Mr Michael Lennon
Chair, State Planning Commission
GPO Box 1815
ADELAIDE SA 5001

Dear Mr Lennon

Accredited Professional Scheme - draft Regulations
Assessment Pathways: How will they work? Discussion Paper

The City of Adelaide values and appreciates the opportunity to continue to provide input and feedback to documents that are informing the creation of the State's new planning system.

I am writing to you to provide Council’s feedback on the two above mentioned papers which were released for consultation 23 August 2018.

Council is supportive of the aim to increase the quality of decision making in the planning system, with the new Accredited Professionals Scheme a key part of this reform, and the creation of new Assessment Pathways that provide opportunity to create a more efficient, clear and consistent planning system.

I would like to bring a couple of things to your attention that are concerning Council in considering these current items.

Fundamentally the City of Adelaide does not support the privatisation of planning decisions. The core function of planning is to enhance and protect the public interest.

The manner in which the various papers have been released, with different but interlinked components of the system being dealt with separately, makes their content highly theoretical and accordingly difficult to respond to in a meaningful way. For example, critical analysis of the assessment pathways is inhibited by uncertainty around the content of the Planning and Design Code (the Code), and the significant information still to be determine by regulation. Councils would benefit from additional information demonstrating a greater and more meaningful connection between the Code and the assessment pathways provided for in the legislation.

Secondly, I continue to be concerned that the approach to engagement activities is not adequately demonstrating a commitment to the principles of the Community Engagement Charter.
In relation to the Accredited Professionals Scheme: Draft Regulations, I wish to convey disappointment that there was not a paper released to explain how the draft Regulations were formed with reference to the feedback received from the Accredited Professional Scheme: Discussion Paper. Whilst a short 'what we have heard’ paper was released, review of this against the draft Regulations illustrates that very little of the comments made during the first consultation resulted in change and there has been no explanation for how and why decisions were made contrary to public comments.

Also, in relation to the Assessment Pathways: How will they work? discussion paper, Council is disappointed that the consultation of this paper was not undertaken with an engagement plan in accordance with the Community Engagement Charter. Whilst the paper itself is not a ‘statutory’ document, it will directly inform the Planning and Design Code which is a statutory document. Section 12(1)(b) of the Planning, Development and Infrastructure Act 2016 (PDI Act) states that an object of the Act is to 'provide a scheme for community participation in relation to the initiation and development of planning policies and strategies’. This paper provides critical discussion points about the new Planning and Design Code and it is our view that it should have undergone wide community engagement to meet the object of the Act, intent of Parliament and spirit of the Community Engagement Charter.

I request that Shanti Ditter, Associate Director – Planning and Development be provided the opportunity to be heard by the State Planning Commission, on behalf of Council in relation to this submission, at a future meeting the Commission.

We would welcome any opportunity to discuss these matters further with the Commission and look forward to continuing working collaboratively with the State Planning Commission and Department or Planning, Transport and Infrastructure.

Yours sincerely

Martin Haese
LORD MAYOR

16 October 2018

Cc: DPTI.PlanningEngagement@sa.gov.au
RESPONSE TO ACCREDITED PROFESSIONALS SCHEME DRAFT REGULATIONS

The City of Adelaide has fundamental concerns with the Accredited Professional Scheme. The draft Regulations have caused significant confusion in the sector due to the differing interpretations of the draft Regulations and Planning, Development and Infrastructure Act 2016 (SA) (PDI Act). Our concern is that whilst we may understand DPTI’s intent for the scheme, other interpretations are valid and therefore the draft Regulations are not clear enough.

Additionally, it is difficult to comment meaningfully on the Scheme when every level of planning accreditation is subject to Regulations which have not yet been drafted. This has left us guessing the functions and impacts of each level.

City of Adelaide also wishes to convey their disappointment that there was not a paper released to explain how the draft Regulations were formed with reference to the feedback received from the Accredited Professional Scheme Discussion Paper. Whilst a short ‘what we have heard’ paper was released, review of this against the draft Regulations illustrates that very little of the comments made during the first consultation were taken on board and there has been no explanation for how and why decisions were made contrary to public comments. In a reform heralded on community consultation, this has left us unsure of how any of our feedback will be used to inform future matters of the planning reform.

Privatisation of Planning

Above all, the City of Adelaide does not support the privatisation of planning decisions. The core function of planning is to enhance and protect the public interest. Local Governments operate to serve the interest of their community and have understanding of the local conditions is important to assessing complex proposals. Development Assessment should remain a role of CAPs, Assessment Managers appointed by the Council Chief Executive under s 87 of the PDI Act and employees of Councils who are accredited professionals.

Councils have the details of owners and occupiers within their Council area which are private records, such that public notification should without doubt remain a function of the relevant authority employed by the Council.

Additionally, Councils provide many services and have staff available who are experts in all sorts of fields, such as (but not limited to) traffic, waste, local heritage, assets, infrastructure etc. Development Assessments often require specialist knowledge which results in better outcomes for the public. Councils also having funding incentives available, for example the Heritage Incentive Scheme or Solar Savers Adelaide, but these often require a collaborative effort at the Development Assessment stage. If these assessments are not undertaken by Council, it will add time to the applicant to receive funding assistance.

As outlined in the Expert Panel report (‘The Planning System We Want’), ‘we believe it is critical that communities and investors are each able to have confidence that development will be assessed impartially and dispassionately’. Council employees are independent and can act impartially without being fettered by certain interests (e.g. being engaged by the applicant). There is concern that should a private planning professional not fulfil their responsibilities, it will be left to Councils to make complaints, however this will not
necessarily undo a poor decision, as relevant authorities employed by Councils will not have third party appeal rights. There is also concern that should planning decisions become privatised, the fees associated with an assessment will go to the private planning professional, rather than to the Council who utilise these fees to better the public.

City of Adelaide does not support private planning professionals being able to undertake any performance assessed developments for the reasons outlined above. Additionally, Council does not support a level 4: accredited professional who can undertake assessment of Deemed to Satisfy development having only one year of experience if a private practitioner. The Assessment Pathways paper suggests that a residential dwelling may by assessed solely as a Deemed to Satisfy development. This is suggesting that good outcomes and good design can easily be met by a tick-box approach. This is not the case and a planner with only one year of experience will not be equipped with adequate skills and understanding required to achieve good outcomes for these types of developments. The experience required to undertake Deemed to Satisfy developments needs to be increased, subsequently, so do all other levels.

**Assessment Manager confusion**

An Assessment Manager is a relevant authority in their own right and must be appointed as per section 87 of the PDI Act. Section 87(b)(i) states that a person appointed as an assessment manager must be an accredited professional. The Accredited Professionals Scheme has created level 1: Assessment Manager and subsequently this has created immense confusion. It is understood that the intent of the Scheme is to require someone appointed as an Assessment Manager to be accredited at level 1. Council agrees with this approach, however does not agree that the Scheme in its current form clearly articulates this. A senior planner who meets the skills and requirements of a level 1: Assessment Manager could be accredited at this level; however, they cannot perform the same functions as someone who has been appointed as an Assessment Manager under section 87 of the PDI Act.

If it is the intention that an appointed Assessment Manager be accredited at level 1, it is recommended that a subsection be included to state this. Additionally, in line with our previous comments, we also recommend that a subsection be included to confine a level 1 to council employees. An example of the draft Regulations with our suggestions has been provided below. Additionally, s 88(2)(c) of the PDI Act states that the accreditation scheme may specify terms or conditions of accreditations. City of Adelaide asks that this be used particularly for those private planning professionals who have been appointed as an Assessment Manager. A condition of their accreditation should clearly articulate that their accreditation at level 1 is linked to their appointment as an Assessment Manager at X Council and does not allow them to otherwise perform the functions of a level 1 accredited professional. Having this clear condition would reduce interpretations of the legislation and possible future actions by Councils against private professionals.
RESPONSE TO ACCREDITED PROFESSIONALS SCHEME DRAFT REGULATIONS
City of Adelaide

6 – Accredited Professional – planning level 1

(1) An Accredited professional – planning level 1 is authorised to perform, exercise or discharge the following function, powers or duties:
   (a) Acting as a relevant authority –
      (i) In cases contemplated by the Act; or
      (ii) In cases contemplated by the Planning, Development and Infrastructure (General) Regulations 2017;
   (b) Other functions, powers or duties specified in the Planning, Development and Infrastructure (General) Regulations 2017 as being capable of being performed, exercised or discharged by an Accredited professional – planning level 1.

(2) A person appointed as an Assessment Manager under section 87 of the Planning, Development and Infrastructure Act 2016 must be accredited as an Accredited professional – planning level 1.

(3) Other than where subsection 2 applies, an Accredited Professional – planning level 1 will be confined to Council employees.

Purpose of the scheme?

As conveyed in our initial feedback on the Accredited Professional Scheme Discussion Paper, the proposed scheme for planners appears to have been based on roles rather than predominately skills and experience. In our view, an accreditation scheme should work as a hierarchy. Having a level solely related to Panel members interrupts this hierarchy and should be moved to its own stream.

Additionally, DPTI have stated that s 88 of the PDI Act narrows the creation of an accreditation scheme to development assessment only. We do not support this interpretation of the Act. Section 88(1) does specify that an accreditation scheme can be established with ‘respect to those persons who are to act as accredited professionals for the purposes of this Act’. Section 88(2)(a) goes on to say that the accreditation scheme may relate to a function or role…‘including in relation to particular aspects of development assessment or control’.

The intent of an Accredited Professionals Scheme, as outlined in the Expert Panel report (‘The Planning System we Want’) states, ‘we believe it is critical that communities and investors are each able to have confidence that development will be assessed impartially and dispassionately’ and detailed in the original discussion paper on the Accredited Professionals Scheme it stated that, ‘the scheme will provide increased confidence for development applicants and communities that decisions are being made by qualified and experienced professionals who regularly undergo training and are audited for competency.’

