

PLANNING AND DESIGN CODE PHASE 3 SUBMISSION

City of Adelaide

28 February 2020

DOCUMENT PROPERTIES

Contact for enquiries and proposed changes

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ACKNOWLEDGMENT OF COUNTRY

We acknowledge that Adelaide is on the traditional country of the Kurna people of the Adelaide Plains. We respect their Elders past and present. We recognise and respect their cultural heritage, beliefs and relationship with the land. We acknowledge that they are of continuing importance to the Kurna people living today. We also extend that respect to other Aboriginal Language Groups and other First Nations.

EXECUTIVE SUMMARY

This submission forms the City of Adelaide's response to the Draft Planning and Design Code (Urban) (the Draft Code) that was released for public consultation on 1 October 2019. It represents Council's fundamental commitment to the role of good planning in shaping a vibrant, sustainable, competitive, and liveable capital city.

The City of Adelaide is unique in South Australia; the state's capital city, economic hub, site of national heritage significance, and centre for culture and urban living. Business and residential growth will help the City thrive into the future, and an efficient, user-friendly planning system with strong design principles will support and facilitate this.

The City of Adelaide welcomes the recently extended implementation date for the Planning and Design Code as a valuable opportunity to ensure that critical issues of completeness, quality, consistency, and implementation readiness are resolved prior to the Code coming into effect. Council seeks ongoing collaboration to assist the State Government during this period to address issues raised in this submission. This submission includes a substantial evidence base, through an audit of where the Adelaide (City) Development Plan policies have or have not landed in the Draft Code and the impacts of these changes which have been discussed with the Department of Planning staff (see Attachment A.2). This has assisted Council to identify important policies which are currently missing in the Draft Code and a risk to the future of the City, which are subsequently recommended to be re-included in the Code (see Attachment A.1).

The City of Adelaide has 4 main concerns with the Draft Code:

1. As a development assessment tool, the Draft Code is incomplete.
2. Exclusion of significant and effective policies within the current Adelaide (City) Development Plan risks the future social, economic and physical prosperity of the City.
3. The Draft Code adds unnecessary onus, cost, and time to the assessment of some developments.
4. Failings of process are likely to result in the Draft Code undermining good planning practice and lead to compromised development outcomes.

These points are elaborated upon below.

As a development assessment tool, the Draft Code is incomplete

The draft documents on public consultation are insufficient to enable understanding and communication of, thus compromising Council's and the community's ability to prepare for the full impact and implications of the Draft Code on City development.

Public realm matters have not been addressed within the Draft Code, nor have any Design Standards released for consultation. Without these policy documents being in place is likely to undermine the capacity of the planning system to protect and enhance the quality of the public realm, resulting in uncertainty about how public land is used and managed.

The absence of a mechanism to replace existing sections of the *Local Government Act 1999* reduces the City of Adelaide's ability to manage impacts upon City businesses, residents and visitors caused by unregulated use of public roads and footpaths and is a fundamental concern of the Council. We request the State Government urgently address this matter in consultation with Council.

Exclusion of significant and effective policies risks the future of the City

From the earliest stages of planning reform, the State Government communicated that the initial Planning and Design Code would comprise current Development Plan policies in the new format. In effect a "like for like" transition was proposed to precede future changes to policy content that was to be developed in consultation with councils, community and stakeholders.

The current version of the Draft Code does not represent that commitment. Policy intent, content and tools fundamental to the City of Adelaide's ability to sustain and enhance the quality of its streets and buildings are absent from the Draft Code, and must be reinstated or replaced with suitable alternatives to avoid poor development outcomes that will potentially have a negative effect on the look and feel of our City. Amongst lost policies are those relating to demolition, economic activity, land use, design and character, the public realm and pedestrian movement.

The Draft Code raises Council's real concerns for the future, including the potential for an increased number of vacant sites as a result of premature demolition, a lower quality of built form and public realm than is currently enjoyed by the city's residents, workers, and visitors. The Code has the potential to negatively impact the quality of the pedestrian experience, and result in more conflict in the City environment resulting from potential incompatible land uses, traffic, noise, and management of waste.

The exclusion of important policies also removes or limits opportunities that currently exist in support of sustainable transport, economic development, sustainability and climate change adaptation, equity and diversity, and the arts. Many of these policies have been developed over time with considerable research and engagement and have been tried and tested over many years.

In 2019, the City of Adelaide declared a 'Climate Change Emergency'. It is critically important to Council that all tiers of government work together to take urgent action to manage risks related to climate change, and the new planning system should play a role in this.

The Draft Code lacks policies that assist with recognising unique attributes of local areas to ensure important and heritage places and areas are protected. This point extends to the nationally registered importance of the Adelaide Park Lands.

Unnecessary onus, cost, and time in development assessment

Through error or oversight, the effect of some parts of the Draft Code on the City of Adelaide will result in:

- increased public notification requirements,
- less certainty in determining particular classes of development,
- more complex and potentially longer and more costly assessment processes.

There are instances in which implementation of the Draft Code would require that applications that are simple and straightforward under the current Development Plan, are processed according to a more onerous assessment process and require public notification despite their low community impact or desirable development outcome.

Process is compromising quality development outcomes

The once in a generation opportunity presented by system-wide reform comes with a responsibility to consider the best available sources of knowledge and good practice to shape the future of our State.

The Draft Code has been prepared with a lack of community and stakeholder engagement, and it lacks evidence-based investigations to support significant policy shifts. The City of Adelaide is concerned that the community is not aware or does not fully understand the level of changes proposed to planning policies that affect their area or property.

In the City of Adelaide, the Draft Code introduces significant policy change relating to retail development and residential areas encouraging more a mixed-use development pattern which will create very different outcomes on the ground to those facilitated through the current system. The City of Adelaide has not been consulted on these shifts in policy direction, nor made aware of any compelling reasons or evidence base for the change. This potentially will undo 40 years of consistently applied policy that has supported growing the city population through a range of housing choices.

Preliminary commercial advice (Attachment A.11) has been obtained by Council regarding the Draft Code's proposal to enable within the City Living Zone a change of land use to 50sqm of a building to a commercial use as a 'Deemed to Satisfy' (DTS) development application. The advice affirms the 50sqm DTS proposal would weaken the business and economic role of main streets, reduce amenity in residential areas, reduce residential population in residential areas, and not foster public transport. The advice outlines main streets are experiencing insufficient demand, thus this proposal to increase supply, in particular through the DTS approval process, in locations other than main streets has insufficient basis and is at odds with fostering vibrant main streets and pleasant residential areas.

Finally, the lack of progress and consultation on essential implementation tools required for the Code's functioning, such as, the map viewer and ePlanning platform creates uncertainty for the City of Adelaide in its efforts to be business ready for implementation of the new planning system. This impacts not only the functioning of the planning system but the councils' business operations and ability to adequately service its customers and community.

City of Adelaide recommendations to State Government

The following list outlines all the recommendations that are made throughout this submission. The recommendations are found under the relevant subheading under Section 5.

1. Request to commence collaboration with the State Planning Commission on a Regional Plan for the City.
2. Request the State Planning Commission collaborate with the City of Adelaide to ensure that all relevant public realm matters are encapsulated appropriately in either the Planning and Design Code or a City of Adelaide Design Standard.
3. Enable regulation of the use of public roads through one of the following options (in order of preference):
 - a. Amending the PDI Act; or
 - b. Not proclaiming Schedule 6, Part 7 (Amendment of the LG Act), to allow for further investigations to be undertaken to understand the impacts and put appropriate measures in place to avoid adverse impacts; or
 - c. Development of a Practice Direction and/or Practice Guideline to clearly state that the planning approvals process should not consider construction matters or management of the use the public realm and that these remain within the ambit of Sections 221 222 of the LG Act; and

- d. Ensure public realm matters are encapsulated appropriately in either the Planning and Design Code or a specific City of Adelaide Design Standard prior to implementation of the Planning and Design Code; and
 - e. Investigate whether under the PDI Act, any standard conditions on a Development Application may resolve some matters currently dealt with by a Section 221/222 permit; and
 - f. Investigate the further legislative impacts of the amendment and put in place appropriate measures to ensure procedural processes are effective prior to implementation of the Planning and Design Code.
4. Include universal design principles within the Code and/or within relevant Design Standards prior to implementation (refer Attachment A.1 and A.2).
 5. Include existing Development Plan policies in the Planning and Design Code, as detailed in Attachment A.1 and A.2 of this submission.
 6. Include non-envisaged land use list to provide clarity and certainty to the community about what is envisaged, that will facilitate achievement of mandated assessment timeframes.
 7. Reword the procedural matters tables within all Zones applying to the City of Adelaide so that unnecessary public notification in the city for minor applications does not occur.
 8. List all envisaged land uses and development types within Zone classification tables and provide policies for their assessment to streamline processing and avoid envisaged land uses defaulting to the classification of all other code assessed development.
 9. Implement consistent language to describe forms of development throughout the Planning and Design Code, using defined terms wherever possible.
 10. Ensure classification tables in the City Zone reflect the common development types that occur in the local context enabling simpler and more efficient assessment of these applications.
 11. Implement a launch date that allows sufficient time to achieve the following:
 - Undertake comprehensive testing of the Planning and Design Code to identify significant policy changes, errors, missing content and/or unintended consequences to allow for required policy amendments;
 - Undertake additional consultation on changes to the Planning and Design Code arising from Phase 3 submissions (in preference to not making changes to the Draft Code following consultation on the basis that changes would delay introduction of the Planning and Design Code);
 - Notify every South Australian of the changes proposed to their property to meet the intent of the PDI Act and Community Engagement Charter;
 - Test the effect of the proposed Planning and Design Code in the ePlanning system (as originally proposed for in the announced transition process); and
 - Provide adequate time to prepare for the full implementation of the changes, including the considerable integration works required to Council's business systems in order to maintain current business operations and service levels to our community.
 12. Reinstate the policies developed collaboratively by the City of Adelaide and DPTI in good faith, and/or clearly communicate why this body of work was excluded from the Draft Code.
 13. Ensure forms of development assessed on merit currently are not classified as restricted under the Planning and Design Code, but rather performance assessed with reference to appropriate policies to be included in the Planning and Design Code.

14. Include comprehensive policies within the Planning and Design Code to assist with assessment or allow for matters to be conditioned, to streamline assessments.
15. Insert into Part 5 (Designated Areas) of the Planning and Design Code the following indicated in blue text:

Relevant authority - Commission	
Areas identified for the purposes of clause 4(1) of Schedule 6 of the Regulations – Buildings exceeding 4 storeys	Design Overlay <i>excluding where it applies to the City of Adelaide.</i>

1. INTRODUCTION

1.1 Scope of submission

This submission forms the City of Adelaide's response to the Draft Planning and Design Code (Urban) (the Draft Code), released for public consultation on 1 October 2019. Once finalised, the Draft Code will guide all future development in the City of Adelaide, replacing the Adelaide (City) Development Plan with its specific zones and policies that have been developed and refined over the last 5 decades.

A document of some 3,031 pages, the Draft Code has presented a significant undertaking for the City of Adelaide to interpret and consider its implications for the future of the City. Council has invested significant resources for this task, with the comprehensive analysis undertaken forming the basis of this submission.

In this context, it is important to note that updated classification tables to the October 2019 Draft Code released by the Department for Planning, Transport and Infrastructure (DPTI) on 23 December 2019 have not been reviewed in preparing this submission. The large volume of additional material released without extension to the consultation timeframe has made review of this material impossible in terms of the resources required to consider the volume of content.

The research and investigations undertaken to inform this submission have also been undertaken with the purpose of providing a clear record and line of sight between the current Adelaide (City) Development Plan and Draft Code that will be useful for future reference and audit purposes.

1.2 Planning reform context

The inception of the current planning reforms was in 2013 with the formation of the Expert Panel. The Expert Panel's vision for South Australia's new planning system was to create an 'effective, efficient and enabling planning system that:

Is simple, transparent, easy to understand and user-oriented

Is outcome-focussed, evidence-driven and open to innovation

Provides streamlined processes for investment at any scale

Is responsive to changing circumstances and priorities

*Places a premium on professionalism and integrity.*¹

Following a program of community and stakeholder engagement and the publication of 3 reports on the Expert Panel's findings, reform progressed with the gazettal of the *Planning and Development Act 2016* (SA) (the PDI Act).

Subsequently, various permeations of *Planning, Development and Infrastructure Regulations* have been developed to enable the new system to be brought into effect, with some gazetted and others still in progress. State Planning Policies provide the strategic land use planning framework for the state as a whole

The current stage of reform is the Planning and Design Code, described by the SA Planning Portal as:

¹ South Australia's Expert Panel, 'The Planning System we want on planning reform', December 2014, p 11.

the cornerstone of South Australia's new planning system. The Code will replace all development plans to become the single source of planning policy for assessing development applications across the state.

The Planning and Design Code is proposed to be implemented alongside an ePlanning tool through which the development assessment process will be conducted exclusively online.

1.3 City of Adelaide context

The City of Adelaide is a unique part of South Australia in many ways: the capital city of South Australia, an economic hub, a site of national heritage significance, and a centre for culture, lifestyle, and urban living. Each of these characteristics has been supported over the decades by a robust urban planning framework that has stood the test of time, in both the strategic and the day to day management of development and the urban environment.

