.2.)

4.5 *Infill Policy*

- 4.5.1 The State's *30 Year Plan for Greater Adelaide* has identified the need to deliver additional forms of housing to overcome the reliance on detached dwellings that has for many years applied to Adelaide. Strategies have been put in place to curb urban sprawl and associated long term costs of congestion and infrastructure extensions. The 2017 update to the 30 Year Plan seeks to ensure that new development occurs in the existing urban footprint, and recognises housing affordability on a whole of life cycle basis.
- 4.5.2 The Council Growth Action Plan 2017 highlighted that an additional 11,000 dwellings may be constructed in the City by 2035 largely through urban consolidation and infill development, particularly along transport corridors, centres, areas of open space and older suburbs.

- 4.5.3 The PD Code has been drafted to facilitate a more diverse range of housing types and tenures, in conjunction with increased tree planting and green cover, stormwater management, on site and on street parking, and increased street amenity.
- 4.5.4 However, the increased infill, housing flexibility and affordability pressures brings tension in the detailed design outcomes. The Expert Panel indicates that much of the community response has been to development prior to the PD Code, and that developments assessed under the PD Code are only now being constructed.
- 4.5.5 The State Planning Commission has proposed a *Future Living Code* Amendment which will consider the preparation of policy for housing for aged and retirement living, co-housing for ageing in place, that reflects flexible housing designs.
- 4.5.6 The majority of infill development within the Council area comprises the redevelopment of an existing dwelling site to accommodate usually two dwellings and where supported by policy, three dwellings. The PD Code introduced additional design considerations that have generally improved the quality of development. These include design features, landscaping and providing one on-street parking space. The experience has however been that three dwellings on a standard residential site within a suburban context (referred to as terrace dwellings) will inherently result in a poorer design outcome, due to relative intensity of the development.
- 4.5.7 There is an increase in complexity resulting from all these new directions and opportunities. Matters such as design improvements, trees and landscaping, stormwater management, carparking and garaging, and street appeal are being considered by the *Expert Panel*.
- 4.5.8 A challenge remains with the absence of adequate controls for the driveways over the Council verge. The State Planning Commission has commenced a process to develop Design Standards for this purpose. While the Design Standards have not been produced at this time, this initiative is supported.
- 4.5.9 Given the above, and taking into consideration the feedback from Members on infill, the draft submission to the Expert Panel advise that Council supports the improved design policies for small scale infill within suburban areas, however the rate and nature of change for some communities, such as Ingle Farm, has resulted in some less than desirable development outcomes and further consideration should be given to:
- Strategic planning that considers the appropriate provision of infrastructure to support infill development within metropolitan Adelaide and targeting higher densities in specific locations such as centres, transport nodes and areas of public open space.
 - Reviewing the policy in the PD Code for terrace dwellings within suburban areas as this form of development inherently results in poorer design outcome, due to relative intensity of the development.

- Ensuring road widths are adequate to facilitate the expected traffic volumes and on street parking, noting that car ownership remains relatively high.

4.6 Car parking Policy

- 4.6.1 Increased development density was already occurring prior to the introduction of the PD Code. A Council report on a 2017 *Parliamentary Inquiry on the Regulation of Parking and Traffic Movement in South Australia* identified the infill growth and impact on parking such as:
- Reduced standards for on-site parking provision.
 - Tension in providing spaces for disabled parking, loading zones, staff parking, customer parking.
 - Trend to narrower road widths and pressure to manage verge parking.
- 4.6.2 The PD Code introduced a number of standards for parking and incorporated a provision for two car parks for infill two-bedroom dwellings. The Expert Panel discussion paper does not propose to increase the current requirement; however, it is considering reforms including:
- Allowing for dispensation to car parking based on proximity to the CBD, public transport or employment centres.
 - A focus on meeting average demand rather than peak demand.
 - Not requiring one car park space to be covered (provision of a carport or garage). This would also relate to housing affordability.
- 4.6.3 Council experience has generally been that communities complain that new development brings with it increased traffic, congestion and insufficient car parking. This is supported with general observations that many of the new households have two vehicles. In the absence of any significant changes to car ownership and usage, it is recommended that the Expert Panel be advised that Council does not propose reduced requirements for on-site and on-street car parking.
- 4.6.4 A recent development application assessed by council staff has revealed that car parking for educational establishments include that student pick up/ set down may be either on the school site or can be catered for on the public realm within 300 metres of the school. The consequence is that this will result in increased reliance on public roads. Given this, and taking into consideration the feedback from Members on traffic congestions around schools, the draft submission to the Expert Panel advises that increased reliance on public roads for pick up / set down will exacerbated existing traffic congestion around schools. Council wishes to express concern with this policy position and strongly recommends that educational establishments should provide their pick up / set down areas on their sites to reduce already congested roads that surround schools.

4.7 *Policy Improvement needed for non-residential uses in the General Neighbourhood Zone*

4.7.1 The Council Assessment Panel (CAP) has highlighted an issue in the assessment of two development applications proposing non-residential uses within the General Neighbourhood Zone. The CAP identified that a combination of permissibility intended by the zone, together with policy expression, created some uncertainty in the assessment process. The CAP resolved to make a submission to the Expert Panel and provide a copy of its submission to Council. A copy of the CAP's submission is provided in Attachment 5. The CAP has suggested:

- There is a lack of precision embodied in the policy that is vulnerable to interpretations that have the potential to allow land uses in the General Neighbourhood Zone that are not intended or to facilitate significant incremental change.
- The location and scale of non-residential uses within essentially residential neighbourhoods needs better guidance. Additional considerations should include:
 - A reference to residential character should be better guided with a Desired Outcome that better describes the desired character and important considerations for the assessment process of respective residential neighbourhoods.
 - The location of some non-residential uses should generally only be encouraged in specific circumstances such as on arterial or collector roads.
 - The scale of the uses should not be confined only to commercial activities. There should also be guidance on appropriate scale in relation to the built form and relative intensity of activity.

4.7.2 Taking into consideration the feedback from Members on this issue, the draft submission to the Expert Panel indicates Council's support for the Council Assessment Panels' submission, highlighting it relates to a recent development application for a proposed retail fuel outlet that attracted significant community opposition. Furthermore, that Council's view is that the previous Development Plan policy provided more certainty and direction for community and for applicants for such developments. This certainty and direction should be considered for the Planning and Design Code.

4.8 *Miscellaneous PD Code issues*

4.8.1 The following issues are various matters that have been revealed in the assessment of development since the introduction of the PD Code that are considered to warrant further consideration:

- While the Code is accessible online, it is difficult for people to read and interpret who are not accredited professionals who use the system regularly. There should be further consideration to how the PD Code is presented to the general public.

- The interpretation of policy - pragmatic versus tight interpretation of the PD Code is various. The Performance Outcomes are not well understood and often the Designated Performance Features have no relationship to the Performance Outcomes.
- There is a lack of policy guidance relating to managing overlooking from ground level areas at sloping sites.
- Two-storey development at rear hammerhead sites can have inherent detrimental impacts to surrounding back yards of neighbours. The PD Code does not provide adequate guidance for this form of development.
- Policy guidance is also required for emerging development trends of new housing types, including:
 - NDIS type supported housing arrangements. These forms of development have additional requirements for consideration such as supported accommodation and applicable parking rates.
 - Multi generation housing which is increasingly being sought by the community. There is no explicit guidance by the PD Code or National Construction Code.
 - The previously defined 'multiple dwelling' to guide when occupancy of a detached dwelling exceeds what is reasonably expected for this form of dwelling.