Whilst the PDI Act is silent on whether the Commission or delegates of the Commission (SCAP) require Accreditation, this does not mean that they shouldn’t be. The PDI Act (s 20(1) and s 100) allows conditions of appointment which could include the requirement to hold accreditation at the relevant level. This would ensure that the original intent of the Scheme is being met and thus increase public confidence in decision making in the planning system. Additionally, with the PDI Act having a strong emphasis on public involvement within the policy-making end of the planning system, the public should also have confidence that policy writing is being undertaken by a planning professional with the appropriate skills and experience. As such, we ask that the accreditation scheme include policy planners, this may need to be a separate stream or could be dealt with by subcategories of each level depending on the functions the person is undertaken to reflect the appropriate technical skills.
CITY OF ADELAIDE PROPOSED STRUCTURE FOR ACCREDITED PROFESSIONALS SCHEME

Planning Accredited Professionals Scheme

- **Level 1**: Accredited Planning Professional
- **Level 2**: Accredited Planning Professional
- **Level 3**: Accredited Planning Professional

The Scheme should relate to DA Planners and Policy Planners at each level.

The Planning Accredited Professionals Scheme should have 3 levels and work as a hierarchy, similar to the Building Accredited Professionals Scheme.

The relevant qualifications and skills should reflect a hierarchy scheme. This would give more confidence to the public and would also empower planners to strive to step up the ladder.
Assessment Panel Accredited Professionals Scheme

This scheme should relate to members of ALL assessment panels in the state to ensure that the community can be assured that decisions are being made by suitably qualified professionals who undergo regular training and are subject to auditing (State Commission Assessment Panel, Council Assessment Panel, Regional Assessment Panels, Combined Assessment Panels and Joint Planning Boards).

Two levels have been proposed, as it is considered that a Level 1 Assessment Panel Member could relate to the Presiding Member. An additional skill set is required to successfully chair a meeting, requiring knowledge of planning legislation that may not be required by other Panel Members.

Panel members should be moved to their own stream and the CPD requirements removed. The current proposed structure for Panel members is putting at risk that people simply will not apply to become panel members due to an onerous process and the costs involved for the accreditation itself and personal liability insurance. Panels are meant to be independent and bring different skill sets to decision making.
**PLANNING: Level 1: Assessment Manager**

<table>
<thead>
<tr>
<th>Overview</th>
<th>Comments</th>
<th>Recommendations</th>
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<tbody>
<tr>
<td>Accreditation requirements:</td>
<td>1. Calling this level ‘Assessment Manager’ is extremely confusing as it is different to the Assessment Manager as appointed under section 87 of the PDI Act. A person can hold an accreditation at a level 1 if they have the relevant qualifications and experience, but they may not be appointed as an Assessment Manager under s 87. The Accreditation Scheme levels should relate to skills and experience and not roles.</td>
<td>1. All levels should be simply referred to as level #: Accredited Planning Professional.</td>
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<td>• that they hold a relevant planning qualification</td>
<td>2. City of Adelaide agrees that someone appointed as the Assessment Manager (s 87 PDI Act) should hold a level 1 accreditation. However, the title of the level should not reflect this, instead it should be a subsection of the level in the Regulations to ensure this.</td>
<td>2. Amend section 6 of the PDI Regulations to include a subsection, suggested wording: A person appointed as an Assessment Manager under section 87 of the Planning, Development and Infrastructure Act 2016 must be accredited as an Accredited professional – planning level 1.</td>
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<td>• a minimum of 5 years full time or equivalent experience considered appropriate by the CE;</td>
<td>3. Additionally, conditions should be applied to private planning professionals who gain accreditation at this level, to ensure there is no confusion that they can only undertake the functions of a level 1 accredited professional if they have also been appointed an Assessment Manager, and they are therefore confined to operate within that Council area in that role.</td>
<td>3. Conditions of accreditation should be applied to private planning professionals, to ensure that an accreditation at a level 1 should confine the individual to undertake their role as an appointed Assessment Manager (s 87 PDI Act). This will ensure there in no misunderstanding which suggests the individual can undertake the other functions allowed by this accreditation level as a private planning professional.</td>
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<td>• a minimum of 6 months experience in at least 3 of 14 technical skills</td>
<td>4. Council does not support private professionals being allowed to perform the functions as a level 1 accredited professional (if they have not been appointed as an Assessment Manager (s 87)). Local</td>
<td>4. drafting of the Regulations should be consistent. i.e. section 6 and 7 of the draft PDI Regulations should be titled Level 1: Accredited Planning Professional Level 2: Accredited Planning Professional</td>
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<td>• peer reviewed compliance with five core competencies</td>
<td>5. the Regulations should be amended to include a consultation requirement in relation to the implementation of an Accreditation Scheme.</td>
<td>5.</td>
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Government employees look after the best interests of the Council area and their community. They can engage with other experts at the Council, on matters such as waste, traffic, local heritage, which a private planning professional is unlikely to do as they won’t have access to these experts like local governments do. Private planners who undertake assessment have been paid to deliver an outcome/consent, this is different to Councils collecting fees for undertaking an impartial assessment with the public good the prime consideration. Additionally, fees collected from Development Applications go in a local governments budget, allowing them to undertake projects better the area and community, fees collected by private planning professionals will not do this and subsequently the local community will suffer because of this. There is also concern that as a private planner is being paid, they are being paid to grant consent which leads to implications of bias and actions against breaches of Code of Conduct which isn’t a necessary process that Local Government wants to have to take in a brand-new planning system. Local government planners talk with each other to try and ensure consistent decision making and interpretation of policy, whilst the P&D Code will have definitions and practise directions will be issued, it is unlikely that this will still resolve inconsistent assessments and outcomes and thus the functions at a level 1 should be left solely to Assessment Managers and local government employees with the relevant qualifications and skills. At the core of planning is to provide for the public. A core function of local government is to provide and service the local community. And the accredited professionals scheme to both the making and varying of the Competency Requirements. The input of affected bodies will be critical to ensuring the Competency Requirements are as effective as they can be, particularly given their centrality to the scheme of accredited professionals.

6. Amend subsection (b) of each planning level to replace the word ‘of’ between exercised and performed with ‘or’.
should recognise this.

5. **Question:** Accredited Professionals are relevant authorities in their own rights, what letterheads will be used on decision notification forms?

6. There appears to be a drafting error in subsection (b) of each planning level. It states: ‘as being capable of being performed, exercised of discharged by an…’, ‘of’ should be replaced by ‘or’.

**Questions regarding Assessment Manager (appointed under s 87 PDI Act)**

7. **Question:** Can it please be clarified, if an appeal is lodged against an Assessment Manager (s 87), will the appeal to against the person’s name or will it be against for example, City of Adelaide Assessment Manager?

8. **Question:** Under s 100 of the PDI Act, the Assessment Manager (s 87) can delegate their functions. If a person is acting under delegation of the Assessment Manager (s 87) and an appeal and/or complaint is lodged, would it be against the Assessment Manager or the delegate? There have been multiple views on this, so could a legal opinion please be provided? And if it is against the delegate, is it against that person’s name or City of Adelaide delegate of Assessment Manager?

9. **Question:** If appeals/complaints remain with the Assessment Manager and not with their delegate, if a decision is made by a delegate of the appointed Assessment Manager (under s 87 of the PDI Act) as
10. **Question:** Can more than 1 Assessment Manager be appointed, under s 87 of the PDI Act. There have been multiple interpretations of this, so could a legal opinion please be provided?

11. **Question:** An Assessment Manager is appointed (s 87(d) PDI Act), however they are then a relevant authority in their own right. How will it work when an appeal is lodged, will they still be responsible and answerable to the person who appointed them or do they make decisions on their own. For example, an appeal is lodged and a compromise needs to be reached, what would the process be?

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**PLANNING: Level 2: Assessment Panel Member**

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<th>Overview</th>
<th>Comments</th>
<th>Recommendations</th>
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<tr>
<td><strong>Accreditation requirements:</strong></td>
<td>1. An accreditation scheme should not be about roles, it should be based on qualifications, skills and experience. The accreditation scheme should work as a hierarchy, so if you have accreditation at level 1, you can perform the functions of the below levels. As such, if you are accredited at level 1, you should just need to meet the technical skills of that level and therefore you meet the requirements of all</td>
<td>1. Change the title to Level 2: Accredited Planning Professional.</td>
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<td>• Planning professional with relevant qualifications and at least 2 years experience, or</td>
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<td>2. Move Panel Members to a separate Scheme to maintain the hierarchy and progression of planning practitioners up the scheme, our suggestion: Level A – Presiding Member Panel Member Level B – Panel Member</td>
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<td>• Applicant from allied field (planning related) with relevant qualification and at least 2 years experience, or</td>
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<td>Council Elected Member or former Elected Member.</td>
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<td>2. The 2 years of experience required for a level 2 is less than that required for a level 3. Sequentially in the scheme it does not make sense. Additionally, the role and function of a Panel member is to undertake more complex applications, as such the threshold for the required experience should be higher. To alleviate this for Regional Councils, discretion should be given to the CE of a Council.</td>
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<td>3. If this level remains solely for panel members, the technical requirements for this level are quite restrictive. The current wording suggests that the person must have a relevant qualification in a planning related field AND at least 6 months experience in three of the listed technical skills. All five technical skills listed require an active involvement in the planning system. This does not align well with the fact that panel members can be from all sorts of planning related allied fields. For example, someone with an environmental background, may not necessarily have experience in the planning system actively, but they should still be able to be considered as a panel member. The current framework is too restrictive and is concerning, particularly for Regional Councils, such that they may not get people applying to be panel members.</td>
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<td>4. The cost of accreditation, insurance and CPD requirements associated with this level, if it remains solely for Panel members is quite onerous and could lead to less people applying to be panel members.</td>
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Alternatively, introduce a subsection to stipulate that a Panel member must be accredited at this level, rather than the level being solely for panel members.

3. Amend the technical skills to be more flexible.
5. Who will pay for the accreditation, insurance and CPD requirements of Panel Members? It seems likely that Panel Member will expect Council to pay, otherwise they will be less likely to apply to be a panel member. Therefore, if you assume that Council will pay for these fees, but Council is receiving less applications and therefore less application fees, how will Councils be able to afford this? It is very unlikely that any panel members will take out their own personal liability insurance to be on a Panel.