Adelaide is a City Designed for Life. We know that built form and the urban environment contributes to overall liveability of a place, the wellbeing of its people and the richness of the experiences it offers. That is why people movement, accessibility and the built environment is not just about development for growth's sake. It's about evolving with the community's needs to shape and define the place we love. Our pioneering spirit ensures we stay ahead of the development curve, being thoughtfully innovative in shaping policies, prioritising our community's wellbeing as we evolve Adelaide's renowned character and heritage by design.

The City of Adelaide strongly supports development in the City, just as it supports high quality public spaces, sustainable landscapes, connected communities, protecting heritage for future generations, and vibrancy in arts and culture.

Business and residential growth will help the City thrive into the future, and an efficient, user-friendly planning system with strong design principles supports this.

1.4 Key issues and recommendations

The most significant finding of the City of Adelaide's review of the Draft Code is that it is not ready for implementation. On 7 February 2020, it was announced that the 1 July 2020 deadline for implementation, as stipulated in the PDI Act would be amended to a date to be set by proclamation in the SA Government Gazette, although the Minister for Planning has suggested that this will be September 2020.

Whilst this delay in implementation is commended, a primary recommendation of this submission is that the State Government extend the implementation not to just a date, but to ensure that critical issues of completeness, quality, consistency, training and business readiness are resolved prior to the Planning and Design Code coming into effect as the State's most significant instrument for development assessment.

The need for more time is further exemplified by the underdeveloped status of the ePlanning system and the training and implementation program required to enable a smooth transition to use of the Planning and Design Code.

Four significant concerns with the Draft Code underpin the need for more time to develop the Draft Code to a fit for purpose standard:

1. As a development assessment tool, the Draft Code is incomplete

Design standards for development, policies to address the public realm and arrangements for use of public realm must be in place for the real implications of application of the Draft Code to be understood.

2. Significant and effective policies have been excluded from the Draft Code

A vast range and number of policies including those relating to demolition, design, character and local context and must be reinstated or replaced with suitable alternatives. The exclusion of these policies creates uncertainty in the assessment process and

invites poor development outcomes that have a negative effect on the look and feel of our City.

3. The Draft Code adds unnecessary onus, cost, and time to the assessment of some developments

Through error or oversight, the effect of some parts of the Draft Code on the City of Adelaide is excessive public notification requirements, less certainty in determining class of development and lack of specific policy leading to more complex, and accordingly longer and more costly assessment process.

4. Failings of process have resulted in the Draft Code undermining good planning practice and compromising quality development outcomes

There is a need to address the weaknesses in the Draft Code that have occurred as a result of poor community and stakeholder engagement, and a lack of evidence-based investigations to support significant policy changes.

Unresolved, these issues pose real risks to the future environment, community and economy of the City of Adelaide. The matters identified are not critique for critique's sake, but rather represent the City of Adelaide's fundamental commitment to the role of good planning in shaping a smart, green, liveable and creative capital city.

1.5 Guide to the submission

In preparing this submission the City of Adelaide has undertaken extensive analysis and scenario testing of the Draft Code and its practical implications for development assessment. This analysis has informed the submission as presented in the following sections:

- Section 2 describes the unique nature of the City of Adelaide in an urban planning context, forming a reference point for consideration of impacts of the Draft Code
- Section 3 examines the Draft Code's alignment with strategic directions established in the State Planning Policies and City of Adelaide Strategic Plan 2016-2020
- Section 4 identifies the successful aspects of the Draft Code from the City of Adelaide's perspective
- Section 5 identifies recommendations to amendments to the Draft Code, based on the detailed analysis included in the Attachments A.1, A.2, A.3 and A.10.
- Section 6 details policy change, key issues and recommendations by zone, based on the detailed analysis included in the Attachments A.1 and A.2
- Attachments A.1 through A.11 form the detailed analysis of the Draft Code, specifically:
 - City of Adelaide Draft Code amendment document – proposed rewording and additional policies to be added
 - Audit of Adelaide (City) Development Plan against Draft Code
 - Draft Code testing using City of Adelaide development application examples
 - Low Risk Application study
 - City of Adelaide proposed Historic Area Statements
 - Commentary on Draft Practice Directions released 1 October 2019
 - Legal advice obtained by City of Adelaide relating to public realm matters
 - Detailed analysis of how the State Planning Policies have been captured in the Draft Code

- Recommendations for improvement to Part 1 – Rules of Interpretation of the Planning and Design Code
- Recommendations for improvement to Parts 7 and 8 – Land use definitions and Administrative definitions of the Planning and Design Code
- Preliminary commercial advice on impacts of policy introducing increased mixed-use development to residential areas and impacts on Main Streets

2. A UNIQUE HISTORY

The City of Adelaide occupies a special place in the context of Greater Adelaide and South Australia – effectively constituting the “heart” of our State.

Colonel William Light planned the “Capital City of Adelaide”, with the proposed built form surrounded by park lands, a design of international quality and importance. The Park Lands and City Layout are nationally recognised for their heritage value, reinforcing their cultural significance and contribution to sense of place.

In 2020, Adelaide welcomes ever increasing numbers of workers, students, tourists, visitors from the wider metropolitan area, and a growing population of residents. As well as being a centre of commerce, employment, and economic growth, the City is a vibrant cultural hub, it embraces research and development fostered by world class universities, numerous international arts festivals, and the world’s most significant collection of Aboriginal art and artefacts.

From an urban planning and local governance perspective, the needs and aspirations of the City of Adelaide are different to those of its immediate local government neighbours and other councils further afield. This distinction is acknowledged by a range of stakeholders including Australian and State governments, other councils and the Local Government Association, the Capital City Committee, and specifically by South Australia’s peak urban planning authority the State Planning Commission in its release of a dedicated section on the City of Adelaide in the *30-Year Plan for Greater Adelaide*.

This unique role in South Australia has historically made the City of Adelaide the subject of urban planning innovation, with examples including but not limited to:

- The *City of Adelaide Development Control Act 1976* providing for five yearly reviews to create a Plan, creation of innovative desired character statements, and City based decision-making arrangements for development
- The *City of Adelaide Act 1998* establishing a Capital City Committee - a unique collaborative governance measure through which senior elected representatives of the State Government and Council oversee common initiatives and coordination of functions
- The *Adelaide Park Lands Act 2005* establishing the Adelaide Park Lands Authority, a subsidiary of the Council with a board comprising both Council and State appointed members tasked with advising on the future of the unique Adelaide Park Lands
- The current *Development Regulations 2008* (SA) have a number of City of Adelaide specific policies which were transitioned across from the *City of Adelaide Development Control Act 1976*. These policies have represented the legacy of the City’s leadership in planning and are important controls that were established to protect the city’s identity. These include:
 - provisions which require consent for demolition within the City which has proved critically important in minimising the unnecessary and premature demolition of buildings leading to vacant sites which provide little or no social, economic or physical value to the city, reduce activation opportunities and negatively affect city streetscapes; and
 - specific provisions relating to when advertising requires development approval or when it doesn’t.
- The *Planning, Development and Infrastructure (General) Regulations 2017* remove these unique clauses, requiring the City of Adelaide to fall into line with state-wide provisions. Creating consistency across the state is a key reason for the reform and City of Adelaide appreciates that having state-wide provisions would simplify things.

However, the historical reason for the City of Adelaide demolition and advertising provisions is steeped in history stemming back to the *City of Adelaide Plan 1974*, prior to the state-wide *Development Act 1993*. No rationale has been provided in support for removing these regulations. This may erode the legacy of the City's leadership in good planning practice and outcomes and risks the unique context that has helped shaped our capital city.

3. STRATEGIC ALIGNMENT

3.1 Alignment of the Planning and Design Code with State Planning Policies

The new planning system establishes a new policy framework and hierarchy. With the PDI Act and associated Regulations, the new planning system creates three key policy documents:

1. The State Planning Policies (SPPs) represent the highest-level policy document in the new planning system and provides planning objectives for the long-term vision for the entire state.
2. Regional Plans form the strategic documents that relate to a region.
3. The Planning and Design Code guides development assessment.

Regional Plans have not been developed in the new system, but will, for the time being, rely on the 30-year Plan for Greater Adelaide. This document does not provide the strategic focus the City seeks. There is risk that without a City focussed Regional Plan in place, the Council's strategic goals may not be achieved with the new planning system. Council would like to commence working with the State Planning Commission on a Regional Plan for our State's capital.

It is a requirement of the PDI Act that each document must be consistent with a higher-order document, to ensure that the long-term vision and strategic goals of an area can be facilitated and achieved.

The table below is a high-level assessment of the extent to which the Draft Code policies for the City of Adelaide contribute to achieving the SPPs, compared to the current City of Adelaide Development Plan. This analysis demonstrates there are many SPPs at risk of not being achieved unless recommendations for improving the Planning and Design Code are implemented. A thorough and detailed analysis is provided in Attachment A.8.

Recommendations

1. Request to commence collaboration with the State Planning Commission on a Regional Plan for the City.

State Planning Policies Objectives	P&DC alignment with SPP
1 - Integrated Planning Integrated planning coordinates the strategic use of land with the necessary services and infrastructure. It can influence how a city or region grows and evolves, which if done well, creates liveable and sustainable places that contribute to our prosperity.	Partially achieved
2 - Design Quality Good design improves the way our buildings, streets and places function, making them more sustainable, more accessible, safer and healthier. The integration of design within the planning system encourages creative solutions to complex social, economic and environmental challenges including those arising from our changing settlement patterns.	Not Achieved
3 - Adaptive Reuse Adaptive reuse of buildings, sites and places in both urban and rural settings can have cultural, social, economic and environmental benefits. It can rejuvenate neighbourhoods and strengthen a sense of place and familiarity with the surrounding environment. A strong link to the past can enhance a sense of place, history and belonging and unlock new opportunities and promote innovation in design.	Partially achieved
4 - Biodiversity South Australia's unique biodiversity contributes to our quality of life, supports our economy and provides life-supporting functions such as clean air, water, sea and land. Maintaining and enhancing a healthy, biologically diverse environment ensures greater resilience to climate change, increases productivity and supports a healthy society.	Not achieved
5 - Climate Change Climate change will impact all areas of our society. Our future prosperity, the liveability of our cities and towns, the health and wellbeing of our communities and the resilience of our built and natural environment all depend on how well we adapt to and mitigate the impacts of climate change.	Not Achieved
6 - Housing Supply and Diversity Housing is an essential part of people's health and wellbeing. Our planning system must enable the sufficient and timely supply of land and a variety of housing choices at appropriate locations. With the changing composition of our community and our desire to live more sustainably, our housing supply needs to become more diverse in both metropolitan Adelaide and regional township locations.	Partially achieved
7 - Cultural Heritage South Australia's cultural heritage reflects the diversity, unique features and key moments in our state's history and contributes to our community's understanding of its sense of place and identity. The enduring, living, spiritual and cultural connection to the land by South Australia's First Peoples is recognised and acknowledged as an essential part of our cultural heritage.	Partially achieved
8 - Primary Industry South Australia's agriculture, forestry, fisheries and aquaculture industries are fundamental to our prosperity and identity. Along with their associated tourism and service industries—and the infrastructure that supports their production and marketing—primary industry value chains are major generators of economic activity and employment in each of the regions of the state.	Partially achieved
9 - Employment Lands Providing a suitable supply of land for employment uses is critical to support job growth and the economic prosperity of the communities. The planning system needs to support the diversification of our economy and remove barriers to innovation. It is critical that the right signals are sent to the market to attract interest, investment and tourism opportunities across South Australia.	Insufficiently achieved

<p>10 - Key Resources</p> <p>Our valuable mineral and energy resources are the property of the Crown and are managed by the state on behalf of all South Australians. The mineral and energy resource sectors will continue to fuel economic development, support the growth and development of our communities, and provide an income stream to help fund infrastructure and support construction affordability.</p>	Partially achieved
<p>11 - Strategic Transport and Infrastructure</p> <p>The economic and social prosperity of South Australia relies on a transport system that is safe, integrated, coordinated, dependable and sustainable. Transport systems that provide effective connectivity underpin access for business to local, national and international markets; link people with employment, goods and services by providing travel choices; and contribute to a healthier and more connected society.</p>	Not achieved
<p>12 - Energy</p> <p>The provision of sustainable, reliable and affordable energy is essential in meeting the basic needs of communities and ensuring the long-term supply of key services across South Australia. Industries and business rely on energy for their viability while households rely on it daily to support their lives, health and comfort. The production of energy and associated infrastructure also contributes significantly to the state's economy.</p>	Partially achieved
<p>13 - Coastal Environment</p> <p>The South Australian coastal and marine environment has high intrinsic, aesthetic, social, environmental and economic values. It includes beaches, oceans, dune systems, tidal waters, wetlands and cliffs. The natural features of the coastal environment also provide vital habitat, contribute to our biodiversity and play an important role in protecting development and human occupation from flooding and erosion.</p>	Partially achieved.
<p>14 - Water Security and Quality</p> <p>Water is one of South Australia's most valuable natural resources. Access to a safe and reliable water supply is essential to support our communities and our diverse economy. Our water dependent ecosystems also rely on access to water so that they can continue to provide cultural, aesthetic, amenity, recreational and tourism benefits. It is therefore vital that we continue to protect and plan for our water now and into the future.</p>	Partially achieved
<p>15 - Natural Hazards</p> <p>Natural hazards are an integral part of the South Australian landscape and have the potential to impact on people, property, infrastructure, our economy and the environment. As we continue to grow and develop we need to plan for and mitigate risks from these hazards</p>	Partially achieved
<p>16- Emissions and Hazardous Activities</p> <p>Protecting communities and the environment from exposure to industrial emissions and hazards and site contamination is fundamental to the creation of healthy cities and regions. At the same time, it is critical that South Australia's industrial and infrastructure capacity and employment levels are preserved.</p>	Partially achieved.