Planning, Development and Infrastructure Act 2016 Reform Options

- 4.9 The new legislation introduced significant changes to the system, including assessment pathways, relevant authorities, rules governing assessment processes, changes to public notification and tools for the provision of infrastructure with new development. The discussion paper has identified some topics for specific consideration, but the Expert Panel has invited comments about all ideas. The key matters for Council staff are highlighted below.

4.10 Infrastructure Schemes

- 4.10.1 Two Infrastructure Schemes were introduced with the intent to apply however these schemes have yet to be utilised. The Expert Panel summary paper on the Act states that the schemes are complex and difficult to work with. This leaves Land Management Agreements or Separate Rates as alternative options. In addition, the State Government has advised that no rezonings will occur without funding agreements being in place for infrastructure. Therefore, not having workable infrastructure schemes for large and complex land developments affects land supply and hence economic growth.
- 4.10.2 Council has adopted the Strategic Growth Framework, Waterloo Corner and Bolivar Corridor. The next step involves further investigations and designs for infrastructure. Given the fragmentation of land ownership across this area and the proposed stages of development an Infrastructure Scheme would have been a suitable option.

4.10.3 Council staff have collaborated with staff from other growth area councils (the Cities of Playford; Mt Barker; Onkaparinga; Town of Gawler; District Councils of Adelaide Plains, Light and Barossa) on a response to the Expert Panel on infrastructure. The combined submission reflects the common issues from the staff. Each council plans to forward this common submission to the Expert Panel through its Council or Executive. The key issues include:

- The current infrastructure schemes in the Act are unlikely to be used given the complexity and uncertainty of these schemes.
- Structure Planning with infrastructure designs and costings should be required prior to rezoning.
- The State Government needs to have an effective whole of government infrastructure co-ordination that aligns with Regional Plans, including funding mechanisms for infrastructure agencies (eg SA Water and the Department for Education) being committed to providing services to facilitate and support development opportunities.
- The Victorian system has been identified as having a better infrastructure model and provides an example of measures that could be adapted to South Australia such as:
 - Predetermined costs for various types of infrastructure, with the ability to alter the agreed cost when identified in a structure plan.
 - A State infrastructure fund to pay for infrastructure prior to development proceeding and costs being recouped.
 - A minimum requirement that 10% of land is allocated towards key infrastructure at the structure planning stage.

4.10.4 While staff will continue to work with other councils on common issues, it is recommended that the Expert Panel be urged to undertake a comprehensive review of infrastructure schemes. As mentioned above, the Victorian Government has been identified as having a better infrastructure model and provides an example of measures that could be adapted to South Australia.

4.10.5 It is recommended that Council approves the jointly prepared submission being an attachment to Council's response to the Expert Panel. The submission is contained in Attachment 1.

4.11 Public Notification and Appeal Rights

4.11.1 The public notification area for minor/localised development types, which includes all properties within 60 metres, is excessive for minor structures (e.g. outbuildings on a boundary or a boundary retaining wall) that have a minimal impact beyond the immediate neighbour. It is recommended that Council advise the Expert Panel that notification for development on the boundary, when deemed necessary, should only be made to the affected adjoining neighbour.

4.11.2 In relation to the types of notified developments, non-residential use should not generally be excluded from notification within zones that are predominantly residential zones. Communities generally do not engage deeply with the planning system at a policy level and it is reasonable for communities to expect to be engaged when non-residential development is proposed.

4.11.3 It is understood from Members that the loss of third party appeals under the *Planning, Development and Infrastructure Act 2016* has contributed to communities feeling disadvantaged as they are unable to challenge the decision of a relevant authority. While it is acknowledged that the prospect of third-party appeal presents a risk to a proponent, there is equally a risk to community confidence in a system where their participation is severely restricted.

The Expert Panel has proposed alternative appeals pathways in its discussion paper. These alternatives provide an expedited appeal process, which does appear to have some merit. It is recommended that the Expert Panel be advised that Council supports the consideration of mechanisms to reintroduce third party appeal rights for development, particularly for development that is not reasonably expected within residential neighbourhoods.

4.12 Council Assessment Panel

4.12.1 The Council Assessment Panel (CAP) has highlighted an issue on the role of the Elected Member of the CAP and resolved to make a submission to the Expert Panel and provide a copy of its submission to Council. A copy of the CAP's submission is provided in Attachment 5. The CAP has requested that the Expert Panel consider:

- Review clause 21 of Assessment Panel Members - Code of Conduct to provide better clarity for the role of Elected Members on Panels in circumstances where a council makes a representation and the member declares a conflict at the council meeting. As it is drafted, it can be interpreted in such a manner as to cause difficulty for CAP Members who are also Elected Members in balancing their separate roles in this regard and how this is viewed by the community.
- Consider whether clauses 14.e. and 21 of the Code of Conduct can be refined or, whether they remain necessary and can be deleted. With respect, clauses 7 – 14.d. and 15 – 20 are very clear and detailed in their scope and application such that they ensure that CAP member behaviour is objectively appropriate, fair and impartial without causing tension with applicants and the community who may view the mere fact of a CAP Member also being an Elected Member of the Council or an Independent Member being a member of a professional organisation, or a member of several Panels, of themselves, constituting a breach of one or both of these clauses.
- Use an alternative title than “Council Assessment Panels” to better differentiate the independent role of Panels for the community.

The continued use of the term “Council” means that applicants and members of the community make assumptions concerning the CAP and its relationship with the Council which cause many of the tensions mentioned above.

- Review the *call-in power* and practice by the Minister for Planning under section 94 of the *Planning, Development and Infrastructure Act 2016* to include more significant development applications undertaken by a Council.

4.12.2 Taking into consideration the feedback from Members on this issue, the draft submission to the Expert Panel identifies includes the following specific matters for further consideration in this review:

- The name Council Assessment Panel has created considerable confusion. Given the distinct separate function of Panels to councils, the name of the Panel should more accurately reflect this role, such as Independent Development Assessment Panel.
- The number of Elected Members on panels should be increased to account for improved local knowledge in the decision-making process. It is suggested that a minimum of two (2) Elected Members should be appointed to Panels. Furthermore, that the Presiding Member may also be an Elected Member.
- Clarify that in circumstances where a council makes a representation to Panel, and the Elected Member on the Panel declares a conflict at the council meeting on the matter before the Panel, they are not excluded from participating on the Panel.
- The new accreditation requirements for members on Panels has resulted in a reduced pool of eligible people that may be appointed for this role. Given this, the suitability of candidates should be based on defined skills or qualifications, not the accreditation requirements, to increase the pool of suitable candidates that may be appointed.
- It is important that decisions of Panels is transparent and to facilitate this process it is recommended that the prescribed meeting procedures in the regulations also include a clause to include a record of individual member voting.

4.13 Deemed Planning Consent

4.13.1 Deemed Planning consent allows an applicant to serve a notice on a planning authority to issue an approval, if the application has not been assessed with the time prescribed in the regulations.