6. The CPD requirements don’t take in to account the other expertise that the Panel Members bring, additionally CPD requirements for Panel Members is unlikely to enhance objective decision making.

7. If a Panel member is from an allied field, that industry may have an accreditation body also. Surely given the person is accredited with another body would provide public confidence of their professionalism. Requiring the panel member to then be accredited under another scheme which may not even be their profession is far too onerous.

8. The intent of an Accredited Professionals Scheme, as outlined in the Expert Panel report (‘The Planning System We Want’) states: ‘we believe it is critical that communities and investors are each able to have confidence that development will be assessed impartially and dispassionately’ and detailed in the original discussion paper on the Accredited Professionals Scheme it stated that: ‘the scheme will provide increased confidence for
RESPONSE TO ACCREDITED PROFESSIONALS SCHEME DRAFT REGULATIONS
City of Adelaide

development applicants and communities that decisions are being made by qualified and experienced professionals who regularly undergo training and are audited for competency.'

- Whilst the PDI Act is silent on whether the Commission or delegates of the Commission (SCAP) require Accreditation, this does not mean that they shouldn’t be. The PDI Act (s 20(1) and s 100) allows conditions of appointment which could include the requirement to hold accreditation at the relevant level. This would ensure that the original intent of the Scheme is being met and thus increase public confidence in decision making in the planning system.

PLANNING: Level 3: Accredited Professional

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<td>Accreditation requirements:</td>
<td>1. We’re unsure what the point of this level is as it indicated in section 8 of the draft Regulations that the level can undertake performance-assessed development, so there appears to be no gap between a level 3 and 1, beside the required years of experience.</td>
<td>1. See comments.</td>
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<td>• that they hold a relevant planning qualification</td>
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<td>• a minimum of 3 years full time or equivalent experience considered appropriate by the CE;</td>
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<td>• a minimum of 6 months experience in at least 3 of 14 technical skills</td>
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<td>2. If this level was to remain can it be for local government employees ONLY, so that the local government employee can act as a relevant authority in their own right, but has access to the expertise, local knowledge and resources that Councils have to look after the best interests of the community.</td>
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### PLANNING: Level 4: Accredited Professional

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<th>Recommendations</th>
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<tr>
<td>Accreditation requirements:</td>
<td>1. If the planning system is to now allow for private professional to undertake Deemed-to-Satisfy assessments, then 1 year of experience is not considered adequate experience. Even if DTS applications are considered ‘simple’, it still required planning skills that can only be acquired with experience. Allowing private professionals to approve DTS applications with only 1 year of experience could result in poor outcomes.</td>
<td>1. Increase the required experience from 1 year, to perhaps 3 years. Subsequently, all other levels should have the required experience increased.</td>
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<td>• that they hold a relevant planning qualification</td>
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<td>• a minimum of 1 years full time or equivalent experience considered appropriate by the CE;</td>
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<tr>
<td>• a minimum of 6 months experience in at least 3 of 14 technical skills</td>
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Suggest increasing the required experience across each planning accreditation level to ensure assessment of development applications is truly being undertaken by people with adequate skills to ensure public confidence as per the intent of the scheme from the Expert Panel report.

2. The intent of the Planning reform is to create a clear, consistent and efficient system. As such, assessment at this level should be confined to Deemed-to-Satisfy only (noting that minor variations on Deemed-to-Satisfy criteria will be documented in a practice direction), however, we believe that if it is not ‘minor’ as per the future practice direction, then that element of the proposal would fall into
performance assessed. There has been some suggestion that (see FAQ on Assessment Pathways released 26 September 2018) that a private planning professional will also be able to assess ‘simple code assessed development…i.e. a hybrid DA where 2 provisions can’t be met). It is our view that given the vast number of provisions in the P&D Code, ‘simple’ provisions could not be defined. It will also create confusion to the public and relevant authorities about who can assess an application. As such, we do not support this approach and think assessment of deemed-to-satisfy development should remain confined DTS only to ensure the system is clear.

**BUILDING: Level 1: Accredited Professional (Building Surveyor)**

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<th>Overview</th>
<th>Comments</th>
<th>Recommendations</th>
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<tr>
<td>• Building surveyor (currently a Building Surveyor in D Regulation 87(2)(a)).</td>
<td>• Are the required experiences all necessary? How will a private building certifier get 3 years’ experience in inspecting?</td>
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<td>• The level 1 Competency Requirements adopt many (but not all) of the qualification benchmarks and competencies required to be accredited as a building surveyor by AIBS.</td>
<td>• There has been discussion that there may potentially be a proposal to be included that an Accredited Professional who does not practice at the level they are accredited at for a period of a year or may be see their application for renewal at that level refused. This raises significant concern for Level 1 or 2 Building Surveyors who move to work in regional areas limiting commercial exposure. This is the same for Building Surveyors who are in or move into management positions where their time spent</td>
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<td>• A minimum of 3 years’ experience is also required in specified areas including assessing building plans, issuing consents and orders, and undertaking inspections (Required Experience).</td>
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RESPONSE TO ACCREDITED PROFESSIONALS SCHEME DRAFT REGULATIONS
City of Adelaide

- It is anticipated that only a building surveyor will be authorised to assess and grant planning consents (as well as building consents) for Residential Code development (which we understand is anticipated by DPTI to be a class of deemed to satisfy development to be designated in the Code)

practicing is limited or non-existent.

- If Council's are engaged by other Council's to undertake Building Assessment/Compliance functions, will they still be covered by MLS?

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<tr>
<th>BUILDING: Level 2: Accredited Professional (Building Surveyor (limited))</th>
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<th>Overview</th>
<th>Comments</th>
<th>Recommendations</th>
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<td>building surveyor (limited) (currently an Assistant Building Surveyor in Regulation 87(2)(b)).</td>
<td>• No real change from AIBS Accreditation Scheme. No Comments.</td>
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<tr>
<td>The level 2 Competency Requirements do not closely follow the qualification benchmarks and competencies for AIBS accreditation as a building surveyor limited.</td>
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<td>A minimum of 2 years Required Experience must be demonstrated to gain accreditation at level 2</td>
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<th>BUILDING: Level 3: Accredited Professional (Assistant Building Surveyor)</th>
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RESPONSE TO ACCREDITED PROFESSIONALS SCHEME DRAFT REGULATIONS
City of Adelaide

• assistant building surveyor (currently a Building Surveying Technician in Regulation 87(2)(c)).
• The level 3 Competency Requirements adopt many (but not all) of the qualification benchmarks and competencies required to be accredited as an assistant building surveyor by AIBS.
• A minimum of 6 months experience is also required in more limited areas of Required Experience than levels 1 and 2.

• No real change from AIBS Accreditation Scheme. No Comments.

BUILDING: Level 4: Accredited Professional (Building Inspector)

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<th>Overview</th>
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<td>• anticipates that a building inspector will not be authorised to grant building consents and will be limited to undertaking building inspections of Class 1 and 10 buildings, including roof truss and swimming pool safety inspections on behalf of councils (which will become an authorised function).</td>
<td>• There are many concerns raised about the introduction of this accreditation level and whether it is required or relevant.</td>
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<tr>
<td>• The CE's Competency Requirements sets out the qualifications required to obtain accreditation as a Level 4 building inspector.</td>
<td>• It appears that many of the technical skills required to undertake the inspection functions for this accreditation level directly relate to that of a Level 3 Building Surveying under the current AIBS accreditation scheme, if so, do we need a Level 4? What is stopping a Level 3 Building Surveyor from currently achieving the mandatory inspection stages? Is funding for employment and lack of fees for ongoing inspections and resourcing not a bigger issue?</td>
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<td></td>
<td>• There is currently no tertiary qualification listed for a Level 4 Building Certifier, this has raised</td>
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A minimum of 6 months experience is also required in areas of Required Experience relating to building inspections.

- Private practice or employee of Council.

Discussion amongst the industry that the intent is to be able to utilise aging trades and their experience to become inspectors. How would this work? A carpenter is not going to have the skillset to inspect a foundation or vice versa, there is an obvious need for further study, is there going to be a study stream less than the existing Tafe Diploma?

- Can the officer undertake enforcement action? Or would this need to be referred to a level 1, 2 or 3?
- Why is the CPD training only specific to swimming pools/roof framing?

### CPD (Planning and Building)

#### Comments / Recommendations

1. **Question:** The requirements for CPD for building surveyors in the Accredited Professional Scheme differs to that required by the National AIBS Accreditation Scheme. The proposed scheme requires 20 CPD points per years, whereas the AIBS requirement is for 90 points over 3 years, with at least 20 in the first 2 years. Given AIBS is a national accreditation scheme, will building surveyors need to be accredited with AIBS as well as the state scheme? If this is the case, this will result in large costs to buildings surveyors.

2. If the level 2: panel member is to remain in the current accreditation scheme (as discussed above, we suggest this is shifted to its own stream), regardless, the requirement for 10 CPD points is quite onerous and may lead to people not being willing to become Panel members which is concerning for the planning system. This is of particular concern for the Regional Councils.

### OBTAINING AND RENEWING ACCREDITATION

#### Comments / Recommendations
1. Regulation 33 states that Identity cards may be issued, this is considered too open and flexible and it is considered that this should just be a mandatory requirement.

**Recommend:** Regulation 33 should be amended as follows:

*The accreditation authority must issue an identity card to an accredited professional.*

2. 1 year is very onerous and this requires more detail. Could it be that you must complete a desktop update to ensure you’ve met the CPD requirements, but that an actual renewal with fees is not required annually? Annual renewal is onerous to the sector and the accrediting authority to keep up with these requests, therefore:

**Recommend:** Regulation 17 and 18 should be reviewed.

### CONDITIONS OF ACCREDITATION

**Comments / Recommendations**

1. As per our comments regarding the planning level of accreditation, we understand that the PDI Act allows private professionals to be appointed as Assessment Managers (under s 87 of the PDI Act) and recognise this, particularly in Regional Councils. We also believe that the Regulations should formalise that an Assessment Manager (s 87) should be accredited at level 1. However, given a level 1 will be able to perform the most functions under the accreditation scheme, City of Adelaide does not support this level being available to private practitioners unless it is within their appointment as an Assessment Manager (s 87). Feedback from the Department suggests that this will be the case as it is not intended by section 82, 87, 88 and 100 of the PDI Act when read together. For clarity, we **recommend** that conditions be placed on private planning practitioners so that it is immediately clear that they can only perform the functions of a level 1 accredited professional in alignment with their role as an Assessment Manager which is confined to a Council or Regional area. And that at all other times, if contracted as a private planning professional, they can only undertake the functions of a level 4 – or the future equivalent level that can only undertake assessment of deemed-to-satisfy developments.