3.2 City of Adelaide Strategic Plan 2016-2020

The Draft Code has been analysed against the City of Adelaide Strategic Plan 2016-2020 to demonstrate how the new planning system may impact Councils strategic goals.

Please note, the City of Adelaide 2020-2024 Strategic Plan is currently undergoing drafting and consultation.

Objective	Action	Analysis of the Draft Planning and Design Code
SMART	<ul style="list-style-type: none"> Develop and promote an international City brand that showcases the smart, liveable, green and cultural advantages of Adelaide 	<ul style="list-style-type: none"> The Planning and Design Code will be important to ensure development achieves and enhances the city brand; 'Adelaide: Designed For Life'. Development needs to support the brand as one of the most liveable cities in the world by showcasing best practice design. The Draft Code does not emphasize this. Amendments to the Planning and Design Code, proposed as part of this submission may assist in supporting this action. However, emphasis of the importance of the City brand, may be better placed in a City of Adelaide Regional Plan which Council would like to discuss further with the Commission.
GREEN	<ul style="list-style-type: none"> Improve energy performance and use of renewable energy in Council and privately-owned buildings, including consideration of solar heating, solar energy generation and battery storage Work with private property owners and the State Government to embed better environmental performance into new and existing developments Identify opportunities for building adaptation and re-use that supports heritage aspirations while reducing carbon emissions and waste Work with all City stakeholders to increase public and private greening with street trees, gardens, community gardens, green walls and roofs, providing incentives where appropriate 	<ul style="list-style-type: none"> The Planning and Design Code has opportunity to respond to a changing climate and ensuring our built form, transport and waste systems are resilient. A number of actions set out in the City of Adelaide's Carbon Neutral Action Plan have not been met and have been delayed by the Planning Reform process. The City of Adelaide remains committed to ensuring development responds to our changing climate and appropriately manages our built form, transport and waste systems to ensure they are resilient. Amendments to the Planning and Design Code, proposed as part of this submission are sought to reduce the risks associated with climate change.
LIVEABLE	<ul style="list-style-type: none"> Encourage growth in the full range of residential property development in a mixed-use environment in a manner that respects the human scale and different character of districts in the City Promote and protect Adelaide's built character and heritage 	<ul style="list-style-type: none"> The Draft Code loses much of the fine grain detail that will reinforce the human scale and different character of districts in the City. There is a need to reinstate and enhance this policy to support contextual design. Whilst the Draft Code proposes a framework for heritage which is considered appropriate, the policies and statements

	through our operations, incentives, policies and direct investment, while working with and advocating to Federal and State governments for an increase in City buildings protected under State or Local Heritage regulations	relating to protection of heritage in the Draft Code require strengthening in order to protect Adelaide's built character and heritage.
CREATIVE	<ul style="list-style-type: none"> Increase public art and cultural expression in private development by using planning levers and requirements 	<ul style="list-style-type: none"> The Draft Code proposed no policies that guide public art and cultural expression in Development. Nor have levers been utilised to support public art in development. Amendments to the Planning and Design Code, proposed as part of this submission would provide policies to encourage development to value add to the city through creative expression.

4. WHAT THE DRAFT CODE DOES WELL

4.1 Recognising the City of Adelaide

The Draft Code preserves a number of the City of Adelaide's specific Zones and includes with several Subzones, acknowledging the uniqueness and importance of the City and North Adelaide to the state.

4.2 Structure and layout

The Draft Code modules (Zones, Subzones, Overlays and General Development Policies (GDP)) consistent structure is logical and assists with understanding. The use of subheadings within these modules makes particular policies easy to find. It is understood that all modules will utilise the previously promoted table format by implementation of the Planning and Design Code, with performance outcomes and deemed-to-satisfy or designated performance features sitting in side-by-side columns. This will significantly assist the readability and understanding of the Planning and Design Code.

The structure for the administrative and land use definitions (parts 7 and 8 of the Draft Code) is excellent. The use of an 'includes' and 'excludes' column are very useful. Whilst the tables require additional definitions to be added (see detailed discussion on this below), the structure is a good starting point and will assist to provide clarity in the future, and reduce the need for preliminary legal advice to determine the true nature of development.

4.3 Framework for heritage conservation

Whilst the policies require strengthening (see detailed discussion on this below), the framework for heritage that the Draft Code proposes is considered appropriate to maintain these unique and important places and areas. Additionally, the roll-over of all listed State Heritage Places and Local Heritage Places is valued by Council, with the City of Adelaide having 27% of South Australia's listed heritage places.

4.4 Water Sensitive Urban Design

The introduction of improved water sensitive urban design (WSUD) principles. However, the Planning and Design Code would benefit from WSUD principles appearing under all subheadings within the 'Design in Urban Areas' GDP. WSUD should be an aspiration for all development types, from small scale residential to high scale; this is currently not the case in the Draft Code.

The Draft Code WSUD policy will more easily enable CoA's aspiration of a liveable City but require further strengthening particularly in relation to the WSUD "deemed-to-satisfy" policies. Additionally, the provision of readily available guidelines for applicants would assist understanding, and combined with an appropriately implemented compliance mechanism will ensure the new planning system achieves WSUD.

4.5 Rationalisation of policy

A core objective of the planning reform was to achieve a rationalisation in policies across the State. The Draft Code has removed duplication of policy.

5. RECOMMENDATIONS FOR AMENDMENTS TO THE DRAFT CODE

The matters summarised below must be resolved prior to the finalisation and implementation of the Planning and Design Code. Unresolved, these issues pose real risks to the future environment, community and economy of the City of Adelaide.

The program of planning reform initiated in 2013 is a once in a generation event, and an immense task to embark upon and complete. South Australia's Expert Panel on Planning Reform established clear directions for the new planning system, intended to benefit all South Australians. Since the panel's ideas for reform were published in 2014, significant work has occurred, but the process has in part lost sight of the directions for reform, and how to best achieve the desired outcomes for a new planning system.

The matters identified here are not intended as critique for critique's sake, but rather represent the City of Adelaide's fundamental commitment to the role of good planning in shaping a vibrant, sustainable, competitive, and liveable capital city.

5.1 The Draft Planning and Design Code is incomplete

The City of Adelaide has thoroughly considered the consultation version of the Draft Code.² Regrettably, key policy elements with direct bearing on the implementation of the Code in the City of Adelaide have not been provided for comment, and the status of these elements is unclear.

In effect and based on the information provided, the City of Adelaide is unable to understand, communicate, or prepare for the full impact and implications of the Planning and Design Code on the City's landscapes and communities. Specific examples are described in the following table.

² The updated classification tables to the Draft Code released by SPC on 23 December 2019 have not been reviewed. The large volume of additional material released without extension to the consultation timeframe has made review of this material impracticable in terms of the resources required to consider the volume of content, and the council's internal processes for endorsement of submissions.

MISSING PIECES in the Draft Code/system	RISKS for the City of Adelaide
<p>Public realm</p> <p>Following requests for draft Design Standards, DPTI confirmed in December 2019 that none had been developed to date. The PDI Act requires that aspects of development relating public realm, infrastructure and encroachment be assessed against the P&D Code or Design Standards.³</p> <p>Further, the P&D Code does not include adequate provisions relating to development or activity in the public realm for the City of Adelaide.</p>	<p>Protection, coordination and enhancement of the public realm cannot be achieved through development control, resulting in reduced quality of the public realm, reduced safety and reduced visual amenity, and more uncertainty and conflict around the use of public land.</p>
<p>Approvals under sections 221 and 222 of the <i>Local Government Act 1999</i></p> <p>The PDI Act amends Sections 221 and 222 of the <i>Local Government Act 1999 (SA)</i> (LG Act) with the effect that activities currently requiring a council-issued permit will no longer require a permit if the activity forms part of an approved development application under the PDI Act.</p> <p>This relates to activities such as use of public roads (e.g. road closures, erection of cranes, encroachments), use or changes to public footpaths (e.g. outdoor dining, changes to crossovers) etc.</p>	<p>Unregulated use of public roads and footpaths (e.g. road closures, crane erection, outdoor dining, crossover changes) may lead to negative impacts upon:</p> <ul style="list-style-type: none"> • Conflicting legislative requirements whereby public consultation on changes to a public road are not able to be undertaken; • Use and enjoyment of the public realm; • Public safety, public liability and indemnity Maintenance and repair; • Local trade; • Occupiers of private land.

³ *Planning Development and Infrastructure Act 2016 (SA)* s 102 and 69.

MISSING PIECES in the Draft Code/system	RISKS for the City of Adelaide
<p>Universal Design</p> <p>The PDI Act provides principles of good planning, including that <i>“built form and the public realm should be designed to be inclusive and accessible to people with differing needs and capabilities (including through the serious consideration of universal design practices)”</i>.^[1]</p> <p>The Draft Code does not provide enough principles relating to universal design, nor are these principles applied to all development types, minimising their application in achieving universal design.</p>	<p>Unable to require universal design in development to provide access to people of all abilities in the City of Adelaide.</p>

Recommendations

2. Request the State Planning Commission collaborate with the City of Adelaide to ensure that all relevant public realm matters are encapsulated appropriately in either the Planning and Design Code or a City of Adelaide Design Standard.
3. Enable regulation of the use of public roads through one of the following options (in order of preference):
 - a. Amending the PDI Act; or
 - b. Not proclaiming Schedule 6, Part 7 (Amendment of the LG Act), to allow for further investigations to be undertaken to understand the impacts and put appropriate measures in place to avoid adverse impacts; or
 - c. Development of a Practice Direction and/or Practice Guideline to clearly state that the planning approvals process should not consider construction matters or management of the use the public realm and that these remain within the ambit of Sections 221 222 of the LG Act; and
 - d. Ensure public realm matters are encapsulated appropriately in either the Planning and Design Code or a specific City of Adelaide Design Standard prior to implementation of the Planning and Design Code; and
 - e. Investigate whether under the PDI Act, any standard conditions on a Development Application may resolve some matters currently dealt with by a Section 221/222 permit; and
 - f. Investigate the further legislative impacts of the amendment and put in place appropriate measures to ensure procedural processes are effective prior to implementation of the Planning and Design Code
4. Include universal design principles within the Planning and Design Code (refer Attachment A.1 and A.2) and/or within relevant Design Standards prior to implementation.

Public Realm – a missing piece

The PDI Act provides that developments must be assessed against the ‘planning rules’.⁴ The PDI Act defines ‘planning rules’ as including the Planning and Design Code and ‘Design Standards’, which relate to public realm or infrastructure matters.⁵ Many developments within the City of Adelaide have an impact or propose development on or within the public realm.

The Draft Code released 1 October 2019, does not provide any policies relating to the public realm, nor were any Design Standards released for consultation. Without policies in place, when the Planning and Design Code is implemented, many public realm matters may be at risk of not having a policy framework within which these would be appropriately dealt with. This is currently a missing element of the planning reform and significant risk to Council.

Additionally, the PDI Act makes amendments to Sections 221 and 222 of the *Local Government Act 1999* (SA) (LG Act). These sections relate to permits currently issued by Council for work and development within the public realm. In summary, these amendments mean that anything that would currently require a Section 221 or 222 permit to be issued by Council, if approved by a future development application under the PDI Act, a permit will no longer be required.

Whilst Council supports streamlining processes and removing red tape, these amendments appear to have not considered some fundamental and important processes of permits and poses a significant risk to Council.

Legal advice has been sought regarding the amendments. This advice outlines the risks for Council of this not being adequately resolved prior to implementation of the Planning and Design Code (legal advice provided in Attachment A.7). In summary the legal advice is as follows:

- If an application shows road closures or a crane on a plan that is granted Development Approval, a permit from Council would not be required. This would lead to an odd public policy outcome where an applicant for approval under the PDI Act can sidestep the clear legislative intent of the Parliament that certain alterations or use of public roads must be subject to public consultation.
- Council’s public realm policy documents need to be transferred to either policies within the Planning and Design Code or to a City of Adelaide Design Standard in the new planning system to be considered in the planning assessment process.
- The practical implementation of s 102(11)(b) which allows Council to charge fees for public realm matters is unclear.
- The requirement for, for example, the State Commission Assessment Panel to ‘consult’ with Council on anything that would otherwise be dealt with by s 221/22 of the LG Act, does not provide a timeframe for this process within the Planning, Development and Infrastructure (General) Regulations 2017, but does provide new statutory assessment timeframes. It is unclear how this ‘consultation’ will occur, and the timeframe involved.
- Matters relating to public indemnity insurance and liabilities are at risk of not being dealt with.
- It is unclear if Council wanted to undertake maintenance to a road and required public realm elements be removed to allow this, if this would be possible and if so, how it would occur.