Considerable concern has been raised by practitioners about the negative impacts the deemed consent option has introduced into the assessment of development. This approach does not provide a basis for collaborative relationships with applicants that in turn deliver more appropriate planning outcomes. Nor does it take into consideration the well documented shortage of professionals within the sector or how to establish a sustainable work environment for the relevant assessing

officers where they can apply their skills to the delivery of an outcome that benefit all, in line with the relevant assessment policy.

- 4.13.2 This, combined with very short assessment times for what can be quite complex matters, results in a greater likelihood of applications being refused, or sub-standard designs that don't meet the provisions well, but are just good enough being approved to avoid a deemed consent rather than working with applicants to achieve a design that can be supported and better deliver the intent of the policy.
- 4.13.3 It is noted in the jurisdictional comparison contained in the Panel's discussion paper, that only Queensland uses this mechanism and NSW has adopted a deemed refusal mechanism. Other jurisdictions such as Victoria, Western Australia and Tasmania have taken a more balanced approach, whereby a review is undertaken by the respective courts on the facts and the court makes a considered and independent determination on the application. This is considered to be a more equitable approach that will safeguard the community against potential poor development outcomes.
- 4.13.4 The Paper identifies instances where planning and building consent have been issued for a development application, but councils are refusing to accept the planning consent issued by the private accredited professional. The Discussion Paper assumes the council as the problem and does not examine the reasons why the approval is not being issued by the Council. The Act requires a council to check that the appropriate consents have been sought and obtained for a development application. In many instances, it is evident that some private accredited professional have acted outside their powers under the Act. This issue is directly related to the ambiguity that is created with s106(2) of the Act in relation to minor variations.
- 4.13.5 The Deemed to Satisfy (Minor variations) has been subject to various interpretations and has created uncertainty and delayed approvals, as identified by the Panel's paper. This varying interpretation has resulted in poor outcomes for applicants. There are some examples of accredited professional's interpretation being such that they have effectively undertaken a performance assessed development.
- 4.13.6 It is recommended that the Expert Panel be advised that Council requests a review of s106(2) of the Act. This provision is not working as intended. There needs to be greater guidance on what constitutes a minor variation to address the current inconsistent approach. This could be informed with clear parameters such as a minor variation may only be granted:
- by a Council, or
 - by private certifiers where the element does not have an impact beyond the site. E.g. excludes site area, frontage, setbacks, building heights, length on boundary and the like, and there is accountability / transparency with clearly documented justification for any minor variations.

4.14 Assessment Timeframes

- 4.14.1 The paper suggests a review of assessment timeframes. The average time to assess development applications is generally well within statutory periods, but a particular step in the assessment process (verification) there was 78% compliance with a 5-day timeframe. Notwithstanding this performance across all applications, current statutory timeframes do not adequately differentiate the work that is required to properly assess more complex assessments such as larger commercial and industrial type applications. The current rigidity in the system discourages collaboration, but rather increases adversarial approaches.
- 4.14.2 It is recommended that the Expert Panel be advised that:
- Assessment timeframes for more complex development, not involving up to two (2) class 1 (dwellings) and class 10 outbuildings, should be 8 weeks as provided under the previous Act (from the current 4 weeks), as the current assessment timeframes are not adequate and do not facilitate the promotion of high standards for the built environment.
 - Verification process is onerous and does not adequately account for the assessment that is required for more complex developments. The Expert Panel is encouraged to consider training, education, and DAP system solutions, ahead of imposing penalties on a sector that is facing the same resourcing challenges as other sectors.

4.15 Practice Direction 14: Site Contamination

- 4.15.1 The practice direction for the assessment of site contamination in parallel with new development provides good guidance and has been an improvement to the planning system. The framework has however created some unnecessary red tape in the planning system that triggers site contamination processes in instances that do not appear warranted, as they do not appear to present a risk to the land use. While the changes to Practice Direction 14 in June 2022 improved this process, further refinement is considered necessary.
- 4.15.2 This issue is caused with Table 1: Land Use Sensitivity Hierarchy and associated qualifications in clause (5)(e). Particularly, in relation to requiring site contamination processes in the following instances:
- Office / retail uses (item 5) for an industrial use (item 7).
 - Change of land use to a warehouse or store within an existing building or site, on a site previously used for industry (item 7).
 - Development within a ground water prohibition area where there is a change in the use of land to a more sensitive use, unless there is a site contamination audit report under Part 10A of the *Environment Protection Act 1993* providing that the land is suitable for a range of uses. The prohibition areas are large, encompassing various zones, and the audit reports do not appear to identify suitable land uses for the entire affected prohibition area.

As a consequence, the system imposes an unnecessary and considerable cost in the planning system where there is unlikely to be a risk. E.g. a warehouse being proposed on the site of a previous light industry requires a referral to the EPA. As this process affects common uses in employment zones, the consequence is an unnecessary increase in cost and time for reasonably expected and common developments.

- 4.15.3 Furthermore, it is noted that the *Environmental Protection Act 1993* provides the appropriate powers to address risk of site contamination, where required, without unduly affecting applicants in the planning system where there is little to no site contamination risk for these uses.
- 4.16 It is recommended that the Expert Panel be advised that Practice Direction 14 should be amended to include:
 - 4.16.1 That a commercial class 1 use (and similar) in association with an existing industry is not to be regarded as a more sensitive use.
 - 4.16.2 Explicitly include a warehouse, store, service trade premises, bulky goods, retail fuel outlet and similar common land uses from Part 7 of the Planning and Design Code in item 7 of Table 1: Land Use Sensitivity Hierarchy to provide greater certainty.
 - 4.16.3 An amendment to clause 5(d)(iii) to include all proposed uses referred to above, within Item 7 of Table 1: Land Use Sensitivity Hierarchy.
 - 4.16.4 The establishment of a Ground Water Prohibition area should be reviewed so that site contamination audit report that creates this overlay considers all the affected zones and identifies the range of suitable uses not requiring a referral for the entire ground water prohibition area. This would likely be more particularly applicable to employment type zones, rather than neighbourhood type zones. There otherwise should be a general exemption that applies for development applications that include item 5, 6 and 7 land uses in the Land Use Sensitivity Hierarchy.

E-Planning System and the PlanSA website

- 4.17 A key reform of the planning system was to establish a single online planning system. The online system provides:
 - 4.17.1 Access to planning and building information;
 - 4.17.2 An ability to lodge track and assess development applications; and
 - 4.17.3 Centralised reporting and monitoring of planning and assessment activities.
- 4.18 The digitisation of the system enables 72 Development Plans with some 1,500 zones to be collapsed into 1 PD Code with 65 zones. The Expert Panel highlights that the South Australian e-Planning system is the national leading system.
- 4.19 The benefits of the digitisation of the system are intended to be increased certainty together with a faster and more efficient development assessment process with the Development Assessment Portal (DAP). It has implemented many enhancements since its introduction.