### VARIATION, CANCELLATION OR SUSPENSION OF ACCREDITATION

**Comments / Recommendations**

**Recommend:** that the Regulations be amended to include a requirement that if the accreditation authority proposes to, or does, vary a condition of an accreditation, cancel or suspend an accreditation, or if an accredited professional voluntarily surrenders their accreditation (i.e. in any circumstance in which the accreditation authority would be required to update the register of accredited professionals), that the person or body with whom the accredited professional is employed be appropriately notified by the CE.
## AUDITING

**Comments / Recommendations**

1. It should be the responsibility of the auditor to arrange an audit of an accredited professional, not the accredited professional. Mandating that this happens every 5 years is too onerous and should be on an adhoc basis as determined by the auditing body.

**Recommend:** amend Regulation 26(7) as follows:

*A qualified auditor may audit an accredited professional at any time, but not more than once within a five-year period.*

**Recommend:** amend Regulation 26(13) such that it includes a requirement that any report prepared by the auditor regarding a person who is an employee be provided to that person’s employer as well as the CE.

**Recommend:** amend Regulation 26(14) so that any action taken by the accrediting authority regarding a person who is an employee be provided to that person’s employer as well as the CE.

## CODE OF CONDUCT

**Comments / Recommendations**

1. Is there a code of conduct for auditors?

## COMPLAINTS

**Comments / Recommendations**
### Comments / Recommendations

1. We have been advised by the Department that policy planners have not been included within the Accredited Professionals Scheme due to this role not being contemplated by s 88 of the PDI Act. We do not support this interpretation and further suggest that this does not meet the intent of the Planning Reforms. Section 88(2) states that the accreditation scheme may make different provision...including in relation to particular aspects of development assessment of control. We suggest that control can be interpreted to include policy. Additionally, with the PDI Act shifting the emphasis and importance of policy and community engagement within the policy-making stage of planning, it would provide the public with greater confidence if these roles were being undertaken by accredited professionals with the required skills and experience.

This may require another stream to be created, but this is considered essential to maintaining public confidence and should be created by the Regulations now.

2. In relation to the building accreditation scheme, there is concern about the current lack of a mandatory minimum level of insurance being stipulated for certifiers and no specific requirement for a certifier to provide evidence of an insurance policy being taken out. Industry discussion has highlighted that many Certifiers/Surveyors believe the level of insurance required should be relevant to the degree/nature of the work being undertaken by the Certifier. E.g. a Level 1 Certifier undertaking assessment/certification of multi-storey/large scale developments should be required to have a much higher/appropriate level of cover than a Level 3 Certifier undertaking assessment/certification of primarily Class 1/10 buildings structures. Most certifiers/surveyors do not see that it is too onerous to require the annual submission of evidence that a PI policy is in place.
RESPONSE TO ASSESSMENT PATHWAYS – HOW WILL THEY WORK?

Community Engagement and Consultation

Council is disappointed that the consultation of the Assessment Pathways paper has not been undertaken with an engagement plan in accordance with the Community Engagement Charter.

Whilst the paper itself is not a ‘statutory’ document, it will inform the Planning and Design Code which is a statutory document. Section 12(1)(b) of the Planning, Development and Infrastructure Act 2016 (PDI Act) states that an object of the Act is to ‘provide a scheme for community participation in relation to the initiation and development of planning policies and strategies’.

This paper provides critical discussion points about the new Planning and Design Code and should have undergone wide community engagement to meet the object of the Act, intent of Parliament and spirit of the Community Engagement Charter. The ‘Assessment Pathways: how will they work? discussion paper’ states that the new ‘planning and development system focuses on getting…community input and ideas early in the process, through genuine community engagement, so that subsequent planning and development is guided by these aspirations’.

The consultation on this paper has not achieved this as an engagement plan was not created, our communities were not actively reached out to and the timeframe of the engagement on such an important topic was quite short.

Additionally, the manner in which the technical discussion papers have been released, with different but interlinked components of the system being dealt with separately, makes their content highly theoretical and accordingly difficult to respond to in a meaningful way. For example, critical analysis of the assessment pathways is inhibited by uncertainty around the content of the Planning and Design Code (the Code), and the significant information still to be determine by regulation.

Councils would benefit from additional information from DPTI demonstrating a greater and more meaningful connection between the Code and the assessment pathways provided for in the legislation.

The large number of issues noted to be resolved in future practice directions highlights the significant role the practice directions will play in the system, and an appropriate level of consultation with local government on these important tools is anticipated.

Relevant Authorities and Assessment Pathways

City of Adelaide does not support the privatisation of planning. It is well understood that that intent of the Planning and Design Code is to streamline assessments by creating consistency, clarity and transparency and this is supported.

Under the changes described, councils will deal with a more limited range of applications and have less involvement in development that makes up the local landscape. This raises a number of issues, including:

- Communities’ expectations of their local government’s ability to influence the local environment, and provide information about the planning system
- Communities’ expectations of their local governments provide information about the planning system, and councils’ ability to resources this community information role
RESPONSE TO ASSESSMENT PATHWAYS – HOW WILL THEY WORK?
City of Adelaide

• Councils’ ability to influence development compliance and enforcement, and ability to resource any involvement in compliance and enforcement
• How important information for development assessment held by Councils is accessed by relevant authorities (local knowledge, flood mapping, engineering advice, site history resources), and how Councils recoup the costs of providing this information

Despite councils’ reduced role under the changes, in reality councils will continue to be the first port of call for members of the community and will continue to have an interest in development matters affecting their communities. Current planning assessment fees charged by Councils fall short of the costs of providing services and advice, and with that income stream disappearing alternative resources are required to ensure councils can continue to provide the support demanded by their communities.

The core function of planning is to enhance and protect the public interest. Local Governments operate to serve the interest of their community and have understanding of the local conditions is important to assessing complex proposals. Development Assessment should remain a role of CAPs, Assessment Managers appointed by the Council Chief Executive under s 87 of the PDI Act and employees of Councils who are accredited professionals.

Councils have the details of owners and occupiers within their Council area which are private records, such that public notification should without doubt remain a function of the relevant authority employed by the Council.

Additionally, Councils provide many services and have staff available who are experts in all sorts of fields, such as (but not limited to) traffic, waste, local heritage, assets, infrastructure etc. Development Assessments often require specialist knowledge which results in better outcomes for the public. Councils also having funding incentives available, for example the Heritage Incentive Scheme or Solar Savers Adelaide, but these often require a collaborative effort at the Development Assessment stage. If these assessments are not undertaken by Council, it will add time to the applicant to receive funding assistance.

As outlined in the Expert Panel report (‘The Planning System We Want’), ‘we believe it is critical that communities and investors are each able to have confidence that development will be assessed impartially and dispassionately’. Council employees are independent and can act impartially without being fettered by certain interests (e.g. being engaged by the applicant). There is concern that should a private planning professional not fulfil their responsibilities, it will be left to Councils to make complaints, however this will not necessarily undo a poor decision, as relevant authorities employed by Councils will not have third party appeal rights. There is also concern that should planning decisions become privatised, the fees associated with an assessment will go to the private planning professional, rather than to the Council who utilise these fees to better the public.

Council will be the relevant authority to grant all Development Approvals. Currently this has a legislated timeframe of 5 days, however this does not take into account the number of applications which have inconsistent Planning and Building Consents. Feedback from DPTI has suggested that Councils will not need to undertake consistency checks but only check that the relevant consents have been granted. This is short sighted, as the number of applications that councils find inconsistencies between the Planning Consent and Building Consent before issuing Development Approval is significant. Without this crucial step, the on-ground outcomes and impacts will not be well known, and with compliance to remain a role of Councils, they will have to try to clean up messes created by inconsistency. Additionally, it should be made abundantly clear to Council whether all reserved matters/conditions have been met through the ePlanning portal and this should be required prior to lodging for Development Approval from the Council. Council should receive a fee for issuing Development Approval and this fee should take in to account the constant chasing up to resolve inconsistencies, confirm compliance with conditions and time-consuming compliance.
There has also been suggestion from DPTI that private accredited professionals may be able to assess ‘simple’ performance assessed developments. It will be near impossible to define ‘simple’ and it is our view that as soon as something falls within the performance assessed stream, it should be assessed impartially by a Council employee either as an accredited professional in their own right or acting under the delegation of the Assessment Manager. This would reduce confusion about pathways and relevant authorities, thus meeting the intent of a streamlined and transparent system.

**Are we creating a more complex system?**

Another goal of the Planning and Design Code is to reduce the complexity of the planning system by creating one single, easy to follow rule book. However, there are now so many possible avenues, through deemed consents, deferral of referrals, outline consents, approvals in any order, elements of a development can be assessed by different relevant authorities etc. that it appears although we are creating a more complex system that may be hard for people to understand what process they can request, contrary to the objectives of the reform.

A significant change introduced in the new system is the deemed consent of applications for which the assessment period expires. Coupled with the reduced ability of relevant authorities to request information, this change is ostensibly to increase speed and efficiency of development assessment.

In practice, deemed consent is a disincentive to constructive negotiation between the relevant authority and the applicant to reach an outcome that suits both the developer and the public interest. Deemed consent is more likely to create an adversarial assessment environment. Consequences of deemed consent could include more refused applications, more legal action, a reliance on the use of conditions to try to achieve better development outcomes, and ultimately poor development outcomes that negatively impact the community.