⁴ *Planning, Development and Infrastructure Act 2016* (SA) s 102(1)(a).

⁵ *Planning, Development and Infrastructure Act 2016* (SA) s 69.

- It is also unclear what powers Council has to hold an encroachment owner accountable should their encroachment fall into disrepair.

Whilst Council staff have been discussing with DPTI staff possible ways to mitigate the unintended consequences of this legislative amendment, this must be resolved prior to the implementation of phase 3. This could put several public realm matters relating to construction, public consultation, liabilities, public indemnity insurance etc. at risk.

It is essential that these matters be dealt with and implemented at the same time the Planning and Design Code is implemented.

5.2 Loss of important policies risks the future look and feel of our City

From the earliest stages of development of the new planning system, DPTI communicated that the initial Planning and Design Code would comprise current Development Plan policies in the new Planning and Design Code format, in effect a “like for like” transition to precede future changes to policy content developed in consultation with councils, community and stakeholders.

The current version of the Draft Code does not represent that commitment. Policy intent, content and tools fundamental to the City of Adelaide’s ability to sustain and enhance the quality of its streets and buildings are absent from the Draft Code, and have not been replaced with substantive planning policy to the detail or rigour necessary to enable good development outcomes, evidenced by the review and testing of the Draft Code contained in Attachments A.1 through A.4.

Amongst current Adelaide (City) Development Plan policies excluded from the Draft Code are best-practice, evidence-based policies that directly contribute to the quality of environment and experience the city provides to its residents, workers, and visitors.

Attachments A.1 through A.3 illustrate in detail the extent and significance of policy loss in the City of Adelaide, while the following table summarises the policy losses of greatest impact, relating to:

- Demolition
- Design and character, appreciation of local context, and views
- Heritage, heritage adjacency, and the Adelaide Park Lands
- Movement, including policies relating to pedestrians, car and bicycle parking, integrated transport and land use planning, and emerging transport
- Land use
- Noise, waste management and energy efficiency
- Crime Prevention through Urban Design
- Public art
- Affordable housing and apartment quality

Policies EXCLUDED from the Draft Code	RISKS for the City of Adelaide
<p>Demolition</p> <p>In response to the unique and historic context, currently all demolition in the City of Adelaide requires planning consent. Demolition of a building is not supported until such a time as a replacement development on the site is granted Development Approval.</p> <p>Under the Draft Code no provision is made for demolition control in the City of Adelaide other than for a listed heritage place. This policy has been in place since the 1980s being an effective policy mechanism.</p>	<p>Unnecessary and premature demolition of buildings leading to vacant sites which provide little or no economic benefit to the city, reduce activation opportunities and negatively affect city streetscapes.</p>

Policies EXCLUDED from the Draft Code	RISKS for the City of Adelaide
<p>Design and character</p> <p>Policy tools to sustain local character and facilitate good design outcomes have been removed across the City of Adelaide (Refer below Section 5. Zone Summaries and Attachment A.2 Development Plan to Code Audit). Specific examples include the following policies lost in the Capital City and City Living Zones, however policy omissions across all Zones applying to the City of Adelaide have been identified.</p> <p>Policies absent from Capital City Zone:</p> <ul style="list-style-type: none"> • Human scale, a comfortable pedestrian environment, and intimate, active, inclusive and walkable spaces • Maintenance of Adelaide's distinct / historic grid pattern • The role of North Terrace as a cultural boulevard, King William Street as the commercial spine and Pulteney Street and Morphett Street as mixed-use commercial boulevards • Design solutions to ensure and facilitate good land use co-existence outcomes • Design of small-scale external alterations, e.g. shopfront alterations and canopies over footpaths • Application of podiums and associated design guidelines • Spacing between tower buildings to enable sunlight access to the public realm • Design and appearance of buildings e.g. façade composition, articulation and modelling with regard to settlement pattern Built form aspects of interface with the City Living Zone • Adaptability of ground floor levels through minimum ceiling to floor level heights. <p>Policies absent from City Living Zone:</p> <ul style="list-style-type: none"> • Design guidance to ensure buildings and additions are compatible with existing development (rather than a generic Deemed to Satisfy measure, e.g. for front setback) • Built form elements e.g. massing, frontage and setback widths, façade articulation • Local characteristics e.g. grand buildings on East Terrace, importance of landscaped grounds to historic character 	<p>Poorly designed development that does not respond to its context.</p> <p>Lowered quality of the built form and streetscapes that make the City:</p> <ul style="list-style-type: none"> • Economically attractive • Liveable • Walkable • Attractive to visitors • Competitive • Unique in the local character of its precincts and neighbourhoods. <p>Complaints due to poor outcomes being generated with little or no avenue for recourse.</p>

Policies EXCLUDED from the Draft Code	RISKS for the City of Adelaide
<p>Inappropriate land uses</p> <p>Explicit listing of land uses which are <i>not envisaged</i> in a Zone.</p> <p>Under the Draft Code land uses not explicitly envisaged default to a performance assessed development assessment pathway, but no suitable additional policies are included to guide an assessment.</p> <p>Additionally, some proposed Zones open up land use opportunities that are inappropriate for an area.</p> <p>The draft City Living Zone now has a more mixed-use approach than the intended residential focus, with shops, offices and consulting rooms under 50sqm being Deemed to Satisfy. This is not a provision that is contained anywhere within the Adelaide (City) Development Plan currently and has the potential to facilitate the infiltration on non-residential land uses within an historic residential area. This is not supported.</p> <p>Preliminary commercial advice affirms the 50sqm DTS proposal would weaken the business and economic role of main streets, reduce amenity in residential areas, reduce residential population in residential areas, and not foster public transport. The advice outlines main streets are experiencing insufficient demand, thus this proposal to increase supply, in particular through the DTS approval process, in locations other than main streets has insufficient basis and is at odds with fostering vibrant main streets and pleasant residential areas.</p>	<p>Establishment of land uses in areas where they are currently considered inappropriate due to potential for negative impacts and conflict, or where they compromise the intended land use profile of an area.</p> <p>Weakening of business and economic role of main streets and reduction in residential amenity.</p> <p>Council will have difficulty in assessing inappropriate development applications and will have no policy to refuse these applications against.</p>

Policies EXCLUDED from the Draft Code	RISKS for the City of Adelaide
<p>Appreciation of local context</p> <p>Desired Character Statements have been excluded from the Draft Code and the proposed Zones provide limited detail describing or requiring compatibility with the local context. The Draft Code uses Desired Outcomes, which are often very broad in application and do not provide enough detail about the local context.</p> <p>Existing Desired Character Statements have been drafted and refined over almost four decades, over which time they have facilitated good development outcomes that are suited to the contextually different localities within the City of Adelaide.</p> <p>Additionally, the Draft Code lacks policies relating to the streetscape in terms of height, roof form and pitch, scale, building materials, colours and detailing. These are important elements in ensuring a structure does not detract from the streetscape.</p>	<p>Undesirable change to the character, look and feel of local areas as the result of incompatible and inappropriate development.</p>
<p>Pedestrians</p> <p>Policy tools to protect and enhance pedestrian movement has been removed from the City of Adelaide Zones, and the General Development Policy modules do not relate to the complexity of the pedestrian network required for the City of Adelaide. Specific exclusions are:</p> <ul style="list-style-type: none"> • Policies that address the relationship of development with the human scale, and the intent to achieve a comfortable pedestrian environment • Map and policies addressing the core pedestrian area and envisaged pedestrian links⁶ • Policies to avoid creation of wind tunnels 	<p>Poor outcomes for pedestrian movement and the comfort of pedestrians moving within and through the City of Adelaide.</p>

⁶ City of Adelaide has identified a need to update these maps. The Draft Code currently does not provide adequate reference to the pedestrian network of the City and it is considered that this substantial change is beyond the scope of generation 1 of the Planning and Design Code and therefore must be reinstated.

Policies EXCLUDED from the Draft Code	RISKS for the City of Adelaide
<p>Car and bicycle parking</p> <p>The Draft Code increases car parking rates in some circumstances and reduces bicycle parking rates unique to the City of Adelaide.</p> <p>The Draft Code excludes the requirement for development to provide accessible car parks for holders of a Disability Parking Permit.</p>	<p>A backwards step for sustainable transport.</p> <p>Less development potential and economic development potential in the City due to excessive car parking requirements.</p> <p>The City's welcoming of people of all abilities is compromised.</p>
<p>Land use definitions</p> <p>Definitions of land uses for which the City of Adelaide receives applications, including but not limited to:</p> <ul style="list-style-type: none"> • Adult entertainment premises • Adult products and services premises • Amusement machine centre • Licenced premises • Licenced entertainment premises • Community centre • Health care facilities • Events <p>See Attachment A.10 for more detailed review of land use definitions.</p>	<p>Increased uncertainty of development assessment outcomes for applicants and the City of Adelaide resulting from undefined land uses and/or inconsistency of language.</p> <p>Increased legal review and costs to applicants, the community and Council.</p>

Policies EXCLUDED from the Draft Code	RISKS for the City of Adelaide
<p>Waste Management</p> <p>Adequate policies to require developments to accommodate appropriate waste management, particularly in the high-scale city context.</p>	<p>Developments without suitable consideration of waste management that:</p> <ul style="list-style-type: none"> • Reduce the quality of life for occupants and neighbours. • Result in waste storage/overflow that extends to public roads and spaces. • Increases waste management costs to the council i.e. increased collections, response to complaints, regulation of environmental health matters. • Increased negative environmental impact.
<p>Noise</p> <p>Detailed noise policies appropriate to assess noise impacts in a high-density mixed-use area. The policies in the current Development Plan were developed in 2006 with the collaboration and support of the State government. These are important policies and assist in achieving a co-existence of land uses that contributes to the vibrancy and success of the City and should be reinstated.</p> <p>The City of Adelaide is one of a handful of cities recognised worldwide as a UNESCO City for Music. Facilitating music in the City of Adelaide is contingent on good planning policy that mitigates the impacts of noise on more sensitive land uses.</p>	<p>Reduced amenity, increased conflict and increased noise compliance problems.</p> <p>A backwards step in facilitating the international recognition of Adelaide as a City for Music.</p>

Policies EXCLUDED from the Draft Code	RISKS for the City of Adelaide
<p>Heritage</p> <p>The draft policies contained within the State Heritage Place Overlay, Local Heritage Place Overlay and Historic Area Overlay are not comprehensive to ensure the protection of these unique and important places and areas.</p> <p>The details provided in the Commission's draft Historic Area Statements, released 23 December 2019, have not included important detail identified by Council to identify the key characteristics and elements of importance that determine the prevailing styles and patterns of development in our areas. As currently proposed, their usefulness in assisting the development assessment process is of concern.</p>	<p>Inadequate policies or recognition of important attributes of an area to ensure protection our unique and important heritage places and areas.</p>
<p>Heritage adjacency</p> <p>Principles regarding development adjacent a listed heritage place or within a historic area are not contained within the Draft Code.</p>	<p>Reduction of/negative impact upon heritage value of significant places and streetscapes resulting from an inability to manage the impacts of adjacent development.</p>
<p>Adelaide Park Lands</p> <p>Policies to clearly specify inappropriate land uses and built form development.</p> <p>Zone specific policies relating to movement and parking, advertising and fencing.</p>	<p>Unclear direction for the Adelaide Park Lands.</p>
<p>Integrated transport and land use planning</p> <p>Policy tools to adequately manage transport and land use planning matters. This is particularly relevant to the City of Adelaide in which roads are under care and control of Council.</p> <p>The Draft Code provides overlays and principles for 'traffic generating developments' and 'major urban transport routes', but these overlays do not apply to the City of Adelaide.</p>	<p>Less transport efficiency in the City and greater incidence of transport/traffic and land use conflict, ultimately reducing the quality of the City environment for all.</p>

Policies EXCLUDED from the Draft Code	RISKS for the City of Adelaide
<p>Diversity in Housing</p> <p>Adequate policies to address, encourage or provide for a range of housing types, tenures or costs for the widely differing social and economic needs of residents.</p>	<p>Reduced equity and diversity in the City's residential population.</p>
<p>Apartment Quality</p> <p>Quantitative minimum floor space requirement for 'studio' apartments, nor alternative policy measure to require minimum standard for liveability.</p>	<p>Poor quality residential development detrimental to quality of life for City residents.</p> <p>Reputational risk to the City of Adelaide brand 'Design for Life', impacting future growth and demand.</p>
<p>Height Limits</p> <p>Australian Height Datum reference for the Obstacle Limitation Surface has been omitted. This is crucial for assessment purposes and determining whether a referral to Adelaide Airport Limited is required.</p>	<p>Unclear impact of development on airport operations.</p>
<p>Energy Efficient Design</p> <p>Policies to encourage and facilitate energy efficient design as proposed in the <i>Natural Resources and Development Discussion Paper</i> released by the State Planning Commission in August 2018.</p>	<p>A step backwards in sustainability and climate change adaptation for the City. At odds with Carbon Neutral agreement between City of Adelaide and State Government.</p> <p>Increased costs and reduced quality of life for City residents.</p> <p>Reputational risk to the City of Adelaide brand 'Design for Life'.</p>
<p>Emerging transport</p> <p>Policies to encourage and facilitate emerging transport technologies as proposed in the <i>Integrated Movement Systems Discussion Paper</i> released by the State Planning Commission in August 2018.</p>	<p>Missed opportunity to proactively facilitate emerging transport technologies and encourage innovative, efficient, sustainable transport systems.</p>