- 4.20 While the DAP has introduced some positive changes, it has not yet delivered the efficiencies for the processing of development applications that were expected from the reform. PlanSA has been provided an exhaustive list of issues and it is acknowledged that the department has generally sought to progress enhancements.
- 4.21 Critical changes are urgently required, as the Discussion Paper – *ePlanning System and PlanSA website Reform Options* has identified. It is considered essential that these are prioritised as the current DAP limitations is significantly affecting the performance of the development assessment process. For example:
- 4.21.1 The current DAP is too linear and does not facilitate multi process actions across planning and building. Staff cannot easily update basic data, such as add addresses after verification or continue to assess an application when the application is on hold. This is resulting in double or triple handling of development applications. A relevant authority should be able to efficiently complete all aspects of an assessment at one point, regardless of status of the application and should be given administrative control to change data in the DAP as required. There is significant inefficiency in administrative functions being undertaken only by PlanSA.
 - 4.21.2 The current DAP is too complicated for simple development applications. The DAP should be streamlined for simpler development applications and should allow authorities to concurrently assess planning consent, building consent, and issue development approval.
 - 4.21.3 Assessment timeframes do not accurately capture when a request for information has been made – the system should accurately measure the assessment time.
 - 4.21.4 The system does not have a robust document management system, the current approach is convoluted and complicated. A contemporary document management system should be adopted for the DAP.
 - 4.21.5 Dashboards to monitor volumes of work are not working and cannot be readily relied upon. Dashboards should be provided to readily monitor and track development applications.
 - 4.21.6 New titles details are not being transferred or updated into the DAP in sufficient time to allow for the assessment of new development applications and this also often holds up the production of the Form 1 - Section 7 Certificate.
- 4.22 Given the critical role of the DAP in the system, it is recommended that the Expert Panel be requested to review the governance and resourcing that is necessary to sustain it. There appears to be an inherent limitation with the current governance model of PlanSA determining & progressing enhancements.
- 4.23 While there have been many enhancements, acknowledging the efforts of the department to address what they can, there remain many more that are outstanding. As the current governance model requires all ideas to be funnelled through PlanSA and prioritisation of enhancements need to fit within the available resources and understanding of the issues by the department, the most common problems are the focus, not innovation.

4.24 Furthermore, it is recommended that the DAP should offer full Application Programming Interface (API) Based Product Integration (open data) so that stakeholders can move towards business-to-business transactions. This will facilitate innovation as it will incentivise stakeholders to evolve their business processes and the learning can be shared across all stakeholders. Enabling all stakeholders to shape direction and priorities of the core DAP functionality. Together with the full API based Product Integration the DAP could realise its full potential as a digital platform.

4.25 *Customer Experience*

4.25.1 The centralised location for information (PlanSA) is beneficial in that there is one place to access planning and development information. The challenge is providing people an interface that can be easily navigated and people can find the information they require. *The E-Planning System and the PlanSA Website* discussion paper identifies early recommendations to improve this service which are generally supported.

4.25.2 The experience in relation to the Development Assessment Portal has been that many people do not understand how to use the system and often call council staff to explain and/or be walked through how to complete a task in the system. It is common for people to just email staff outside the DAP. Increased attention should be made to designing the DAP to the needs of different users such as one-off users and regular users such as builders. Occasional users should not have to register to access the DAP, whereas regular users who might be required to register to use the DAP should have the benefit of pre-populated fields once in the system. Furthermore, processes involving staging of development, variations and CITB payments should be simplified.

5. CONCLUSION / PROPOSAL

- 5.1 The Expert Panel is seeking information essentially on the user experience of the new system. The Salisbury key policy and administration issues have been identified in this report and the attached draft submission in Attachment 1.
- 5.2 It is considered that the Expert Panel Review has highlighted many matters in its discussion papers that are relevant and worth the support of Council. Detailed comments are provided in the submission attached to this report.

THIS PAGE INTENTIONALLY LEFT BLANK



City of Salisbury
ABN 82 615 416 895

34 Church Street
PO Box 8
Salisbury SA 5108
Australia

Telephone 08 8406 8222
Facsimile 08 8281 5466
city@salisbury.sa.gov.au

www.salisbury.sa.gov.au

Date to be inserted

Mr John Stimson
Presiding Member Expert Panel
Planning System Implementation Review
DTI.PlanningReview@sa.gov.au

Dear Mr Stimson

City of Salisbury Submission

The City of Salisbury has considered a number of matters relating to the implementation of the new planning system, and provides this submission in order to assist in understanding the issues that the City encounters. Council appreciates the opportunity to make this submission.

Planning and Design Code Reform options

Places of Worship

The City of Salisbury requests additional policies (or Council's previous Development policy) in the Planning and Design Code (the Code) to recognise the considerations for local, neighbourhood, and regional level Places of Worship. Council has an increased demand for Places of Worship with an increasing population practicing non-Christian faiths. This is further evidenced with the preliminary Census data. A copy a submission made on this matter to the previous Minister for Planning is attached. An update to the submission is being prepared to include new Census data. Furthermore, Council suggests the consideration of additional zones for such facilities such as Rural and Rural Horticultural Zones, given the difficulty some community groups have accessing land. This loss of this important local policy and the difficulty for Council to have such policy reintroduced in the Code is a matter that Council considers requires further consideration.

Airport policy

The Code has inconsistent airport policy applying to Adelaide, Edinburgh and Parafield Airports. Unlike Adelaide Airport and the City of Adelaide area, Edinburgh and Parafield Airports are not recognised with finer grained building height contour mapping. A much-simplified defined area that triggers all assessments to require assessment applies to the Parafield Airport surrounds, and a differing height recognition applies to Edinburgh Airport. There is also a continued absence in the PD Code of a recognition of the Department of Defence as a Referral Body.

Infill Policy

Council supports the improved design policies for small scale infill within suburban areas, however the rate and nature of change for some communities, such as Ingle Farm, has resulted in some less than desirable development outcomes and further consideration should be given to:

- Strategic planning that considers the appropriate provision of infrastructure to support infill development within metropolitan Adelaide and targeting higher densities in specific locations such as centres, transport nodes and areas of public open space.
- Reviewing the policy in the Code for terrace dwellings within suburban areas as this form of development inherently results in poorer design outcome, due to relative intensity of the development.
- Ensuring road widths are adequate to facilitate the expected traffic volumes and on street parking, noting that car ownership remains relatively high.

Car parking policy

Council experience has generally been that communities complain that new development brings with it increased traffic, congestion and insufficient car parking. This is supported with general observations that many of the new households have two vehicles. In the absence of any significant changes to car ownership and usage, Council recommends that on-site and on-street car parking requirements are not reduced.

Council has recently become aware that the car parking rates for educational establishments include student pick up/ set down may be either on the school site or can be catered for on the public realm within 300 metres of the school. The consequence is that this will result in increased reliance on public roads and exacerbated existing traffic congestion around schools. Council wishes to express concern with this policy position and strongly recommends that educational establishments should provide their pick / set down areas on their sites to reduce already congested roads that surround schools.

Policy improvement needed for non-residential uses in the General Neighbourhood Zone

It is the view of the Salisbury Council Assessment Panel that non-residential uses the General Neighbourhood Zone is vulnerable to interpretation due to a lack of precision thereby allowing land uses that not intended in the zone. Council supports this submission which was highlighted with a recent development application for a proposed retail fuel outlet that attracted significant community opposition. Furthermore, it is Council's view that the previous Development Plan policy provided more certainty and direction for community and for applicants. This certainty and direction should be considered for the Planning and Design Code.

Miscellaneous PD Code issues

The following issues are various matters that have been revealed in the assessment of development since the introduction of the Code that are considered to warrant further consideration:

- While the Code is accessible online, it is difficult for people to read and interpret who are not accredited professionals who use the system regularly. There should be further consideration to how the Code is presented to the general public.
- The interpretation of policy - pragmatic v tight interpretation of the Code is various. The Performance Outcomes are not well understood and often the

Designated Performance Features have no relationship to the Performance Outcomes.