The lack of flexibility in assessment timeframes and “high stakes” introduced by deemed consent does not consider real world context such as the interplay of assessment timeframes with Council Assessment Panel meeting schedules.

It is not clear when deferral of referrals will be allowed, but the purpose of this is not understood. If the referral will be required to complete the assessment, why would you allow it to be deferred? Often referrals can uncover important matters which should be resolved, and this can require changes to the plans which then need to be assessed by the relevant authority as well as the referral agency. This step seems to be adding an unnecessary complication to the system that we are trying to uncomplicate.

The notion of outline consents in particular raises questions such as whether applicants can avoid public notification if a single element (e.g. height) is consulted on at outline stage, and whether an application can be refused on elements that were not part of the outline consent. There is a view that good policy in appropriate locations dispenses with the need for outline consents.

In relation to consents in any order, it seems inefficient for applicants to allow building rules consent before planning. This should be limited to applications for development where built form and land division applications are required.

Further information and clarity is sought around the types of development likely to go to a Design Review Panel.

**Public Notification**

Whilst a sign on the land of the relevant site is an improvement to the public notification system and will allow further reaching representations where impacted, Council is concerned by some feedback from DPTI to suggest that these people will not be able to be heard by the relevant
CAP. The PDI Act is silent on this and we consider that CAPs should be able to choose whether they hear people by way of their meeting procedures. This is a process that is embedded within the planning system and should not be removed. Natural justice principles should prevail. It can’t be mistaken the importance of what having their day to be heard means to some people. This process will become even more critical given third-party appeals rights will be removed from the system.

Council is not clear on the process for public notification for Impact Assessed (Minister/Regulations) Developments. Whilst it is understood that an EIS must be prepared and consulted on under s 113 of the PDI Act, it does not make it clear whether adjacent land owners and a sign are also required. It also does not specify that any of the other application documents need to be consulted on. This seems like a possible flaw in the system for the most complex and potentially controversial applications and should be clarified and rectified.

Please find below our responses to the questions asked within the paper.
**RESPONSE TO ASSESSMENT PATHWAYS – HOW WILL THEY WORK?**

**City of Adelaide**

### Relevant Authority

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| 1. Code assessed applications are assigned to an assessment panel, except where the regulations assign an assessment manager or accredited professional. What should be considered when assigning these relevant authorities? | ▪ CAP for unresolved representations, Assessment Manager or delegate, or accredited professional for all other.  
▪ All performance assessed developments should be assigned to local government, whether that be the CAP, Assessment Manager or Accredited Professional.  
▪ If an application is lodged with all DTS criteria met except one, it should fall into the performance assessed pathway and the relevant authority should be relevant authorities within Councils. How will this be processed through the ePlanning portal?  
▪ The new relevant authorities seem to personalise decisions, i.e. appeals against individual not Council. If an appeal against a private planning accredited professional, this could have huge cost implications. |

### Other comments

- **EXAMPLE 1**
  A Council Assessment Panel may resolve to delegate its authority to the Assessment Manager for applications where no representations are received throughout the public notification period.

- **EXAMPLE 2**
  An Assessment Manager may elect to delegate their power of assessment to a staff member of council for certain low-impact types of development.

- Example 1 - this should be the case anyway.

- Example 2 –the use of ‘Assessment Manager’ in the Accreditation Scheme has created great confusion. This level is different to an appointed Assessment Manager under s 87 of the PDI Act.

- For appeals, how will this practically work? The idea is to remove Councils and have the decision by an Assessment Manager appointed by the CEO of the Council. But if an appeal was lodged against a CAP as the relevant authority, you would need to be clear which CAP the appeal was against, i.e. City of Adelaide Council Assessment Panel, so in the case that an appeal is lodged against the Assessment Manager would the appeal be against the City of Adelaide Assessment Manager, rather than the person’s name?

- S 99(3) of the PDI Act says that Council will be the relevant authority for the purposes of granting the final development approval after all elements of the development have been approved by 1 or more relevant authorities. Will Council receive an administration fee for this? Will this involve a consistency check, which can be time consuming and often results in amended plans or variations to be lodged? This is particularly relevant under the new system given consents can be granted in any order, Council will be left to confirm the
consistency and should get a fee for this. There is also concern regarding s 102(7) of the PDI Act and how will Council know that all relevant consents have been issued?

- Council does not support private accredited planning professionals being able to undertake performance assessed developments, unless they have been appointed as the Assessment Manager of the relevant Panel.

### Assessment Categories

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| 2. Should the current scope of ‘exempt’ development be expanded to capture modern types of common domestic structures and expected works? | - City of Adelaide has undertaken a review of Schedule 3 and a study in to ‘low risk applications’, please find this in Attachment A.  
- Yes, but in some instance with a prescriptive set of guidelines.  
- Yes, expected domestic structures should not require a rigorous process.  
- There should be a review of existing list before considering expansion. For example, should the same exemptions for individual air-conditioning units apply on multi-level apartments buildings as an individual dwelling. |
| 3. Should the current scope of ‘building consent only’ development be expanded to allow for more types of common development with minor planning impacts? | - Yes, provided that ‘minor planning impacts’ are well defined for consistency.  
- The Code should not use Deemed-to-Satisfy provisions to say a windowsill level higher than 1.6m is ok. This is a poor outcome. The Code should shift thinking on overlooking. Other design outcomes are possible and the provisions for overlooking should suggest that windows with a sill height of 1.6m is a good outcome. The future envisages higher density, so some matters such as overlooking shouldn’t be so rigid. It stifles other design options and increases community expectations of a certain level of protection, which is going to become impractical with higher density living and if the DTS criteria makes poor design outcome seem suitable, it will result in poor outcomes. |
| 4. How should the scope of a ‘minor variation’ to deemed-to-satisfy development be defined? | - This needs to be very carefully considered. You can’t simply put a number of percentage and attach it to the meaning of ‘minor’ as it won’t be relatable to all provisions or to all sites.  
- Also how many ‘minor variations’ will be allowed? |
| 5. Are there some elements of a project that should always be notified if the deemed-to- | - Agree height should be trigger.  
- Some elements can be left to relevant authority and don’t need to be the trigger for public notification, for example, building materials. |
satisfy criteria are not met (e.g. buildings over height)? Are there other things that don’t matter as much for the purposes of notification?

6. What types of performance assessed development should be assessed by an Assessment Panel?

- Unresolved valid representations.
- Additionally, if CAP assessment is required, additional time should be allowed in Regs, as writing report and publishing for a CAP will draw out timeframes and needs to be factored in.

7. What types of principles should be used when determining ‘restricted’ development types in the Planning and Design Code?

- This is hard to answer as each Zone is different and these variances are important, however, inappropriate land uses should fall within a restricted pathway.
- The paper says, ‘when assessing a restricted development, the Commission’s delegate must take into account the relevant provisions of the Planning and Design Code but is not bound by those provisions’. This statement needs to be clarified. If land uses or other development types are listed as restricted within a Zone, the Zone principles should provide policy to emphasis why it is ‘restricted’ and so these provisions should be paramount in an assessment. If the assessment of this pathway then includes other documents/provisions, how does this create transparency, openness and confidence in the system?
- The paper uses the terms, ‘impact assessed – restricted’ which is ok, but it then uses ‘impact assessed – not restricted’, which is misleading to the complexity of this pathway. It should reflect the PDI Act which calls this ‘Impact assessment by Minister’, or ‘Impact assessed by regulations or declared by Minister’.

Other Comments

- It’s unclear how design will fit in to DTS criteria to actually achieve a good outcome. It seems although the system will be written such that there will be no scope to influence good design outcomes. DTS criteria doesn’t mean that the overall development will result in good outcomes and design.
- The term ‘hybrid’ assessment is confusing. The assessment is performance assessed but limited to the elements of the proposal that fall into the performance assessed stream. As such, we recommend calling this pathway ‘limited performance assessed’. Using the term ‘limited’ is clear and can easily be explained to the applicant and or representor.
- The FAQ states that ‘it is expected that Accredited Professionals in the private sector will be able to assess deemed-to-satisfy as well as simple code assessed development and these circumstances will be prescribed in the assessment regulations (i.e. a hybrid DA where 2 provisions can’t be met..)’. Council does not support this. It is our view that as soon as something falls within the performance assessed stream, it should be assessed impartially by a Council employee either as an accredited professional in their own right or
acting under the delegation of the Assessment Manager.

- Public notification should be required when policy threshold is exceeded, thus the neighbours couldn’t have anticipated that type of development. But perhaps not all principles should be triggers.

- The DTS criteria suggests that car parking will be a DTS provision. This is ok in theory, but then that gets an automatic tick which suggests that assessment of items such as vehicle crossover locations and manoeuvrability are not required. If carparking falls within the DTS criteria, how will these issues be resolved? In addition, the Adelaide (City) Development Plan has policy that provides exemptions from car parking requirements and has some parts of the city where no car parking is required – how will these matters be resolved as part of drafting a DTS approach.