Policies EXCLUDED from the Draft Code	RISKS for the City of Adelaide
<p>Built Form Interface</p> <p>Omitted from Draft Code.</p>	<p>No ability to mitigate impacts of high-rise or scale development abutting lower scale or public realm areas.</p>
<p>Regulated and Significant Trees</p> <p>The Draft Code Map viewer provides a Significant Tree Overlay, however there is no corresponding Overlay within the Draft Code. There is a 'Regulated Tree Overlay', however the PDI Regulations and Development Plans make a clear distinction between significant and regulated trees and have different policy tests for each. This has not been carried over to the Draft Code.</p>	<p>Confusing policies relating to trees, or omissions of necessary policies creates uncertainty for assessment process as well as uncertainty for the future of tree protection in the State.</p>
<p>Temporary development</p> <p>Policies relating to land use or development applications of a temporary nature. The City of Adelaide receives multiple applications each year of this nature, particularly in relation to our role as the festival and cultural capital of the State.</p>	<p>Reduced understanding of how temporary applications will be assessed and processed in the future.</p>
<p>Views</p> <p>Explicit recognition and protection of important views and vistas are not identified within the Zone. Whilst some have been recognised in the Historic Area Statements, it is not a conclusive list as per the current Adelaide (City) Development Plan.</p>	<p>Landmark views in the City are not protected through development assessment and may be lost, reducing the amenity of our city for residents, visitors and tourists.</p>
<p>Crime Prevention through Urban Design</p> <p>Safety policies within the <i>Design in Urban Areas General Development Policy</i> module have limited application particularly in the City of Adelaide context.</p>	<p>Lost ability to contribute through internationally recognised best practice to community safety in public places utilising good design.</p>

Policies EXCLUDED from the Draft Code	RISKS for the City of Adelaide
Public Art Adelaide (City) Development Plan Living Culture policies providing guidance on assessment of applications for public art, including consideration of design, materials, locations and safety.	No tools available to assess the numerous applications for public art received each year.

Recommendations

5. Include existing Development Plan policies in the Planning and Design Code, as detailed in Attachment A.1 and A.2 of this submission.
6. Include non-envisaged land use list to provide clarity and certainty to the community about what is envisaged, and support achievement of assessment timeframes.

Uncertainty in demolition control

Through previous submission on the planning reform, the City of Adelaide has raised the importance of demolition controls within the City.

Currently, demolition within the City of Adelaide requires planning consent. This is a historic, unique and important policy to the City to avoid the unnecessary and premature demolition of buildings leading to vacant sites which provide little or no economic benefit to the city, reduce activation opportunities and negatively affect city streetscapes.

The gazetted *Planning, Development and Infrastructure (General) Regulations 2017* allows the demolition of buildings without development approval, other than a listed heritage place or where it is otherwise identified in the Planning and Design Code. In the *State Planning Commission's Guide – Key Changes to the PDI (General) Regulations 2017*, it was stated that in response to feedback received during consultation, the City of Adelaide would be an area designated by the Planning and Design Code that would require development approval for the demolition of a building.

This has not eventuated in the current Draft Code, in which 'demolition' is not listed in any classification table within any Zone within the City of Adelaide, other than demolition of a State Heritage or Local Heritage Place. Nor is the City of Adelaide excluded from this clause of the PDI Regulations, in Part 5 (Designated Areas) of the Draft Code.

On 22 August 2019, the Lord Mayor wrote to the Minister for Planning about the importance of maintaining demolition controls within the City of Adelaide.

On 8 November 2019, the Minister for Planning replied to the Lord Mayor's letter, stating:

"I am advised by the Department of Planning, Transport and Infrastructure (the department) the recently released consultation draft of the Planning and Design Code (the Code) contains demolition control within the City."

This advice contradicts the Draft Code, in which reference to demolition of buildings within any Zone classification table within the City of Adelaide is absent.

5.3 Some development assessment will take longer and cost more

An aim of the planning reform process as per the Expert Panel's recommendations was to streamline development assessment, reduce unnecessary cost and time, and provide clarity and certainty for applicants, planning authorities and communities.

As it stands, the Draft Code incorporates barriers to more streamlined development assessment, specifically as a result of the imprecise guidance provided for pathways of development due to minimal development types identified within the classification tables of each Zone.

There are many instances in which implementation of the Draft Code would subject applications that are simple and straightforward under the current Development Plan to a more onerous assessment process and require public notification despite their low community impact or desired development outcome.

Attachments A.1 through A.3 illustrate these changes in detail, while the table below summarises some of the most critical concerns with this aspect of the Draft Code. Aspects of the Draft Code with potential to increase the time and cost of development assessment specifically relate to:

- Determination of relevant authorities
- Missing land uses and forms of development within classification tables
- Increased requirements for public notification and specialist technical advice

The City of Adelaide supports making additional improvements to the Draft Code to reduce cost and complexity for simple applications for envisaged development and to save business and the community time and cost. Attachment A.4 (which has previously been provided to DPTI and the State Planning Commission) illustrates how the Planning and Design Code could make improvements to current practices to streamline what can be described as “low risk” applications.

Additionally, it is not clear whether the Planning and Design Code will result in financial impacts to development feasibility. The financial impact of the Planning and Design Code has not been tested. Increased construction costs may impact development opportunities in the city.

Parts of the Draft Code that INCREASE TIME AND COST of development assessment	RISKS for the City of Adelaide
<p>Classification of envisaged land uses</p> <p>'Envisaged land uses' identified in zone provisions are not consistently reflected in the associated zone classification tables.</p> <p>Envisaged land uses omitted from the classification tables are classified as <i>all other Code assessed development</i>, meaning:</p> <ul style="list-style-type: none"> • Public notification is required other than where applications are determined to be minor (minor is undefined), and • The Council Assessment Panel (CAP) is the relevant authority 	<p>Through procedural anomaly, the council bears the time and cost of performance assessment and public notification of applications for:</p> <ul style="list-style-type: none"> • Land uses that are explicitly envisaged by the zone policies, or • Minor applications which are adjacent another Zone due to narrow Zone boundaries or large parcel cadastres.
<p>Common forms of development are not classified</p> <p>The classes of development listed within the Draft Code's classification tables appear to be based on a suburban metropolitan context and do not reflect common application types that the City of Adelaide receives, such as 'external alterations to shop/restaurant/office/consulting rooms', 'installation of verandah/canopy above footpath', 'public art'.</p>	<p>The lack of definition and reference to appropriate policies for types of development common to the City of Adelaide will make their assessment more complex, likely increasing time and cost and reducing certainty in the assessment process.</p>
<p>Inconsistent and undefined terminology</p> <p>Residential development, dwelling, apartment are all terms used in the Draft Code. Some are not defined, making the difference between these terms, if any, unclear.</p>	<p>Reduces clarity, makes assessment more complex and provides less certainty to the applicant and community.</p>

Parts of the Draft Code that INCREASE TIME AND COST of development assessment	RISKS for the City of Adelaide
<p>Increased public notification</p> <p>The wording of ‘the site of the development is adjacent land to land in a different zone’ and ‘all other Code assessed development’ used in many City of Adelaide Zones may lead to increased public notification due to the boundaries of the Zones and land parcels and/or many envisaged forms of development not being listed within the relevant classification tables.</p> <p>Applications which should be subject to public notification, such as demolition of a State Heritage Place or Local Heritage Place is not required in the Draft Code. However, an application for ‘conservation work’ to a heritage place would default to ‘all other code assessed development’ and would require public notification. This is an adverse outcome of the Draft Code and is not supported.</p> <p>Whilst the Phase 3 P&D Code (Urban Areas) - Code Amendment – Update Report, released by the Commission on 23 December 2019, provides that the public notification triggers will be amended to avoid these unintended consequences, the proposed wording for these has not been released for consultation.</p>	<p>Notification of conservation works to a heritage place but not demolition of a heritage place.</p> <p>A substantially higher number of applications will be subject to public notification, at increased time and cost with no material benefit.</p> <p>Council is unclear what sort of applications will require public notification, and therefore cannot forecast how many applications may fall into this process and need to be assessed by the CAP.</p>
<p>Exemptions to Placement of Notices</p> <p>None of the City of Adelaide zones in the Draft Code state exemptions for placement of notices within the procedural matters table. In the City context where development is often not at ground level, the placement of notices at ground level is unnecessary. The increase in applications subject to notification under the Draft Code further exacerbates this burden to no obvious benefit.</p>	<p>Increased time and cost in placement and removal of notices in windows at ground level, where ground level notification is not relevant.</p>

Parts of the Draft Code that INCREASE TIME AND COST of development assessment	RISKS for the City of Adelaide
<p>Requirement to assess minor applications</p> <p>The City of Adelaide receives a large volume of applications for development it considers to be minor and low risk. Examples include some forms of change of land use, advertising, and external alterations to buildings.</p> <p>These applications are currently assessed on merit, and under the Draft Code they do not comply with Deemed to Satisfy criteria and will remain performance assessed.</p> <p>Attachment A.4 illustrates how the Draft Code could be amended to streamline assessment of “low risk” applications in the City of Adelaide.</p>	<p>Low impact developments continue to require a merit/performance development assessment, increasing time and cost for all involved.</p>
<p>Specialist support for applications</p> <p>The Draft Code will require some applications to provide expensive specialist or technical advice in instances when it is not necessarily required to assess the application. For example, demolition of a non-listed building within a Historic Area may require a report from either a structural engineer, heritage specialist or quantity surveyor.</p>	<p>Additional application costs may impact development opportunities.</p>

Recommendations

- Reword the procedural matters tables within all Zones applying to the City of Adelaide so as to not unnecessarily increase public notification in the city for minor applications.
- List all envisaged land uses and development types within Zone classification tables and provide policies for their assessment to streamline processing and to avoid envisaged land uses defaulting to the classification of *all other code assessed development*.
- Implement consistent language to describe forms of development throughout the Planning and Design Code, using defined terms wherever possible.
- Ensure classification tables in the City Zones reflect the common development types that occur in the local context enabling simpler and more efficient assessment of these applications.

5.4 The development of the Code is undermining good planning practice and outcomes

The once in a generation opportunity presented by system-wide reform comes with a responsibility to consider the best available sources of knowledge and good practice in seeking to shape the future of our State.

From the earliest stages of planning reform, the City of Adelaide has consistently expressed a desire to collaborate with the State Government to ensure the new planning system provides for a thriving, sustainable city that is of value to all South Australians. The reform process overall and development of the Draft Code in particular has not enabled this desire to be realised. While that is a concern in itself, there is a broader concern of how the persistent flaws in the reform process will manifest in the implementation of the system, and the outcomes it produces.

Opportunities to engage, collaborate, investigate and test in pursuit of the core objective of good planning practice in the PDI Act, have not been realised due to a focus on the previously set deadline for implementation of 1 July 2020. The result is a flawed planning system that runs the risk of unintended and perverse outcomes, inefficient implementation, confusion and frustration amongst all stakeholders, and ultimately detrimental impacts to landscapes and communities. With this date to be removed and replaced by a new date to be set by proclamation, there is now an opportunity to make significant improvements to the reform process.

Compromised Planning Practice	RISKS to the City of Adelaide
<p>Community Engagement Charter</p> <p>A core objective of the PDI Act is to provide a scheme for community participation regarding the initiation and development of planning policies.⁷ The Community Engagement Charter envisages an engagement process which “<i>matches the significance of the planning change</i>”. The Commission’s engagement plan identifies that “<i>everyone who lives in South Australia is affected by the Code</i>”. The scope, approach, activities and reach of the engagement undertaken by the State Planning Commission has been less than that stated and does not match the level of potential impact proposed by the Draft Code.</p>	<p>The community and Council are not aware or do not understand the level of changes to planning policies to their area or property.</p>

⁷ *Planning, Development and Infrastructure Act 2016* (SA) s 12(1)(b).