- There is a lack of policy guidance relating to managing overlooking from ground level areas at sloping sites.
- Two-storey development at rear hammerhead sites can have inherent detrimental impacts to surrounding back yards of neighbours. The Code does not provide adequate guidance for this form of development.
- Policy guidance is also required for emerging development trend of new housing types, including:
 - NDIS type supported housing arrangements. These forms of development have additional requirement for consideration such as supported accommodation and applicable parking rates.
 - Multi generation housing which is increasingly being sought by the community. There is no explicitly guidance by the Code or National Construction Code.
 - The previously defined 'multiple dwelling' to guide when occupancy of a detached dwelling exceeds what is reasonably expected for this form of dwelling.

Planning, Development and Infrastructure Act 2016 Reform Options

Council Assessment Panels

The Salisbury Council Assessment Panel has highlighted an issue on the role of the Elected Member of the Council Assessment Panel and has made a submission to the Expert Panel consider reviewing the Assessment Panel Members - Code of Conduct. Council supports this submission.

Furthermore, Council wishes to highlight the following specific matters for further consideration in this review:

- The name Council Assessment Panel has created considerable confusion. Given the distinct separate function of Panels to councils, the name of Panel should more accurately reflect this role, such as Independent Development Assessment Panel.
- The number of Elected Members on panels should be increased to account for improved local knowledge in the decision making process. It is suggested that a minimum of two (2) Elected Members should be appointed to Panels. Furthermore, that the Presiding Member may also be an Elected Member.
- Clarify that in circumstances where a council makes a representation to Panel, and the Elected Member on the Panel declares a conflict at the council meeting on the matter before the Panel, they are not excluded from participating on the Panel.
- The new accreditation requirements for members on Panels has resulted in a reduced pool of eligible people that may be appointed for this role. Given this, the suitability of candidates should be based on defined skills or qualifications, not the accreditation requirements, to increase the pool of suitable candidates that may be appointed.
- It is important that decisions of Panels is transparent and to facilitate this process it is recommended that the prescribed meeting procedures in the regulations also include a clause to include a record of individual member voting.

Infrastructure Schemes

The current infrastructure schemes in the Act are unlikely to be used given the complexity and uncertainty of these schemes. The absence of workable infrastructure schemes for large and complex land developments affects land supply and hence economic growth. The Expert Panel is urged to undertake a comprehensive review of infrastructure schemes. The Victorian government has been identified as having a better infrastructure model and provides measures that could be adapted to South Australia. Staff from the City of Salisbury have collaborated with staff from other growth councils of the Greater Adelaide Region to prepare a response to the Expert Panel on Infrastructure Schemes. This submission is attached for the Expert Panel's consideration.

Public Notification

It is recommended that the Expert Panel consider notification for development on the boundary, when deemed necessary, to be made only to the affected adjoining neighbour. Furthermore, non-residential uses should not be excluded from notification in residential type zones.

Appeal Rights

The alternative appeal mechanisms provided in the discussion paper to expediate appeal process does appear to have some merit. Council supports the consideration of mechanisms to reintroduce third party appeals rights for development, particularly for development that is not reasonably expected within residential neighbourhoods.

Deemed Planning Consent

Considerable concern has been raised about the negative impacts the deemed consent option has introduced into the assessment of development. This, combined with very short assessment times for what can be quite complex matters, results in a greater likelihood of applications being refused, or substandard designs that do not meet the provisions but are just good enough being approved to avoid a deemed consent rather than working with applicants to achieve a design that can be supported to better deliver the intent of the policy. This is inconsistent with the objects of the Act to promote high standards for the built environment. It is a severe penalty that does not adequately consider the consequences for the community for development that is inappropriate. This approach does not provide a basis for collaborative relationships with applicants that in turn deliver more appropriate planning outcomes. Other jurisdictions such as Victoria, Western Australia and Tasmania have taken a more balanced approach, whereby a review is undertaken by the respective courts on the facts and the court makes a considered and independent determination on the application. This is considered to be a more equitable approach that will safeguard the community against potential poor development outcomes.

Deemed to Satisfy (Minor variations)

The Deemed to Satisfy (minor variations) s106(2) of the Act is creating legislative ambiguity. This provision is not working as intended. There needs to be greater guidance on what constitutes a minor variation to address the current inconsistent approach. This could be informed with clear parameters such as a minor variation may only be granted:

- by a council, or
- by private certifiers where the element does not have an impact beyond the site.

E.g. excludes site area, frontage, setbacks, building heights, length on boundary and the like, and there is accountability / transparency with clearly documented justification for any minor variations.

Assessment Timeframes

It is recommended that assessment timeframes for more complex development, not involving up to two (2) class 1 (dwellings) and class 10 outbuildings, should be 8 weeks as provided under the previous Act (from the current 4 weeks), as the current assessment timeframes are not adequate and do not facilitate the promotion of high standards for the built environment.

The verification process is onerous and does not adequately account for the assessment that is required for more complex developments. The Expert Panel is encouraged to consider training, education, and DAP system solutions, ahead of imposing penalties on a sector that is facing the same resourcing challenges as other sectors.

Practice Direction 14: Site Contamination

The practice direction for the assessment of site contamination in parallel with new development provides good guidance and has been an improvement to the planning system. The framework has however created some unnecessary red tape in the planning system that triggers site contamination processes in instances that do not appear warranted, as they do not appear to present a risk to the land use. It is recommended that Practice Direction 14 should be amended to include:

- That a commercial class 1 use (and similar) in association with an existing industry is not to be regarded as a more sensitive use.
- Explicitly include a warehouse, store, service trade premises, bulky goods, retail fuel outlet and similar common land uses from Part 7 of the Planning and Design Code in item 7 of Table 1: Land Use Sensitivity Hierarchy to provide greater certainty.
- An amendment to clause 5(d)(iii) to include all proposed uses referred to above, within Item 7 of Table 1: Land Use Sensitivity Hierarchy.
- The establishment of a Ground Water Prohibition area should be reviewed so that site contamination audit report that creates this overlay considers all the affected zones and identifies the range of suitable uses not requiring a referral for the entire ground water prohibition area. This would likely be more particularly applicable to employment type zones, rather than neighbourhood type zones. There otherwise should be a general exemption that applies for development applications that include item 5, 6 and 7 land uses in the Land Use Sensitivity Hierarchy.

E-Planning System and the PlanSA website

While the DAP has introduced some positive change, it has not yet delivered the efficiencies for the processing of development applications that were expected from the reform, notwithstanding the many enhancements that have made since its introduction. PlanSA has been provided an exhaustive list of issues and it is acknowledged that the department has generally sought to progress enhancements. Critical changes are however urgently required, as the Discussion Paper – ePlanning System and PlanSA website Reform Options has identified. It is considered essential that these are urgently prioritised as the current DAP limitations is significantly affecting the performance of the development assessment process. For example;

- The current DAP is too linear and does not facilitate multi process actions across planning and building. Staff cannot easily update basic data, such as add

addresses after verification or continue to assess an application when the application is on hold. This is resulting in double or triple handling of development applications. A relevant authority should be able to efficiently complete all aspects of an assessment at one point, regardless of status of the application and should be given administrative control to change data in the DAP as required. There is significant inefficiency in administrative functions being undertaken only by PlanSA.