### Public Notification

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<td>10. Should accredited professionals/assessment managers have the capacity to determine publicly notified applications?</td>
<td>Public notification should remain a function for Council employees. Whether the CAP, Assessment Manager (under section 87 of the PDI Act) or Accredited Professional employed by a Council.</td>
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<td>Public notification should not be undertaken by private planning professionals as they will not have the required contact details. Additionally, what if someone wants to meet with the accredited professional on site to discuss the application, they need to be local.</td>
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<td>Valid unresolved representations should be determined by the CAP, but if no representations received or they are resolved, the application should be able to be determined by the Assessment Manager.</td>
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<td>11. Who should be responsible for placing a notice on the subject land?</td>
<td>The applicant. Relevant authorities should collect fees and organise the sign to ensure it is in accordance with future practice direction, but the relevant authority won’t have the capacity for placing the sign on the land or ensuring that it remains in place. How does this operate in other places?</td>
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<td>The broader issue here is that this will widen the availability to comment on a proposal, however third-party appeal rights have been taken away.</td>
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<td>12. How would that person/body provide/record evidence of a notice being placed on the land throughout the specified notification period?</td>
<td>▪ What do other states/Countries do to ensure compliance?</td>
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<td>13. For how long should an application be on public notification (how long should a neighbour have to provide a submission)? Should a longer period apply for more complex (i.e. impact assessed) applications?</td>
<td>▪ Greater length of time on notification for impact assessed application as perceived greater impact which may take longer to understand and provide meaningful comments, but this could be at discretion of relevant authority, as some impact assessed applications will only be in that pathway for a minor reason and 10 business days is enough for these sorts of applications.</td>
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<td>Other comments</td>
<td>▪ ‘Adjacent’ needs to be defined further. Is it from each boundary corner of the site? ePlanning will need to provide an easy tool in GIS so that this measurement can be undertaken. ▪ New technologies for public notification, including using GIS, virtual reality and augmented reality are the future for strong community involvement. ▪ The paper states that ‘the new planning assessment framework will seek to provide for greater consistency of public notification requirements, so that both the community and developers have greater certainty on the application process, no matter where they live/develop’. What about the city? Currently developers can exceed the height requirements to a level contrary to what the public would have envisaged during the ‘policy-setting’ but aren’t required to undergo public notification unless abutting the City Living Zone. This doesn’t meet this statement. ▪ The paper states that ‘the subject matter of any notice and/or representation must be limited to what should be the decision of the relevant authority as to planning consent in relation to the performance-based elements of the development only’. How will this be made clear to people? Will the criteria people can comment against be shown on the portal, and for transparency will any met DTS criteria also be shown clearly? ▪ Can the sign have a QR barcode that people can scan so it takes them directly to the relevant DA on the portal? ▪ The paper states ‘the Act does not specify a right to be heard for representors to performance-assessed development, however the regulations could prescribe otherwise’. It is considered, that in accordance with the general hearing rule, representors should have an opportunity to be heard. This should be only if they have issues with the proposal.</td>
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Unresolved representations should also be a trigger for the application going to the CAP for a decision, to allow for this ‘hearing’ of concerns.

- The paper states in relation to impact assessed – restricted development that plans and other application documents will be available for on the SA Planning Portal for downloading. Does this adhere to copyright laws? Agree that the portal should make plans and reports available for viewing, but this shouldn’t be printable or downloadable.

- The EIS process isn’t very clear. Will a sign be required on the site also? Given this pathway will include development likely to be the furthest from the principles of the Code, public notification for these types of applications should involve the highest level of engagement for this stage of the planning system. It appears although only the EIS will be notified, this should include all documents submitted with the application also.

- As part of making a representation, it should be mandatory to explain the impact to you, i.e. your property or community amenity etc. i.e. for restricted development, if you live far away, what’s the impact to you?

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### Provision of Information / Assessment Categories

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| 14. What type of information should be submitted with deemed-to-satisfy applications? Are the current requirements in Schedule 5 of the Development Regulations 2008 sufficient/too onerous? | - Schedule 5 should be significantly broadened to provide minimum requirements for all sorts of the development types, it should be scalable based on complexity. However, this should also be at the discretion of the relevant authority as no application is really the same and not all the ‘required’ information may be necessary in some circumstances.  
  - Even if Schedule 5 is met, this doesn’t resolve information being submitted of very poor quality. What can you do then? This is a common occurrence and a significant contributing factor to lengthened timeframes. |
16. Should a referral agency or assessment panel be able to request additional information/amendment, separate to the one request of the relevant authority?

- We understand this is the case. The broader issue is the disparity between the request of referral agencies and the relevant authority. This principle is concerned with efficiency, but requests for further information are usually undertaken to negotiate changes to improve a proposal. Often this takes place with little complaint from an applicant, however, now with deemed-consents envisaged by the legislation, this will further hinder good planning outcomes.

17. Should there be an opportunity to request further information on occasions where amendments to proposal plans raise more questions/assessment considerations?

- The current requirement to only request further information once isn’t practical. If the new planning system doesn’t allow an application to pass the lodgement phase until all the mandatory requirements have been met (and the mandatory requirements are rigorous enough so that the assessment can be undertaken), then there should be less need for multiple information requests. However, there are instances where one answer or amendments as a result of a concern raised, raises additional questions which are reasonably required to undertake the assessment.

- There has also been some correspondence to suggest that more than one request for further information can be made if you have the permission of the applicant. How will this practically work, you first e-mail them asking if you can ask some more questions, before you ask away. For the honest applicant they won’t mind negotiating, however others will play the system and not agree to further negotiations. This may force relevant authorities to make decisions earlier, but for refusal due to poor articulation of details on the application.

Outline Consents

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<td>18. How long should an outline consent be operational?</td>
<td>12 months to allow time for further site analysis and design drawings. However, this should lapse if the policy changes during this time.</td>
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<tr>
<td>19. When, where and for what kind of development would an outline consent be appropriate and beneficial?</td>
<td>Building envelope; siting, setbacks, height, access.</td>
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<td>20. What types of relevant authorities should be able to issue outline consent?</td>
<td>Assessment Managers, CAP, SCAP.</td>
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<tr>
<td>Other Comments</td>
<td>Fees should be associated with both stages, i.e. outline consent and planning consent.</td>
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<td>How will public notification work at the outline consent stage. This proposal will be very conceptual and so it will be quite difficult for the community to understand the process and</td>
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what they can comment on. This will somehow need to be made clear.

- The FAQ released states ‘if the outline consent sought a 5 storey building in a Zone where buildings exceeding 4 storeys required notification, the outline consent would be publicly notified. The subsequent application for Planning consent would not necessarily need to go through public notification’. We do not agree with this statement at all. The purpose of public notification is not to only hear feedback on the one element that triggered the requirement for public notification. Once public notification is required, each and every performance assessed element of the proposal is open for comment. As such if public notification is undertaken at the outline consent stage it must be notified again at the planning consent stage to give the community the right to comment on all other elements of the proposal that are performance assessed.

- It is unclear how you assess an outline consent and what is considered? Using the example as quoted above, If they are proposing a 5-storey block, do you assess the impact of overshadowing? If no, but you’re bound by the outline consent, how and when will overshadowing be addressed?

### Referrals

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<th>Questions</th>
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<tr>
<td>21. What types of development referrals should the regulations allow applicants to request for deferral to a later stage in the assessment process?</td>
<td>Council does not see value of allowing the applicant to defer a referral. A valuable feature of the current system is the concurrent consideration and integrated consideration of all major inputs before a planning decision is made. Referrals are fundamental to this and achieving high quality design.</td>
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<th>Other Comments</th>
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<td>State Heritage referrals should be allowed for advice. It will be impossible for the Code to specify policies such that it is ‘exceeded’ to warrant a referral. State Heritage referrals can result in useful conditions which a planning officer would not have the skills and knowledge to look for and enforce which are critical to maintaining our important heritage places. Additionally, referral to State Heritage can be required if proposed development is adjacent a State Heritage Place, how will this be picked up?</td>
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<tr>
<td>How does deferral of a referral impact timeframes?</td>
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| Will this be available for outline consents? This could cause significant problems if someone can defer a referral on for example a heritage place, receive an outline consent which is binding of the relevant authority. Where and how can the heritage impacts be dealt with then? | 12
### Preliminary Advice

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| 22. The Act stipulates that preliminary advice may be obtained from agencies. Should there also be a formal avenue for applicants to seek preliminary advice from the relevant authority? | - Yes, it should be through portal and stored against property. The portal should create a property file so all DAs, agreements, notices etc. can easily be searched.  
- This option is not really used under the current system. Why is this?                                                                 |
| 23. Should there be a fee involved when applying for preliminary advice?    | - Yes. They are providing advice that then removes the requirement for a formal referral when the application is lodge. It is the same as an assessment and takes time, resources etc. But, there should be a requirement for that advice, i.e. it shouldn’t be brief but should outline the proposal and the elements of their expertise are why they are ok. Perhaps another practice direction for this? a template for providing preliminary advice to keep it consistent with all agencies would be useful? |

### Decision Timeframes

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| 24. How long should a relevant authority have to determine a development application for each of the new categories of development? | - If the assessment requires public notification and as result of this requires going to CAP for a decision, the Regulations should be flexible to allow these things to happen. Many Council’s only have a CAP once a month, so this needs to be factored in, also reporting to CAP involves a much more detailed report which takes additional time to prepare and this should be reflected by extended timeframes for these sorts of applications.  
- In certain circumstances, for an additional fee, fast-tracking assessments is required. At the City of Adelaide, this is a common occurrence around Fringe time with a lot of pop-up venues. |
| 25. Are the current decision timeframes in the Development Act 1993/Regulations 2008 appropriate? | - The PDI Act has now embedded that Council is the relevant authority to grant Development Approval (even if both the planning consent and building rules consent have been privately assessed). Currently in the system Councils have 5 days to do this. Experience has shown that there are often inconsistencies in the plans, which take time to pick up given Council has not been the authority on the application. There are also unresolved conditions, which often need to be signed off by multiple authorities (SCAP, Council, State Heritage etc.). Whilst 5 days may be desirable for small applications, the timeframe should reflect the complexity of the application, which usually involves a large and more comprehensive plan set. |
Other Comments

- DPTIs ePlanning group have been discussing a step in the process called ‘validation’ whereby the documents submitted with the application are verified by the relevant authority. If more information is required, this is when the first request is made. There should be timeframes around this process. At this stage also, an invoice will be generated, however it is understood that an administration fee for submitting the application and undertaking the validation process will have already been taken. There has been some confusion in the past about whether part payment of fees starts the clock on the assessment timeframe, this should be formalised that the clock does not start until all fees necessary to grant that consent have been paid.