Compromised Planning Practice	RISKS to the City of Adelaide
<p>Evidence-based policy</p> <p>The Draft Code includes significant policy changes with broad-reaching implications. No evidence-based rationale or analysis of impacts and management strategies has been provided for these changes. Examples include:</p> <ul style="list-style-type: none"> • Gross leasable floor area caps in areas which currently do not have this restriction (e.g. the proposed Urban Corridor (Main Streets) Zone and City Main Streets Zone) • Conversely, gross leasable floor areas allowing commercial uses within the City Living Zone, possibly causing impacts to residential amenity, but providing no evidence of impacts of taking commercial land uses away from Main Streets. • Quantitative setback provisions in the proposed City Living Zone which do not relate to the established pattern of development within these areas. 	<p>Unknown consequences to the changing retail market.</p> <p>Undesired land use pattern changes likely.</p>
<p>Systems and processes that support policy implementation</p> <p>The Draft Code was designed for an <i>ePlanning</i> format but was not ready for the consultation. Undertaking consultation on such a complicated document in the current manner is arguably not '<i>fit for purpose</i>'.</p> <p>The state-wide ePlanning solution will not provide all business requirements of Council, however the full impacts of this remain unclear. Consultation on the ePlanning solution has been limited. Council will have to work undertake significant integration works, but the specific details of what this involves remains unclear.</p> <p>The Draft Code Map viewer that was released with the consultation had many errors, relating to ambiguities with technical and numerical variations. Additionally, it is unclear whether a property selected is a listed heritage place itself or adjacent a heritage place. This creates confusion.</p>	<p>Council may not be business ready for implementation of the new planning system, impacting services to the community.</p> <p>Planning zoning and policies which apply to a property will not be clear to the customer when the new planning system is implemented.</p>

Compromised Planning Practice	RISKS to the City of Adelaide
<p>Local influence over planning decisions</p> <p>1. Development types moved from merit to restricted</p> <p>The Draft Code proposes some (but limited) land uses or forms of development be ‘restricted’ which are currently merit forms of development. This does not reflect the current Development Plan, in terms of undesired land use or development, nor does it necessarily reflect complexity. It is unclear the basis or need for this outcome.</p> <p>2. Relevant authorities</p> <p>The PDI Regulations states that developments over 4 storeys within Metropolitan Adelaide and identified within the Planning and Design Code will be assessed by the State Commission Assessment Panel.⁸</p> <p>The Draft Code applies the ‘Design Overlay’ for the purposes of this clause which applies to the City of Adelaide, meaning that all development over 4-storeys within the City of Adelaide would be assessed by the State Planning Commission. DPTI Administration have conceded this is an error and that Part 5 of the Planning and Design Code should state that this clause applies where the Design Overlay applies, except for the City of Adelaide.</p>	<p>Loss of ability to assess applications that are currently assessed by Council. This further erodes Council’s role as a legitimate assessment body.</p>
<p>Conditions of development</p> <p>As outlined in section 5.2 of this report, there are many critically important policies which have been omitted or significantly weakened in the Draft Code. The new planning system does not allow you to condition matters if not dealt with within the P&D Code.</p>	<p>Reduced policies in P&D Code may mean matters are not able to be adequately addressed during the assessment process or by way of a condition.</p>

Recommendations

- Commend the Minister for Planning and State Planning Commission for delaying the implementation of the Planning and Design Code and ePlanning solution but recommend that a new implementation date only be set that provides sufficient time to allow for the following to be achieved:

⁸ *Planning, Development and Infrastructure (General) Regulations 2017* (SA) Sch 6(4).

- a. Full and comprehensive testing of the Planning and Design Code to identify significant policy changes, errors, missing content and/or unintended consequences to allow for required policy amendments;
 - b. Enable additional consultation on changes to the Planning and Design Code arising from Phase 3 submissions (in preference to not making changes to the Planning and Design Code following consultation on the basis that changes would delay introduction of the Planning and Design Code);
 - c. Ensure every South Australian is notified of the changes proposed to their property to meet the PDI Act and Community Engagement Charter;
 - d. The opportunity to test the effect of the proposed Planning and Design Code in the ePlanning system (as originally proposed for in the announced transition process); and
 - e. Provide adequate time to prepare for the full implementation of the changes, including the considerable integration works required to Council's business systems in order to maintain current business operations and service levels to our community.
12. Reinststate the policies developed collaboratively by the City of Adelaide and DPTI in good faith, and/or clearly communicate why this body of work was excluded from the Draft Code.
 13. Ensure forms of development assessed on merit currently are not classified as restricted under the Planning and Design Code, but rather performance assessed with reference to appropriate policies to be included in the Code.
 14. Provide comprehensive policies within the Planning and Design Code to assist with assessment or allow for matters to be conditioned, to truly streamline assessments.
 15. Insert into Part 5 (Designated Areas) of the Planning and Design Code the following indicated in blue text:

Relevant authority - Commission	
Areas identified for the purposes of clause 4(1) of Schedule 6 of the Regulations – Buildings exceeding 4 storeys	Design Overlay <i>excluding where it applies to the City of Adelaide.</i>

Has South Australia's Community Engagement Charter been upheld?

Table 4.1 summarises the City of Adelaide's greatest concerns with the community and stakeholder engagement process with reference to the principles of South Australia's Community Engagement Charter, and suggestions to realign the Code development process with those principles.

Community Engagement Charter Principle	Evidence of non-alignment	Proposed action to align
Engagement is genuine	No opportunity for consideration of the revised Code between close of Phase 3 consultation and implementation in July 2020. In effect this means either significant changes arising from Phase 3 will not be consulted on, or no significant changes will be made based on Phase 3 submissions.	<ul style="list-style-type: none"> • Delay implementation to enable additional consultation on changes to the Code arising from Phase 3 submissions and ensure every South Australian is notified of the changes proposed to their property to meet the PDI Act and Charter. • Reinstate the policies developed by the City of Adelaide and DPTI in good faith, and/or clearly communicate why this body of work was excluded from the Draft Code.
Engagement is inclusive and respectful	Significant collaborative policy work undertaken by the City of Adelaide and DPTI is not reflected in the Draft Code, without explanation. The governance framework for making changes post consultation is also unclear.	
Engagement is fit for purpose	The Draft Code was released with extensive errors. A majority of the consultation period has had to be used to note errors, rather than focus on whether the policies are sufficient, can be applied appropriately or identify what is missing.	
Engagement is informed and transparent	Many of the City of Adelaide's areas have had policies removed, new policies created, or areas rezoned completely. No evidence base for these decisions has been provided by the State Planning Commission, making it unclear as to how or why some things have been drafted and whether the Commission understands the history of some policies/areas and the impact that these changes will create. The release of an update report, updated classification tables and Phase 3 Historic Area Statements on 23 December 2019 has not allowed for an informed consultation period for the community or Council.	
Engagement processes are reviewed and improved	The Commission has acknowledged the complexity of the Code and its accessibility; however, it remains unclear how this issue will be resolved in the interest of the community and ensuring sufficient engagement of the Code has occurred.	

6. RECOMMENDATIONS BY ZONE / OVERLAY / GDP

The Draft Code contains a number of city-specific Zones and several Subzones within the City of Adelaide, acknowledging the uniqueness and importance of the City and North Adelaide. Notwithstanding this, every Zone in the City has had some level of change; being either a reduction in policy to adequately reflect the local context or needs of the area or a proposed rezoning that does not provide the necessary policy requirements for the area (refer Section 5 above).

6.1 Zone change overview

The following table lists each of the Zones and Subzones proposed within the City of Adelaide under the Draft Code, with more details on each of the recommendations provided in Section 6.2.

The policy changes recommended can be found in Attachment A.1 - *City of Adelaide P&D Code amendment document – proposed rewording and additional policies to be added*. With the detailed analysis and reasoning within Attachment A.2 - *Audit of Adelaide (City) Development Plan into draft Planning and Design Code*.

Development Plan		Draft Code		Level of Policy Change ⁹	Draft Recommendation for Submission
Zone	Policy Area(s)	Zone	Subzone(s)		
Capital City	14	City Main St	Rundle Mall Rundle St Hindley St Gouger/Grote St	MODERATE	Support only with policy changes
	-	Capital City	-	MODERATE	Support only with policy changes
City Frame	-	Capital City	City Frame	MODERATE	Support only with policy changes
City Living	30	Capital City Zone	City Frame	MODERATE	Support only with policy changes
	All excluding 30	City Living Zone	Medium-High Intensity	MODERATE	Support only with policy changes
Adelaide Historic (Conservation)	-	City Living	-	HIGH	Support only with policy changes
	1, 3, 5, 7, 10, 12	City Living Zone	North Adelaide Low Intensity	HIGH	Recommend this apply to all of North Adelaide

⁹ Some of the **HIGH** ratings, relate to the fact that the current zone is proposed as a new Zone and our preliminary research has identified a number of policy changes for these areas as a result.

Development Plan		Draft Code		Level of Policy Change ⁹	Draft Recommendation for Submission
Zone	Policy Area(s)	Zone	Subzone(s)		
North Adelaide Historic (Conservation)	2, 4, 6, 8, 11		-	HIGH	Recommend the North Adelaide Low Intensity Subzone applies to these areas also
	15		Medium-High Intensity	HIGH	Support only with policy changes
	9	Community Facilities		HIGH	NOT Support. Still considering alternative Zones.
Institutional (St Andrews)	-	Community Facilities	-	MODERATE	NOT Support. Recommend the Capital City Zone / City Frame Subzone applies, but only with policy changes to deal with over height developments.
Riverbank Zone	27	City Riverbank	Health	MODERATE	Support only with policy changes
Riverbank Zone	28	City Riverbank	Entertainment	MODERATE	Support only with policy changes
Institutional (Government House)	-	City Riverbank	Cultural Institutions	HIGH	NOT Support. Recommend Government House form its own subzone of the City Riverbank Zone.
Institutional (University/Hospital)	West of Frome St	City Riverbank	Cultural Institutions	HIGH	Support only with policy changes
	East of Frome St	City Riverbank	Innovation	HIGH	Awaiting outcomes of Lot 14 DPA
Main St (Adelaide)	-	Urban Corridor (Main St)	-	HIGH	NOT Support. Recommend City Main Street Zone with own Subzone.
Main St (Hutt)	-	Urban Corridor (Main St)	-	HIGH	NOT Support. Recommend City Main Street Zone with own Subzone.
Main St (Melbourne East)	-	Urban Corridor (Main St)	-	HIGH	NOT Support. Recommend City Main Street Zone with own Subzone.

Development Plan		Draft Code		Level of Policy Change ⁹	Draft Recommendation for Submission
Zone	Policy Area(s)	Zone	Subzone(s)		
Main St (O'Connell)	-	Urban Corridor (Main St)	-	HIGH	NOT Support. Recommend City Main Street Zone with own Subzone.
Mixed Use (Melbourne West)	-	Suburban Activity Centre	-	HIGH	NOT Support. Recommend Business Neighbourhood Zone.
Park Lands Zone	All except 19, 21 and 25	City Park Lands Zone	-	HIGH	Support only with policy changes
	19, 21	City Park Lands Zone	Eastern Park Lands	HIGH	Recommend removal of Subzone and policy change to Zone to encapsulate needs of all areas within the Park Lands
	25	City Park Lands Zone	Adelaide Oval	HIGH	Recommend removal of Subzone and policy change to Zone to encapsulate needs of all areas within the Park Lands

*

6.2 Zone / Overlay or General Development Policy Summaries

The following sheets provide a summary of the analysis of the extent of policy change for each of the proposed Zones, overlays or general development policies that may apply within the City of Adelaide. They make recommendations on amendments required in the final Planning and Design Code for the City of Adelaide to be satisfied that all necessary policy requirements are catered for within the new planning system, so as not avoid the risk of adverse outcomes.

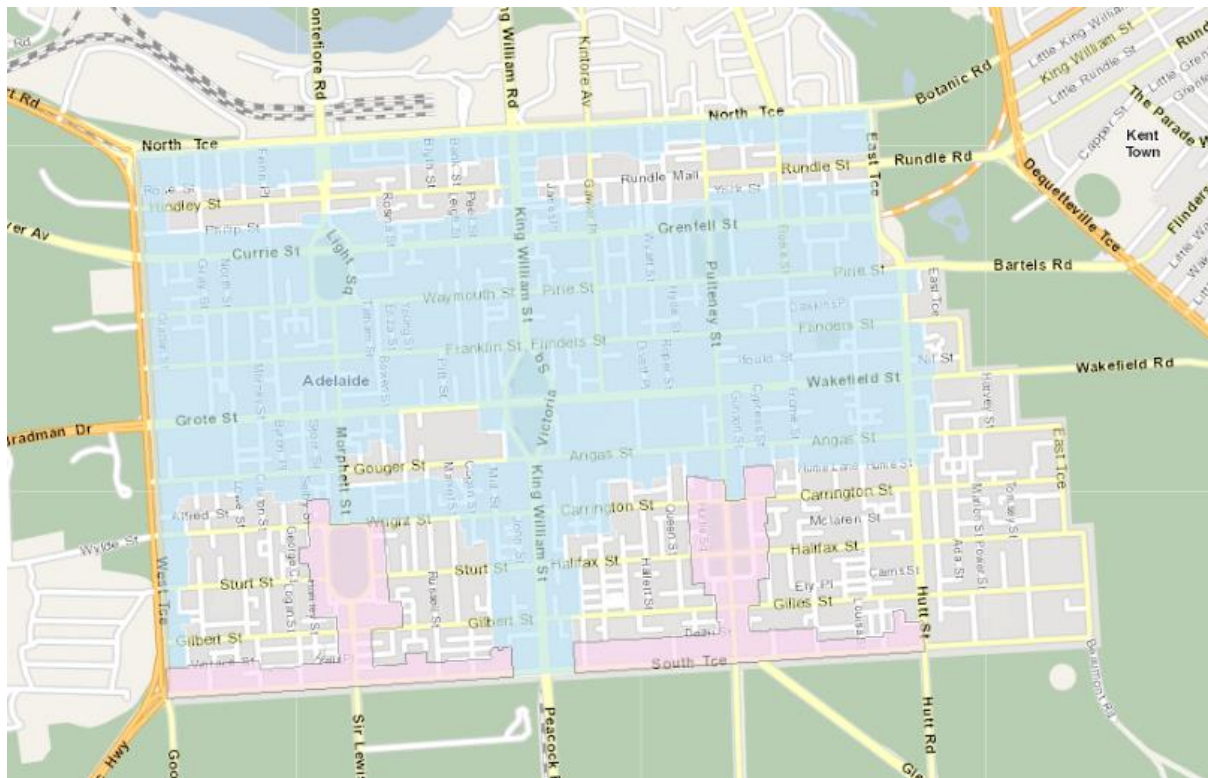
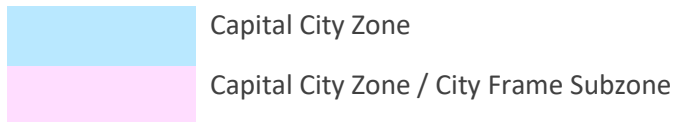
Capital City Zone

Subzones: City Frame Subzone

Replaces: Capital City Zone, Central Business Policy Area 13, City Frame Zone, City Living Zone / South Terrace Policy Area 30

Spatial changes: Excludes Gouger Street, Grote Street, Rundle Mall, Hindley Street and Rundle Street which fall within the City Main Street Zone under the Draft Code.