- The current DAP is too complicated for simple development applications. The DAP should be streamlined for simpler development applications and should allow authorities to concurrently assess planning consent, building consent, and issue development approval.
- Assessment timeframes do not accurately capture when a request for information has been made – the system should accurately measure the assessment time.
- The system does not have a robust document management system, the current approach is convoluted and complicated. A contemporary document management system should be adopted for the DAP.
- Dashboards to monitor volumes of work are not working and cannot be readily relied upon. Dashboards should be provided to readily monitor and track development applications, without having to generate a PowerBI reports.
- New titles details are not being transferred or updated into the DAP in sufficient time to allow for the assessment of new development applications and this also often holds up the production of the Form 1 - section 7 certificate.

Given the critical role of the DAP in the system, it is recommended that the Expert Panel be requested to review the governance and resourcing that is necessary to sustain it. There appears to be an inherent limitation with the current governance model of PlanSA determining & progressing enhancements. While there have been many enhancements, acknowledging the efforts of the department to address what they can, there remain many more that are outstanding. As the current governance model requires all ideas to be funneled through PlanSA and prioritisation of enhancements need to fit within the available resources & understanding of the issues by the department, the most common problems are the focus, not innovation.

Furthermore, it is recommended that the DAP should offer full Application Programming Interface (API) Based Product Integration (open data) so that stakeholders can move towards business to business transactions. This will facilitate innovation as it will incentivise stakeholders to evolve their business processes and the learning can be shared across all stakeholders. Enabling all stakeholders to shape direction and priorities of the core DAP functionality, together with the full API based Product Integration the DAP could realise its full potential as a digital platform.

Customer Experience

The *E-Planning System and the PlanSA Website* discussion paper identifies early recommendations to improve this service which are generally supported.

The experience in relation to the Development Assessment Portal has been that many people do not understand how to use the system and often call council staff to explain and/or be walked through how to complete a task in the system. It is common for people to just email staff outside the DAP. Increased attention should be made to designing the DAP to the needs of different users such as one-off users and regular users such as builders. One off users should not have to register to access the DAP whereas regular users who might be required to register to use the DAP should have the benefit of pre-populated fields once in the system. Furthermore, processes involving staging of development, variations and CITB payments should be simplified.

The City of Salisbury wishes the Expert Panel well with its deliberations and report to the Minister for Planning.

Yours faithfully

John Harry

Chief Executive Officer

Ph: (08) 8406 8212

E: jharry@salisbury.sa.gov.au

Attachment 1: Growth Councils collaborated response on Infrastructure Schemes

PLANNING SYSTEM IMPLEMENTATION REVIEW

Comments to the Expert Panel on Infrastructure Schemes

Planners from growth Councils of the Greater Adelaide region have collaborated on preparing this response to the Expert Panel regarding the need to establish workable infrastructure schemes for large and complex land developments. The collaborating councils include: Adelaide Plains Council, Town of Gawler, Light Regional Council, City of Onkaparinga, City of Playford, City of Salisbury, Mount Barker District Council and the Barossa Council. Each Council will be forwarding this response to the Expert Panel through its Council or executive.

The councils agree with the expert panel that as provided in the *Planning, Development and Infrastructure Act 2016* (the Act) the General and Basic infrastructure scheme would be overly complex and difficult to work with, if operatable at all. Two quotes from the Expert Panel Discussion Paper are illuminating:

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

This is a very concerning delay in the provision of essential infrastructure, which in turn would be a drag on project implementation and overall economic development. Despite the Act being in place since 2016. The Discussion Paper also highlights the complexity of managing these infrastructure projects:

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

Councils have responded to this legislative and policy gap with local developer contributions schemes using Deeds and Infrastructure Agreements anchored to affected properties by Land Management Agreement/s to levy Separate Rates on properties once they reach a development trigger.

For example, the current approach to infrastructure provision in Gawler East Growth Area provides an example of a significant resourcing and administration challenge aimed at delivering outcomes that also affect State Government assets.

On 1 July 2017, Council introduced three Separate Rates across the Gawler East Growth Area totaling \$19.6 million (M):

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

In addition, Council contributed \$5.4M to the development of infrastructure in Gawler East Growth Area bringing the total potential infrastructure spend to \$25M.

These schemes in themselves are complex and require individual tailoring of legal advice and agreements. On occasion, these schemes involve a council maintaining matching agreements with several landowners concurrently across a nominated area. They involve extensive staff resources in their administration, including providing advice on interpretation (as needed), the development of proposals, gaining cooperation of landowners and levying of the separate rate.

Current arrangements are resource intensive, inefficient and given they are managed at a local level in most cases, likely to be inconsistent across the state.

Some councils have experienced negotiating and settling deeds involving infrastructure affecting state assets, such as the arterial road network, without the relevant state agency being a party to the Agreement.

Councils have also experienced challenges in circumstances where affected properties are sold and landowner responsibilities are not appropriately transferred as a part of the transaction.

An alternative solution to Land Management Agreements and Separate Rates is required to enable the development of the State's strategic growth areas. The solution needs to work for these areas because they require co-ordinated infrastructure delivery and rezonings where not all landowners are in agreeance and where the infrastructure provision may have a long horizon and several providers.

We strongly believe based on our combined experiences there must be a **whole of government** approach, requiring all relevant parties to come together to discuss and ultimately agree to revised schemes for infrastructure requirements, its delivery and funding. The Councils agree with the State Government's position that infrastructure delivery must be resolved prior to the commencement of a related Code Amendment. There would be a benefit in ensuring that for certain larger-scale undertakings, detailed Structure Planning precedes related infrastructure negotiations and Code Amendments.

Given the need to expedite development in South Australia a simpler system can be developed to ensure that there is a common understanding of required infrastructure contributions at the outset of each project requiring same. The Councils who have collaborated to develop this paper contend that a 'case by case' approach as currently utilised is delaying infrastructure projects from housing to employment lands and hence holding up both orderly and economic development.

Infrastructure Schemes should be clear and straightforward in what they need to achieve based on the following principles - **strategic, equitable, sustainable and best practice, adaptive, and economical**

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

We have been asked to respond to the following questions on Infrastructure Schemes posed by the Expert Panel:

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

Response

- Acknowledging that one of the schemes is not operational, the schemes are overly complex with numerous decision-making points by different owners.
- Councils are concerned that most of the decision making, and control comes from the State Government when Local Government has the knowledge, links to the community and current and future ownership of most of the infrastructure.
- The schemes provide no guidance on where the upfront investments will come from.

- Separately, the schemes place considerable responsibility on the 'Scheme Coordinator' role, making this the subject of potential governance risk in conducting negotiations with more than one Landowner/ Developer.
- The Scheme Coordinator approach may lack the ability to involve key stakeholders, e.g. government agencies and/ or key utilities to ensure timely deliverables.

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

Response

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

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

Response

A 'Whole of Government' approach (including Transport, Education, Health and Wellbeing, Emergency Services, Environment, Recreation and Sport, Local Government etc.) via an empowered authority would appear to be an effective alternative model to consider exploring. For instance, the Victorian system has been identified as having a better coordinated infrastructure model and provides an example of measures that could be adapted to South Australia such as:

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

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

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

Any processes need to ensure key triggers for delivery of required outcomes. As Development Assessment is problematic as a trigger for infrastructure delivery and relying upon the Land Management Agreement/ Infrastructure Deed model can also be problematic, it is considered that creating another legislative device that can be attached to an affected Certificate of Title, similar to a LMA may be worth considering as an addition to the current tools.