Deemed Planning Consent

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| 26. Should a deemed planning consent be applicable in cases where the timeframe is extended due to: | - a referral agency requesting additional information/amendment  
- absence of any required public notification/referral  
- any other special circumstances?  
- Yes, if the relevant authority is trying to negotiate a better outcome, the timeframe should be able to be extended to allow these issues to be resolved and not force a refusal just because the clock is running out. With deemed-consents now in the system, rather than deemed-refusal, it is envisaged that there will be a much higher uptake of this process. Feedback from the Department has been that if the relevant authority is genuinely trying to negotiate with the applicant then a deemed consent process is unlikely to be commenced, with respect, we disagree with this in some circumstances. At some point, developers will be wanting a decision regardless of better outcomes. The planner’s role is to try to achieve optimum outcomes from the proposal, but this is now at risk. |
| 27. What types of standard conditions should apply to a deemed consent?   | - Conditions - in accordance with the plans, at grade with footpath levels.  
- Advices - requirements of the Aboriginal Heritage Act. |
| Other Comments                                                            | - The relevant authority has 1 month to appeal a deemed consent, so how does this create certainty for the applicant that they have a consent that they can continue actioning? What would the appeal be about?  
- Other relevant authorities should have appeal rights against deemed consents, not just the relevant authority of the application. This is particularly relevant to deemed consents if issued due to timely processing of an application by a private accredited planner. Council’s Assessment Manager should be able to appeal this consent if it will result in a poor outcome. |
## Conditions & Reserved Matters

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<td>28. What matters should addressed by a practice direction on conditions?</td>
<td>a standard suite of conditions should apply for consistency across the state a non-standard condition will always be required also.</td>
</tr>
<tr>
<td>29. What matters related to a development application should be able to be reserved on application of an applicant?</td>
<td>Things that are not fundamental to the outcome and do not require additional assessment.</td>
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</table>

Other Comments

- How do operational conditions work? For example, operating hours which may need to be conditioned following an acoustic report. Presume the P&D Code will have generic principles about the hours of operation being suitable within the locality such that these sorts of conditions can continue to be applied as they are critical to the planning application and managing impacts.

## Variations

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<td>30. Should the scope for ‘minor variations’ - where a new variation application is not required - be kept in the new planning system?</td>
<td>’Minor’ needs to be defined.</td>
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<td>All variations need to be clearly documented in some way, otherwise it is extremely difficult for compliance officers and Council’s as the relevant authority for issuing Development Approval to understand what has been approved. The ePlanning system should have exceptional record keeping and managing properties so these issues don’t continue.</td>
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<td>The processing of R47a’s needs to be defined so consistent approach across state. For example, City of Adelaide update the DNF, so that the correct plans, details are easily identified for compliance checks and recognised in future Section 7 searches.</td>
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<tr>
<td>31. Should a fee be required to process ‘minor variations’?</td>
<td>Yes, at least administration fees should be charged. If the applicant has made the decision to amend plans whether minor or not, that is not the fault of the relevant authority, processing it can take time and this should be recognised in the system.</td>
</tr>
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## Crown development & Essential Infrastructure

| Questions | Comments |
32. What types of Crown Development should be exempt from requiring approval (similar to Schedule 14 under the current Development Regulations 2008)?

33. Are there any other forms of development/work that should be included in the definition of ‘essential infrastructure’?

- The paper says that ‘essential infrastructure’ includes ‘community facilities’. What does this mean and include?
- How is emerging technology/infrastructure captured?
- What sort of controls will there be on ‘essential infrastructure’, it seems to cover a wide range of categories.

Other Comments

- The paper states ‘if an application is for a development that involves construction work where the development cost exceeds $10 million (other than an application for a variation to an approved development that is deemed of a minor nature), the Commission must: by public notice, invite interested persons to make written submissions to it on the proposal within a period of at least 15 business days;’
  A relevant authority and public notification processes should be triggered just the same as any other application, based on the assessment pathway and policy triggers for public notification, not by the value of development.
- The paper states that an accredited professional may act as a relevant authority for applications for essential infrastructure if it is consistent with the standard infrastructure design (as declared by the Minister). This is creating yet another layer within the system and is confusing. How will you know? How will this be clear and transparent?

OTHER

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<th>Reference in Paper</th>
<th>Comments</th>
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| P 50 – In relation to Permits under the Local Government Act 1999, the paper states that a relevant authority (other than an accredited professional) may only grant approval after consultation with Council. | - Council does not support this, it should be concurrence. It is very confusing for an applicant to receive approval from a relevant authority which may not necessarily receive the required permit from the Council.  
- Section 6.1.5 is confusing and suggests that Councils cannot refuse a section 221 consent if a relevant authority has granted a related Development Approval. Can this be clarified? If it is correct, Council fundamentally opposes this. Requiring Councils to grant consents on |
matters which may impact on street parking layouts and/or pedestrian movements is unacceptable. This is a core role of Council and a holistic approach across the whole city needs to be considered when assessing applications of this nature.

**S 102(7) of the PDI Act**
- ‘elements’ needs to be defined. This is creating another complexity in the system that Council will have to consolidate at the end when issuing Development Approval. How will the Council know that all ‘elements’ have been granted consents if they aren’t all lodged together? Will the applicant need to lodge something to show the whole development – this will require a consistency check by Council at the end, which takes time, fees need to be attached to this process.

**Fees**
- Work commissioned by the LGA found that assessment fees are around 25% of real cost of the effort involved in assessment.
- Let alone that Councils do not receive a few for issuing Development Approval which can be time consuming, let alone the compliance they undertake.
- Councils are wary of an ongoing role in supporting their communities and the proper functioning of the planning system, without charging fees to contribute to the cost.
Schedule 3 - Review

- **S 1 – advertising**
  - Event signage should be exempt.
  - Consolidate signage with city of Adelaide schedule 2 signage section – might need to include in definition of signage.
  - We don’t know what the definition of development is going to be – if this is clear then we could exclude schedule 2.
  - Hoarding signage consider to be exempt.
  - What is a sign?
  - LED signage??
  - There is inconsistency with the allowable size of a sign with a different measurement for signage under Section 2 (Council Works). It makes it confusing. Consistency would make it easier.
  - Total advertisement signage for events is too small. Who cares, its temporary.
  - Moveable signage – bit confusing and cross referenced in sch 2. A-frames, vehicle/trailer signage?

- **S2 – council works**
  - What is street furniture? Needs to be inclusive. i.e. bollards. Maybe use ‘urban elements’ and define this.
  - Ss1(e) 30m2 for a building might not be big enough. Research required in to needs.

- **S 3 – land division**
  - We don’t use this section very often.

- **S 4 – sundry minor operations**
  - Can’t a protuberance undertaken by a private person NOT be development. It isn’t development if a council does it. They still need to get land lord consent.
  - Ss1 – what is an outbuilding? Needs clarifying.
    - Questions about pergolas/verandahs/carports being an outbuilding also.
  - Ss1(c) - 300ml for a swimming pool. Potential conflict that you could put a very large pond in without DA and then apply for it to be a swimming pool after the fact.
  - Cubby/tree houses of a certain size should not require DA.
  - Ss1(f) – fences are so hard – very confusing. The heights and style of fencing is important though, so shouldn’t be lost.
    - Condense brush fence legislation in the regs.
    - Consider putting something in about screening. i.e. not on a boundary, but a screen used to cover bins or hide a clothes line.
  - Ss1(j) Water tanks, bit confusing between below ground, above ground. Should it be a bigger requirement for sustainability.
  - Temporary buildings office – move out of sch 3 and in to Sch 1A.
  - More information about gantry’s would be helpful.
  - Can they bold what each section is about, helps to locate things faster.
  - Simplify/contemporise language.
  - Ss3 – air conditioning – Could it not require Planning Consent if on a roof and not visible from public street. We’re worried about the size of the box and appearance, that’s the planning impact. But would still require Building Rules Consent.
  - Ss3(c) – pipes for some sort of exhaust? Is it development here? Confusing.
  - Ss 4 – air conditioning repeated again here. Why not have topics put together.
  - Ss4a – painting – this is clear.
  - Hot water systems – can something be added to ensure it is of low reflectivity.
  - Ss6 – how does the 30 days apply – i.e. if for event, is it how long the building is for or how long the event is for? Does it include bump in and bump out of the event? Could the time frame be extended so Fringe events fall within this category, or be broad and
just say for the duration of the event. Temporary structure policy would still mean that the structures are inspected for safety etc. Council Event Permits would still be required. Too much red tape currently. Schedule 3 also needs a separate bit which talks about events – signage, buildings, use of site, etc.

- **S5** – use of land and buildings
  - Home activity – expand definition
  - Ss2(b) – isn’t this picked up somewhere else.
  - Ss2(d) increase size or change wording to semi-trailer.
  - Too many similarities in the Regs, this makes it difficult to know that you can and can’t do.
  - Keeping of animals needs updating i.e. what types of birds?
  - Helipad(s) – can this be detailed somewhere?
  - Low impact entertainment – not working. Way too vague. People can get change of use and say background noise and then change it afterwards – not necessarily a problem, but hard to advise one. Have to refer to the EP Act and LL Act, too confusing.

- **S6, 7 and 8, 9, 10** – don’t use.
- **S11** – why is this sitting on its own – shouldn’t it be with land divisions – but use bold language for subject of each ss/part.
- **S12** – aerial, towers etc.
- **S 13-14** - don’t really use.
- **S 15** – solar photovoltaic panels
  - Include battery storage, location, size, weight and fire safety requirements.
  - Overshadowing – but code issue, not regs.
- **S16** – don’t use.
- **S17** – Themes are disjointed in the Regs, put all tree things together
- **S18** – don’t use
- **S19** – should be in Council works.
  - Need a separate section for public art.
LOW RISK APPLICATIONS STUDY

1. A primary purpose for the planning reform process is to significantly reduce the volume of development applications in the State planning system that are subject to a full assessment process with the stated aim to improve the overall efficiency of the planning system. The Expert Panel on Planning Reform suggested that a new 4 stream approach to development be adopted consisting of: Exempt, Prohibited, Standard assessment and Performance-based assessment.

2. The Development Indicators work presented to Council in March 2015 identified a number of current applications that were deemed to be of minor impact (see Figure 1 below). These could be suitable candidates for consideration of a simpler approval path without significant risk of not adequately assessing important planning considerations.