Spatial Application



Overview:

This Zone continues to recognise the City as the capital of South Australia and retains a number of existing policies that effectively guide high quality development in the City.

Notwithstanding this, a significant volume of effective policy has not transitioned to the new zone, creating potential for negative impacts on the City of Adelaide. Detailed analysis of the zone and recommended changes are included in Attachments A.1 and A.2. In summary, the main concerns with the Capital City Zone are:

- **No acknowledgment of local features** relevant to good development outcomes for the City of Adelaide. For example, there is no reference to Adelaide's distinct grid pattern, or the roles of North Terrace as a cultural boulevard, King William Street as the commercial spine, and Pulteney Street and Morphett Street as mixed-use commercial boulevards.

- **Lack of detailed design policies** to guide development that contributes positively to the look and feel of streets. For example, guidelines for reinforcing horizontal and vertical elements of streetscapes, articulation of buildings, use of podiums, and spacing between tower buildings to protect access to sunlight.
- **Loss of pedestrian-friendly policies** – an absence of policy to address human scale and quality of the pedestrian environment, and loss of policies designed to ensure pedestrian movement is given priority and ease over the dominance of vehicles. For example, the Core Pedestrian Areas has been excluded from the Zone as has the prohibition of multi-level carparks within the Core Pedestrian Area. These policies should be reinstated as they are important in ensuring pedestrian network is given priority and ease over the dominance of the use of vehicles.
- **Loss of built form interface policies** which will impact adjacent City Living Zones in ensuring an appropriate transition between the high-scale and intensity of the Capital City Zone and lower-scale and intensity of the City Living Zone.

Recommendation:

The City of Adelaide supports this Zone subject to the relevant additions and amendments described in Attachment A.1 City of Adelaide P&D Code amendment document and Attachment A.2 City of Adelaide audit documentation.


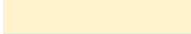
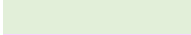

City Riverbank Zone

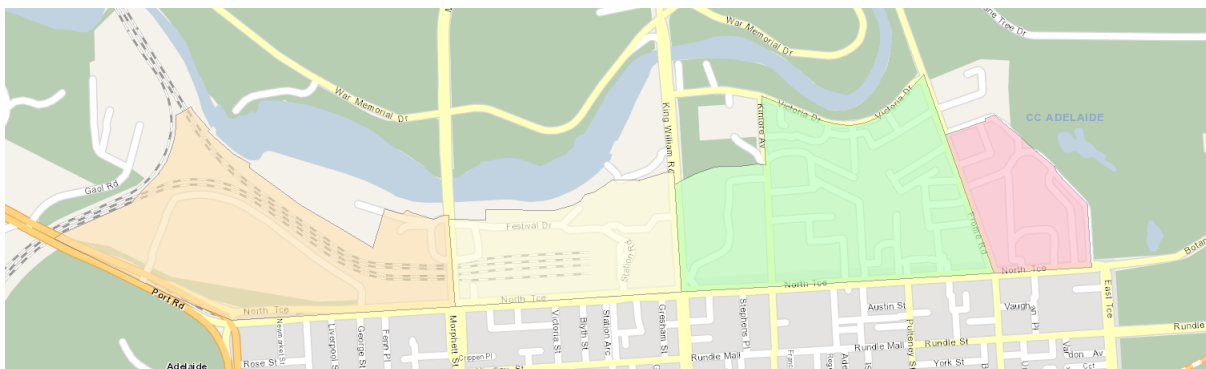
Subzones: Health Subzone, Entertainment Subzone, Cultural/Institutions Subzone, Innovation Subzone

Replaces: Institutional (Government House) Zone, Institutional (University/Hospital) Zone
Riverbank Zone, Health Policy Area 27, Entertainment Policy Area 28

Spatial changes: includes Government House within Cultural/Institutions Subzone, introduces new Innovation subzone into area east of Frome Road which was previously Institutional (University/Hospital Subzone)

Spatial Application

	Riverbank Zone / Health Subzone
	Riverbank Zone / Entertainment Subzone
	Riverbank Zone / Cultural/Institutions Subzone
	Riverbank Zone / Innovation Subzone



Overview:

The City Riverbank Zone consolidates 3 existing Zones and 2 Policy Areas, located on the northern side of North Terrace.

There are some important existing policies which have not yet been adequately transitioned to the new zone. Detailed analysis of the zone and recommended changes are included in Attachments A.1 and A.2. In summary the main concerns with the City Riverbank Zone are:

- **No recognition of the vice-regal functions of Government House** and inappropriate inclusion of the Government House land within the Cultural and Institutions Subzone of the City Riverbank Zone.
- **Loss of built form interface policies** between North Terrace and River Torrens Valley across all subzones.
- **Loss of planning controls over land uses which are undesired**, with no adequate new policies provided to guide assessment of undesired land uses to maintain a distinction between the adjacent Capital City Zone.
- **Removal of existing policy to protect River Torrens water quality** noting the importance to the visual, economic, hydrological, recreational, and biodiversity value of the River Torrens for the City of Adelaide.
- **Removal of existing envisaged land uses.**

- **Innovation Subzone policies** which do not yet reflect City of Adelaide consultation feedback to the Lot Fourteen Development Plan Amendment (nor feedback from other submissions), noting that the Ministerial Lot Fourteen DPA has not yet been finalised by State Government.
- **Insufficient policies to protect operation of hospital helipad** and potential gaps in system of referral for development which could affect helipad operations (including during construction), in addition to referrals which exist in relation to the operation of Adelaide Airport.
- **No recognition of Park Lands** location and the natural environment of the River Torrens Valley.
- **Removal of key spatial information** currently communicated within Figures, such as reference to the “central pathway” which extends through this zone.

Recommendation:

It is recommended that the current Government House Zone be transitioned to a new “Government House Subzone” within the proposed City Riverbank Zone to provide adequate recognition of Government House and its unique vice-regal functions and ancillary land uses. Proposed Subzone provided in Attachment A.1 City of Adelaide P&D Code amendment document

The City of Adelaide supports the remainder of the proposed Zone subject to the relevant additions and amendments described in Attachment A.1 City of Adelaide P&D Code amendment document and Attachment A.2 City of Adelaide audit documentation.

City Living Zone

Subzones: North Adelaide Low Intensity Subzone (NALISZ) and Medium-High Intensity Subzone (MHISZ)

Replaces: North Adelaide Historic (Conservation) Zone (including Policy Areas 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12 and 15), Adelaide Historic (Conservation) Zone and City Living Zone (including Policy Area 29, 31, 32 and 33).

Spatial changes: None in North Adelaide. In South Adelaide, the new Zone includes the former City Living Zone and Adelaide Historic (Conservation) Zone but excludes Policy Area 30.

Spatial Application

	City Living Zone
	City Living Zone / North Adelaide Low Intensity Subzone
	City Living Zone / Medium-High Intensity Subzone



Overview:

The Draft Code proposes amendments to this Zone which currently applies to the City's southern residential areas. The Draft Code also proposes to apply this Zone to the residential areas of North Adelaide. There are some significant changes proposed to this Zone that may impact the future of these areas. Detailed analysis of the Zone and recommended changes are included in Attachments A.1 and A.2.

The main concerns with the City Living Zone are:

- **The Zone no longer reinforces or identifies the primacy of this area as the key residential districts of the City.** Preliminary commercial advice affirms that the Draft Code's proposal to allow change of use applications from residential to

office/shop/consulting room of 50sqm gross leasable floor area as a deemed to satisfy pathway would weaken the business and economic role of main streets, reduce amenity in residential areas, reduce residential population in residential areas, and not foster public transport. The advice outlines main streets are experiencing insufficient demand, thus this proposal to increase supply, in particular through the DTS approval process, in locations other than main streets has insufficient basis and is at odds with fostering vibrant main streets and pleasant residential areas.

- **The Zone lacks design detail and guidance to ensure buildings and additions are compatible.** Such as:
 - The policies do not take into account ceiling to floor level clearances having regard to the prevailing building height within the locality.
 - Many of the built form elements such as requiring buildings to be massed vertically or comprise of narrow frontage elements with generous front and side setbacks with well-articulated building façades have not been included.
 - All detail regarding design advice and/or references to design being driven by historic forms and landmarks had been removed. Some of the policy to guide future development could be included in the Historic Area Statements. Council is not satisfied with the Historic Area Statements that have been prepared by the SPC to date.
 - The zone doesn't provide for some of the local characteristics of the area.
 - Features such as driveway widths and location and boundary setbacks has been diminished and should be strengthened.
- **Landscaped open space** has been removed however has not been replaced with appropriate alternative policy.
- **Catalyst site provisions** may apply over the entire City Living Zone, due to ambiguous drafting, rather than just for the East Terrace area as in the current Development Plan. If they apply, the catalyst site policies have less controls over height than Significant Development Sites.
- **No advertising policies** are provided within the Zone and the advertisements General Development policies that apply to this zone are not consistent with the current requirements for these areas.

Recommendation:

The City of Adelaide supports this Zone subject to the relevant additions and amendments described in Attachment A.1 City of Adelaide P&D Code amendment document.


In addition, the North Adelaide Low Intensity Subzone should apply to all areas of the former North Adelaide H(C)Z, with the exception of PA 9 and PA15.

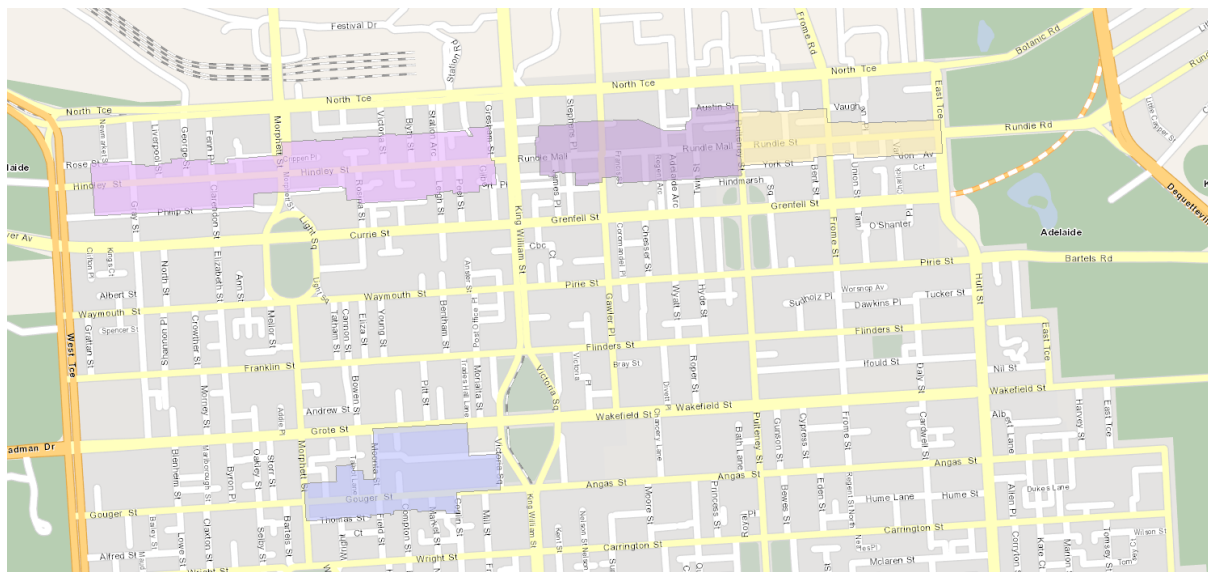
City Main Street Zone

Replaces: Capital City Zone (part) / Main Street Policy Area 14

Spatial changes: Hindley Street, Rundle Mall, Rundle Street, southern side of Grote Street, Gouger Street.