THIS PAGE INTENTIONALLY LEFT BLANK

Attachment 2

Submission to the Expert Panel for the Planning System Implementation Review

Discussion Paper - PDI Act Reform Options (Previously circulated under separate cover
28 November 2022 and available on the public website)

THIS PAGE INTENTIONALLY LEFT BLANK

Attachment 3

Submission to the Expert Panel for the Planning System Implementation Review

Discussion Paper - PD Code Reform Options (Previously circulated under separate cover
28 November 2022 and available on the public website)

THIS PAGE INTENTIONALLY LEFT BLANK

Attachment 4

Submission to the Expert Panel for the Planning System Implementation Review

Discussion Paper - e-Planning System Reform (Previously circulated under separate cover
28 November 2022 and available on the public website)

THIS PAGE INTENTIONALLY LEFT BLANK



City of Salisbury
ABN 82 615 416 895

34 Church Street
PO Box 8
Salisbury SA 5108
Australia

Telephone 08 8406 8222
Facsimile 08 8281 5466
city@salisbury.sa.gov.au

www.salisbury.sa.gov.au

date to be inserted

Mr John Stimson
Presiding Member
Expert Panel
Planning System Implementation Review

DTI.PlanningReview@sa.gov.au

Dear Mr Stimson

City of Salisbury Council Assessment Panel Submission
– Council Assessment Panels

A key reform under the *Planning, Development and Infrastructure Act 2016* has been to increase the level professionalism in the assessment process and remove Elected Members from planning decisions. This change has revealed a tension for operation of the Panels that the City of Salisbury Council Assessment Panel wishes to raise with the Expert Panel for consideration.

This issue arose following development applications where the participation of the Elected Member on the Panel was challenged by the applicants due to the Council having made a representation on a development application before a Panel.

The applicants for the development applications that were subject to the consideration of the Council Assessment Panel raised concerns with conflict of interest due to Council objecting to the development applications through making formal representations on notified development applications. Notwithstanding that the Elected Member on the Panel declared a conflict of interest when the Council considered the motion to lodge a representation on the development applications, the applicant's concern related to the *Assessment Panel Members - Code of Conduct*. In particular clause 21 that relates to Bias.

A member of an assessment panel should always have regard to any affiliation, disposition or any material, pecuniary or other interest that would lead to a reasonable apprehension that they may be biased in carrying out any aspect of their role under the Act.

Legal advice provided to the Elected Member was that the member should be mindful that a complaint could be made about the member being affiliated with Council. Caution was suggested as a complaint could be made to, and subsequently investigated by, the State Planning Commission. As a consequence, the Elected

sali0001 220314 002.docx

Member declared that they would not participate in the consideration and assessment of the application given the circumstances could give rise to the potential for a reasonable apprehension of bias on the member's part, particularly as the issue had been raised by the applicants.

This situation raises matters for further consideration, including:

1. Due to sections 34(32), 34(24) and 56A of the former *Development Act* 1993, Councils were not able to make lawful representations on any form of publicly-notified development application assessed by the then CDAP nor was it able to appeal any CDAP decisions. This was due to the fact that the CDAP was a delegate of the Council and, therefore its decisions were, legally, decisions of the Council notwithstanding the abovementioned provisions of the *Development Act*.
2. Under the PDI Act, the CAP and the Council are distinct from one another in that the CAP is the relevant authority for performance assessed planning applications requiring notification (rather than the delegate of the Council in respect to same). The PDI Act does not prohibit Councils from making representations to the CAP and the ability to make a representation has meant that Councils are electing to do so in respect to development applications of particular community interest and/or concern.
3. The role of the Elected Member who is also a CAP Member in the situation where Council has lodged a representation in relation to a development application causes tension. Whilst, legally, the role of an Elected Member in their capacity as such and in their role as a CAP Member are separate and distinct, community perceptions do not reflect the legal position and this causes significant pressure and concern for Elected Members who are also CAP Members. This tension is particularly heightened given that only 1 Elected Member may be appointed to a CAP.
4. Tensions also arise for the independent members on the CAP in that they may make decisions on applications which are contrary to what is desired by the Council – the very body that appoints them.
5. Further, due to the requirement for accreditation under the APS and the requirements for maintaining accreditation, the 'pool' of persons applying to become Independent Members of Panels has reduced. It is not uncommon for Independent Members to be appointed to multiple Panels across the State. Community perceptions that appointment to multiple Panels leads to biased decision making and/or breaches of the Code of Conduct is an ongoing tension for CAP Members.
6. Further tension arises from community perceptions that arise where a Council is the applicant for a development authorisation, a more frequent occurrence in recent times as the Minister for Planning call-in criteria and practice has generally been not to appoint the State Commission Assessment Panel (SCAP) for development applications undertaken by a council.

sali0001 220314 002.docx

2 of 3

Community perceptions are often that the CAP will make a decision consistent with a Council position, whether that be to oppose a development application as a representor or to lodge an application as developer. These perceptions cause considerable consternation for representors, CAP Members and applicants despite CAPs being 'live' to them and discharging their statutory role and functions in strict accordance with the PDI Act.

The Expert Panel is requested to consider this issue and may wish to:

1. Review clause 21 of *Assessment Panel Members - Code of Conduct* to provide better clarity for the role of Elected Members on Panels in circumstances where a council makes a representation and the member declares a conflict at the council meeting. As it is drafted, it can be interpreted in such a manner as to cause difficulty for CAP Members who are also Elected Members in balancing their separate roles in this regard and how this is viewed by the community.
2. Consider whether clauses 14.e. and 21 of the Code of Conduct can be refined or, whether they remain necessary and can be deleted. With respect, clauses 7 – 14.d. and 15 – 20 are very clear and detailed in their scope and application such that they ensure that CAP member behaviour is objectively appropriate, fair and impartial without causing tension with applicants and the community who may view the mere fact of a CAP Member also being an Elected Member of the Council or an Independent Member being a member of a professional organisation, or a member of several Panels, of themselves, constituting a breach of one or both of these clauses.
3. Use an alternative title than "*Council Assessment Panels*" to better differentiate the independent role of Panels for the community. The continued use of the term "Council" means that applicants and members of the community make assumptions concerning the CAP and its relationship with the Council which cause many of the tensions mentioned above.
4. Review the call-in power and practice by the Minister for Planning under section 94 of the *Planning, Development and Infrastructure Act 2016* to include more significant development applications undertaken by a Council.

Yours faithfully

Chris Zafiropoulos
Assessment Manager
City of Salisbury Council Assessment Panel

sali0001 220314 002.docx

3 of 3



City of Salisbury
ABN 82 615 416 895

34 Church Street
PO Box 8
Salisbury SA 5108
Australia

Telephone 08 8406 8222
Facsimile 08 8281 5466
city@salisbury.sa.gov.au

www.salisbury.sa.gov.au

Date to be inserted

Mr John Stimson
Presiding Member
Expert Panel
Planning System Implementation Review

DTI.PlanningReview@sa.gov.au

Dear Mr Stimson

City of Salisbury Council Assessment Panel Submission
– Code Policy for non-residential uses in General Neighbourhood Zone

In the assessment development applications proposing non-residential uses within the General Neighbourhood Zone, the City of Salisbury Council Assessment Panel has identified that a combination of permissibility intended by the zone, together with policy expression, has created some uncertainty in the assessment process. This letter set out the Panel's observations for the consideration of the Expert Panel on the Planning System Implementation Review.