Figure 1: Applications deemed ‘minor’ works lodged in F.Y. 2013/14 in the City of Adelaide (not including change of land use applications)

3. Generally the complying category of development is designated by the Development Plan as comprising of internal building work and fit-outs.
4. The March report identified that given the distinctive range of applications lodged within the City of Adelaide, that any proposed legislative change that is aimed broadly at the State may not necessarily identify the low impact applications undertaken in the City of Adelaide. For example, the Residential Code changes that sought to simplify approvals processes for a range of residential applications had no real impact within the City of Adelaide given the type and number of residential applications received.

5. Under the current planning system, the trigger point for determining what works require approval is set by the definition of ‘development’ in the Development Act, 1993, as well as through a number of other parts of the Act which either exempt from approval or specifically identify certain works as requiring approval. The planning reform process will review these trigger points.

6. Further opportunities for streamlining applications processes may occur with review of future draft legislation as well as through further discussion on a State Planning Code (the topic of Attachment B to this report).

7. Further analysis of the ‘minor’ applications types identified above has been undertaken to assist Council’s participation in next stage of planning reform process, being the release of draft legislation.

8. The table below identifies those application types that could be considered for exemption from the need to obtain a consent or for a simplified assessment process. To date the focus has been on those application types that are of high volume or are unique in the City of Adelaide so as to lead to the greatest possible efficiency improvement.
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<tr>
<th>Topic</th>
<th>Current Situation</th>
<th>Recommended Direction</th>
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| Change of Land Use | ➢ Changes of use applications (excluding those combined with associated building work) comprise 8% of total applications in the City of Adelaide.  
➢ Current trigger point means that a high volume of applications lodged have no, or very limited, planning consequence.  
➢ Currently change of use proposals are merit or non-complying³ in nature in all zones with the following exceptions where they are complying:  
  - Capital City Zone: non-residential to office, shop or consulting room².  
  - Main Street (Adelaide) Zone and City Frame Zone: residential to office on ground or first floor; residential to shop less than 250 square metres³.  
Notes  
1. Where the Development Plan currently identifies a particular use as non-complying it is envisaged that these situations would continue in ‘performance-based’ assessment pathway.  
2. Excludes any retail showroom, adult entertainment premises, adult products and services premises or licensed premises  
3. Excludes retail showroom or licensed premises. | ➢ Make exempt or complying change of use applications for changes to and between; office, consulting rooms, shop, bank in those zones which support a mix of land uses. It is envisaged that this could include the following existing zones;  
  - Capital City Zone  
  - City Frame  
  - Main Street zones  
  - Mixed Use (Melbourne West) Zone  
  - Institutional (University/Hospital) Zone  
➢ Review of land use definitions for ‘shop’ to better control specific activities that have varying levels of impact such as:  
  - retail showroom  
  - bulky goods outlet  
  - adult entertainment premises  
  - adult products and services premises  
  - personal services establishment  
  - café  
  - restaurant  
  - licensed premises.  
➢ Consider greater use of ‘umbrella’ definitions which capture a number of land uses under a single definition to remove the need for change of use between uses within the grouping. |
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| **Signage/Advertising Displays** | ➢ The Development Regulations define what forms of signage require approval. It defines in detail the kinds of displays, lighting, lettering and structures that are included within the definition of a sign.  
➢ The regulations contain a number of specific instances which are more stringent for the City, taking into account the intense density of development and character which distinguish the City from the rest of the state. This allows Council to exercise a considered assessment of the impacts of signs through the planning assessment process.  
➢ In the City changes to the content of signs, their type, size and addition of illumination or animation are included as requiring approval in addition to murals, screens, projections, illumination (globes, lamps, floodlights), banners, bunting and streamers. | ➢ Amend Part 8 of Schedule 2 of the Development Regulations 2008 to remove current City specific requirements that makes change in the content of a sign development.  
➢ Amend Regulation 9 of Schedule 2 of the Regulations to remove current city specific requirements that makes addition of illumination or animation development (subject to place specific controls).  
➢ Adopt more place-based response to the need to obtain approval for minor signage, supported by a signage code to streamline assessment for low risk signage.  
➢ Recommend Planning Consent codification for low-risk types of signs in the central business area (excluding heritage places), possibly including:  
- signs on hoardings  
- replacement signs (like for like)  
- under canopy signs  
- canopy fascia signs  
- parapet signs.  
➢ Signage for events, temporary activities and similar on public land be dealt with solely under the Local Government Act which provides a more responsive legislative framework to appropriately manage the impact of such activities (provided ability to consider structural matters is retained. |
| | ➢ 14% of all applications lodged are exclusively for signs.  
➢ Through a review of a sample of these applications, 59% are deemed minor in nature or simple in terms of planning assessment; being fascia signs, replacement signs, banners, artistic displays and under canopy signs. These applications are processed on average within 8 days.  
➢ 9% of sign applications in 2013/14 would not require consent if they were located outside of the City of Adelaide.  
➢ There is no place-based distinction for when approval is required – i.e. the same approach applies within the central city area as the residential zones.  
➢ Banners, artistic displays, hoardings and event/festival signs are temporary in nature and are deemed to be low-risk in terms of impact upon the public realm and general amenity due to their temporary nature. | |

**Notes**

4. Figures based on calendar years 2006 to 2014
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<td><strong>Internal Building Works / Fit-outs</strong></td>
<td>➢ The Development Regulations define that building work is ‘development’ and requires approval. Building Work includes non-structural changes to the inside of a building in the nature of ‘fit-outs’. &lt;br&gt;➢ The Development Regulations require all internal building works to gain planning consent in the City of Adelaide, unlike the rest of the state where only building rules consent is required. &lt;br&gt;➢ The majority of internal building works consist of non-structural internal fit-outs to offices, consulting rooms and shops.</td>
<td>➢ Make complying internal alterations and fit-outs by deleting Development Regulation Schedule 1A, Part 11. Consent would still be required for works within State and Local heritage places. &lt;br&gt;➢ Recommend Building Rules Consent codification for limited building classes representing the majority of applications: office, shop, assembly building, health care building and laboratory/production/assembly premises (5,6,8,9). 5. Ensure as a minimum, that such works will be complying in the Capital City Zone, Mixed Use Zone (Melbourne Street), Main Street Zones and City Frame Zones.</td>
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<td>➢ Comprise 19% of all applications approved from 2005-2015, representing a significant proportion of activity in the City. The value of internal works and fit outs from financial year 2005/06 to 2014/15 is $1.47 billion dollars. &lt;br&gt;➢ Current trigger point means that high volume of applications lodged have no, or very limited, planning consequence. &lt;br&gt;➢ Internal Alterations and Fit-outs typically have planning impacts only if located on ground floor at street interfaces, thereby impacting on presentation to the street. &lt;br&gt;➢ Currently internal alterations and fit-outs are only complying development in the Capital City and Riverbank zones (exempting heritage places).</td>
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<td>➢ The majority of internal building works occurs within the Capital City Zone and the Institutional (University/Hospital) Zone, and to a lesser extent in the Main Street Zones within commercial premises.</td>
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<tr>
<td>Notes</td>
<td>5. Subject to exceptions where full assessment against the National Construction Code is required to ensure minimum requirements of internal amenity, equitable access, fire safety are met.  &lt;br&gt;[ For example limitations may be based around (a) maximum floor area limit or (b) limited to single storey buildings or (c) maximum internal population numbers. ]</td>
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<td>Festivals and Special Events</td>
<td>➢ The City receives a high number of applications for Festivals and Events, all of which a temporary in nature and many of which are located in the Park Lands or Squares.</td>
<td>➢ Streamline assessment process for temporary changes of land use for community, cultural, arts, entertainment, recreational and sporting uses in the Park Lands Zone, Riverbank Zone, Institutional Zones and in the City Squares. This may include making complying temporary events over 30 days provided they are for public or community purpose.</td>
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<td>➢ In the 2014/15 financial year 480 small events and 95 medium/large events were held in the City. Of these many were located in the Park Lands and Squares. Many of these events require some form of development approval – either for land and/or building approval for associated structures.</td>
<td>➢ Investigate alternative building rules assessment processes for moveable / temporary structures such as use of external certification from recognised engineers.</td>
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<td>➢ Festival activities and special events where located on public land currently undergo a double assessment process whereby assessment against the Development Plan occurs as well as assessment under relevant Council Events policies and guidelines for events occurs.</td>
<td>➢ Temporary activities such as festivals and special events on public land be dealt with solely under the Local Government Act which provides a more responsive legislative framework to appropriately manage the impact of such activities and negotiate a satisfactory outcome.</td>
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<td>➢ Section 6 of the Development Act, 1993 exempts the requirement to obtain approval for land uses deemed to be ‘trifling and insignificant’. Through case law and practice, there is some ambiguity when this clause can be used for temporary occupation of land.</td>
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| Temporary Building Occupation | ➢ There is increasing demand to use vacant buildings for temporary or short term occupation to accommodate cultural and artistic events and for temporary ‘pop-up’ businesses.  
➢ Such short term occupation can only occur if the approved land use and building class is not changing.  
➢ Established case law indicates that even temporary use of a building for a single event requires a change of land use application.  
➢ Proposals for temporary use which change the building occupant population and building class often trigger the requirement for significant building upgrades relating to emergency egress, disabled access, toilet provision and fire safety.  
➢ For example many start-up businesses established through Renew Adelaide are on 30-day rolling leases which enable businesses to ‘test the water’ regarding business viability. How this needs to be aligned with need to initially obtain and extend temporary development approvals. | ➢ Examine strategies to fast-track planning and building assessment for temporary land uses.  
➢ Examine broadening discretionary powers for qualified Building Surveyors to determine required compliance against the National Construction Code for temporary building occupation.  
➢ And/or alternatively, seek that temporary changes of land use within buildings be deemed ‘trifling’ or insignificant’ (subject to caveats regarding matters such as maximum floor area, maximum occupant population limit, maximum periods of time and location). Locations would most likely be limited to the following zones which do not contain a high proportion of sensitive land uses (i.e. residential) – e.g. limited to:  
- Institutional zones  
- Capital City Zone  
- Riverbank Zone  
- Park Land Zone |

**Notes**

6. Will require the ability to address unsuitable building classification and lack of certificate of occupancy.