The General Neighbourhood Zone has essentially replaced the former Residential Zone that applied over much of the metropolitan residential areas.

The General Neighbourhood Zone is far more permissive than the previous Residential Zone. The zone is clearly intended to accommodate non-residential uses to achieve a more convenient living environment. This principle is expressed in Desired Outcome (DO) 1 of the Zone.

Desired Outcome	
DO 1	<i>Low-rise, low and medium-density housing that supports a range of needs and lifestyles located within easy reach of services and facilities. Employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.</i>

The uses are listed in Designated Performance Feature (DPF) 1.1. These uses are reasonably broad.

Performance Outcome	Designated Performance Feature
<p><i>PO 1.1</i></p> <p><i>Predominantly residential development with complementary non-residential use that support an active, convenient and walkable neighbourhood.</i></p>	<p><i>DPF 1.1</i></p> <p><i>Development comprises one or more of the following:</i></p> <ul style="list-style-type: none"> <i>(a) ancillary accommodation</i> <i>(b) community facility</i> <i>(c) consulting room</i> <i>(d) dwelling</i> <i>(e) educational establishment</i> <i>(f) office</i> <i>(g) place of worship</i> <i>(h) pre-school</i> <i>(i) recreation area</i> <i>(j) residential flat building</i> <i>(k) retirement facility</i> <i>(l) shop</i> <i>(m) student accommodation</i> <i>(n) supported accommodation</i>

Given the zone envisages a broad range of uses within essentially residential communities, residential amenity and character are important considerations to determine the appropriateness of these non-residential uses. Sufficient guidance should be provided to relevant authorities, applicants and communities to provide reasonable expectations of outcomes. Ideally, there should be certainty, as far as is practical, and this should be readily understood early in the assessment process. The current DO has little or no role to play in the development assessment process given its expression as a brief aspirational goal. The PO's become the central focus for defining the appropriate use, as listed below.

Performance Outcome	Designated Performance Feature
<p><i>PO 1.2</i></p> <p><i>Non-residential development located and designed to improve community accessibility to services, primarily in the form of:</i></p> <ul style="list-style-type: none"> <i>(a) small scale commercial uses such as offices, shops and consulting rooms</i> <i>(b) community services such as educational establishments, community centres, places of worship, pre-schools, and other health and welfare services</i> <i>(c) services and facilities ancillary to the function or operation of supported accommodation or retirement facilities</i> <i>(d) open space and recreation facilities.</i> 	<p><i>DPF 1.2</i></p> <p><i>None are applicable</i></p>

Performance Outcome	Designated Performance Feature
<p><i>PO 1.3</i></p> <p><i>Non-residential development sited and designed to complement the residential character and amenity of the neighbourhood.</i></p>	<p><i>DPF 1.3</i></p> <p><i>None are applicable</i></p>

Performance Outcome	Designated Performance Feature
<p><i>PO 1.4</i></p> <p><i>Commercial activities improve community access to services are of a scale and type to maintain residential amenity.</i></p>	<p><i>DPF 1.4</i></p> <p><i>A shop, consulting room or office (or combination thereof) satisfies any of the following:</i></p> <p><i>(d) the development site abuts an Activity Centre and all the following area satisfied:</i></p> <ul style="list-style-type: none"> <i>i. it does not exceed 200m² gross leasable floor area (individually or combined, in a single building)</i> <i>ii. the proposed development will not result in a combined gross leasable floor area (existing and proposed) of all shops, consulting rooms and offices that abut the Activity Centre in this zone exceeding the lesser of the following:</i> <ul style="list-style-type: none"> <i>A. 50% of the existing gross leasable floor area within the Activity Centre</i> <i>B. 1000m²</i>

Performance Outcome	Designated Performance Feature
<p><i>PO 1.5</i></p> <p><i>Expansion of existing community services such as educational establishments, community facilities and pre-schools in a manner which complements the scale of development envisaged by the desired outcome for the neighbourhood.</i></p>	<p><i>DPF 1.5</i></p> <p><i>Alteration of or addition to existing educational establishments, community facilities or pre-schools where all the following are satisfied:</i></p> <ul style="list-style-type: none"> <i>(a) set back at least 3m from any boundary shared with a residential land use</i> <i>(b) building height not exceeding 1 building level</i> <i>(c) the total floor area of the building not exceeding 150% of the total floor area prior to the addition/alteration</i> <i>(d) off-street vehicular parking exists or will be provided in accordance with the rate(s) specified in Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements or Table 2 - Off-Street Car Parking Requirements in Designated Areas to the nearest whole number.</i>

The difficulty is the PO's advocate for uses of land couched in imprecise terms. These terms are malleable and are subject to various interpretation and/or exploitation.

e.g. "complementary non-residential uses", uses that are sited and designed to "complement the residential character and amenity of the neighbourhood" and

to improve access to services that are of a "scale and type to maintain residential amenity".

There is a lack of precision embodied in these terms. They are vulnerable to interpretations that have the potential to allow land uses in the General Neighbourhood Zone that are not intended or to facilitate significant incremental change.

The subjectivity of these terms is heightened when undefined uses or uses not listed in DPF 1.1 are proposed, such as a retail fuel outlet. As a consequence, the policy framework does not provide certainty for applicants or local communities. The differing interpretation has also been amongst planners, whereas there should be an expectation that professionals within the system to be more aligned in interpretation of key policy settings.

Furthermore, the location and scale of non-residential uses within essentially residential neighbourhoods needs better guidance. Additional considerations should include:

1. A reference to residential character should be better guided with a DO that better describes the desired character and important considerations for the assessment process of respective residential neighbourhoods.
2. The location of some non-residential uses should generally only be encouraged in specific circumstances such as on arterial or collector roads.
3. The scale of the uses should not be confined only to commercial activities. There should be guidance on appropriate scale in relation to the built form and relative intensity of activity.

Yours faithfully

Chris Zafiropoulos
Assessment Manager
City of Salisbury Council Assessment Panel

PPC-MON1 – Motion on Notice - Fuel Outlets

Cr Chad Buchanan has submitted the following Motion on Notice:

That Council:

1. Writes to the Minister for Planning to convey community concerns that have been raised with Council in relation to the large volume of retail fuel outlets being developed in the metropolitan area, and seek the Minister’s review of this development trend and if there should be some form of limitation on the number of such facilities within a prescribed proximity of existing outlets.

ADMINISTRATION COMMENT:

If this motion is carried, Administration will action accordingly.

PPC-MON2 Motion On Notice: Smart City Technology

Cr Peter Jensen has submitted the following Motion on Notice:

That Council:

1. Re-affirms its commitment to providing appropriate smart city technology in the delivery of the Council adopted City Plan and Digital Salisbury, in particular noting the cost saving opportunities and practical application merits for the City, such as smart lighting, parking, city navigation, bin collection etc, and that Council does not support the usage of real time facial recognition software technology.
2. Requests the Administration to develop a community communication plan for Council consideration to explain the extent and application of Smart City Technology across the City of Salisbury council area, in recognition that recent material posted on social media may be regarded as misleading or incorrect.

ADMINISTRATION COMMENT:

If this motion is carried, Administration will action accordingly.