Spatial Application

	Gouger/Grote Subzone
	Rundle Mall Subzone
	Rundle Street Subzone
	Hindley Subzone



Overview:

This new Zone continues to recognise mixed use areas of the City as an important provider of shopping, hospitality, commercial, community, cultural and entertainment facilities for the City supported by medium to high density and residential development.

Notwithstanding this, there is some effective policy that has not transitioned to the new zone, creating potential for negative impacts on the public realm within the City of Adelaide.

Detailed analysis of the zone and recommended changes are included in Attachments A.1 and A.2. In summary, the main concerns with the City Main Street Zone are:

- **Important components of achieving human scale at street level within the City's Main Streets**, such as through the incorporation of verandahs to provide pedestrian shelter and sense of openness to the sky and the treatment of upper floor levels is missing.
- **Setbacks to create outdoor dining is not characteristic** to the character, layout of the City or universal design principles. Building entrances should not be setback unless they are original shop frontages.
- **Daytime activation policy** needs further work. Whilst small scale licensed premises, night clubs or bars are supported in some locations, their impact to day time activation needs to be managed through reducing their presence and scale on the streetscape during the day.

- **Vehicle access impacting main street continuity and fine grain activation.** Given the fine grain intensity of these locations, there is more than one street frontage that needs to be considered. To limit the impact on the pedestrian environment and economic vibrancy of these locations there is a need to ensure the vehicle garaging is sleeved or at basement. Only putting vehicle garages behind buildings will have a detrimental impact on economic vibrancy of these locations.

Recommendation:


- *The City of Adelaide supports this Zone subject to the relevant additions and amendments described in Attachment A.1 City of Adelaide P&D Code amendment document and Attachment A.2 City of Adelaide audit documentation.*
- *Note, it is recommended that the following Subzones are added: Hutt Street, O'Connell Street, Melbourne Street West and Halifax and Sturt Street. Note that this is subject to policy intent being transferred across to reflect the nuanced land use, built form and transport policies.*

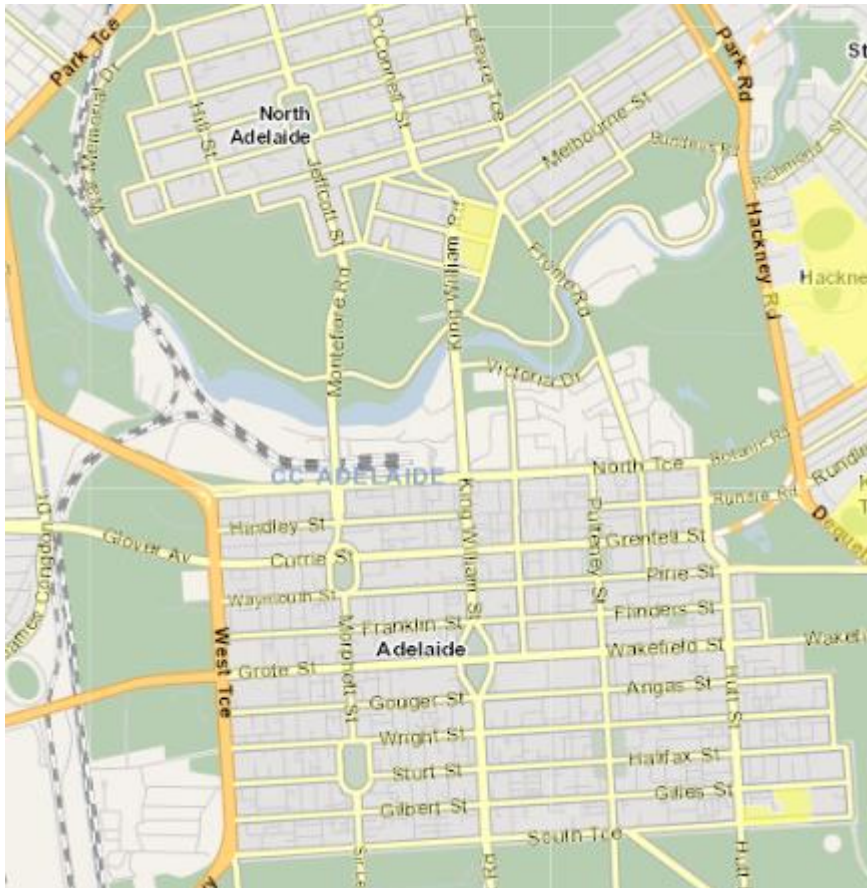
Community Facilities Zone

Subzones: None

Replaces: North Adelaide Historic (Conservation) Zone / Women's and Children's Policy Area 9 and I1 Institutional (St Andrews) Zone

Spatial Application

 Community Facilities Zone



Overview:

This proposed new Zone for the City of Adelaide replaces a policy area in an Historic (Conservation) Zone and one of what were three Institutional Zones in the Adelaide (City) Development Plan. No Institutional Zones remain in the Code.

The purpose of the new Zone is to provide a range of public and private community, educational, recreational and health care facilities.

In summary, the issues of concern include:

- **The Code does not define terms** except 'educational' and 'indoor recreation centre'. It is not clear what a public community facility or private community facility could be, that is not health, education or recreation related.
- **Residential land uses are not supported in this Zone** but are currently considered on their merits in the areas this Zone is proposed to apply. This is a concern, particularly with the Park Lands frontages of these areas.

- **Inconsistency in application of the Zone.** Other Community Facility Zones proposed by the Code around greater Adelaide contain some but not all private and public hospitals, some but not all private and public schools but not kindergartens, some council facilities, but no residential land uses. The question arises whether the Community Facility Zone is the 'right' zone when the City contains many hospitals, schools etc that are in other zones.
- **Change to height limits proposed.** Currently, development north of Kermode Street can go to a maximum height of 14 levels or 43m. The Code proposes a maximum height in this locality of 6 storeys. In addition, currently along King William Road north of Kermode Street, the height limit is 2 storeys. The Code lifts this to 6 storeys, which is a considerable increase.

In summary, the allocation of the Community Facility Zone to the Women's and Children's Policy Area 9 and I1 Institutional (St Andrews) Zone represents a significant change in potential land uses from the existing Development Plan. The land use purpose of the Community Facility Zone is ill-defined and has been applied inconsistently across the City and Greater Adelaide. An appropriate Zone should be applied based on research as to what might be the most desirable land use to allow flexibility for the future.

Recommendation:

*The City of Adelaide **does not support** this Zone.*

The City of Adelaide suggests that a more appropriate and consistent Zone for these localities be investigated collaboratively between CoA and SPC.

The Capital City Zone / City Frame Subzone may be appropriate for the existing Institutional (St Andrew's) Zone, however the over-height provisions of this Zone should not apply to this area.

Further investigations as to appropriate Zoning for the existing Women's and Children's Policy Area 9 is still required.

See Attachment A.1 City of Adelaide P&D Code amendment document and Attachment A.2 City of Adelaide audit documentation for detailed analysis.

Suburban Activity Centre Zone

Replaces: Mixed Use (Melbourne West) Zone.

Spatial changes: No change.

Spatial Application

Suburban Activity Centre Zone



Overview:

This new Zone envisages the area as an active retail precinct that includes neighbourhood scale shopping, business, entertainment and recreational facilities that provides for the daily and weekly shopping needs of the community.

New policies introduced are significantly different to what currently applies to the zone in terms of land use and built form requirements. Detailed analysis of the zone and recommended changes are included in Attachments A.1 and A.2. In summary, the main concerns with the Suburban Activity Centre Zone are:

- **The zone is not the right fit for the area** as the area envisages an active retail precinct that includes neighbourhood scale shopping, business, entertainment and recreational facilities that provides for the daily and weekly shopping needs of the community. The changed role of the Melbourne West will detract from the function of Melbourne Street east and many land uses listed are not appropriate for the area e.g. service trade premises and petrol filling stations.
- **The built form policies are contrary and different to the character of the area** that contains a high number of buildings with heritage status. No regard has been given to the historic pattern of development or existing building setbacks. The new zone encourages buildings to be built to the front boundary which is contrary to what is prescribed within the current zone that seeks to reinforce the historic siting pattern of buildings set back from boundaries in a landscaped setting.

Detailed analysis of the Suburban Activity Centre Zone can be found in Attachment A.2.

Recommendation:

- *The City of Adelaide does not support the use of this Zone.*
- *The City of Adelaide recommends that the Business Neighbourhood Zone is a more appropriate zone for Melbourne West subject to bespoke current policy being carried across.*




Park Lands Zone

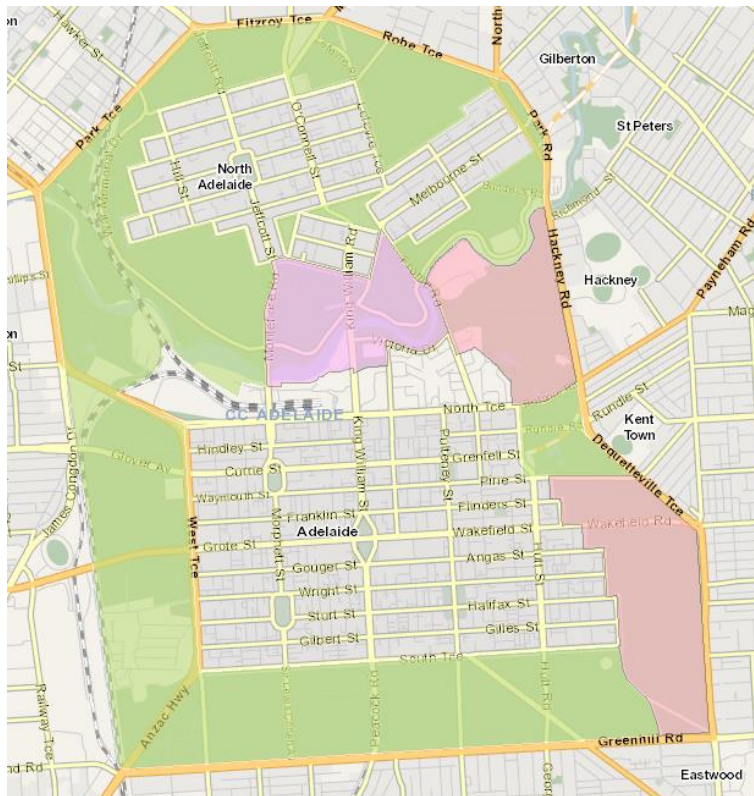
Subzones: Eastern Park Lands Sub Zones and Adelaide Oval Sub Zone

Replaces: Park Lands Zone and its 11 Policy Areas

Spatial changes: Adelaide Oval Policy Area has been retailed. The Eastern Park Lands Policy Area includes (Botanic Policy Area and Eastern Park Lands Policy Areas.

Spatial Application

	City Park Lands Zone
	Adelaide Oval Subzone
	Eastern Park Lands Subzone



Overview:

It is acknowledged that the Adelaide (City) Development Plan Park Lands Zone is out of date. However, it is considered that full implementation of the Adelaide Park Lands Management Strategy would require further investigation before policy should be incorporated.

In considering the Draft Code, there is need to be pragmatic and retain the policy intent of the current Adelaide (City) Development Plan.

Whilst the recognition of the special attributes of the Adelaide Park Lands is reflected through the inclusion of a dedicated Zone in the Draft Code, there are areas in the proposed Zone that require further work.

The following provides an overview of the **key recommendations**:

1. **Renaming** City Park Lands Zone to Adelaide Park Lands Zone.

2. **Including the six (6) Squares** in the Adelaide Park Lands Zone as they are a part of the Adelaide Park Lands.
3. **Deleting the subzones** in favour of comprehensive Zone wide policies.
4. **Strengthening policies** to prevent inappropriate development (land uses and built form) in the Adelaide Park Lands Zone noting the removal of the current non-complying pathway.
5. **Including more descriptive policies within the 'Desired Outcomes'** of the Zone to protect and enhance the unique features of the Adelaide Park Lands.
6. **Revising the 'Built-form and Character'** provisions to provide greater clarity regarding new buildings in the Adelaide Park Lands, including the incorporation of the City of Adelaide's Park Lands Building Design Guidelines (under development) into the P&D Code; or being adopted as a Design Standard to further support high quality Park Lands building design.
7. **Including the unique planning considerations of the current zone** on matters relating to movement and parking, advertising and fencing (rather than the general policy that applies across other zones that does not adequately recognise the unique qualities of the Adelaide Park Lands).
8. Including **minor types of development that are currently not subject to notification** to continue to be exempt from public notification.
9. **Reinstating or including new mapping and / or concept plans** to support a clearer statutory planning framework.
10. Including educational establishment, hotel and public infrastructure as **Code Assessed (Performance Assessed) Development** rather than Restricted Development.

Recommendation:

The City of Adelaide supports this Zone only if necessary amendments are undertaken in accordance with the above listed recommendations and subject to the relevant additions and amendments described in Attachment A.1 City of Adelaide P&D Code amendment document and Attachment A.2 City of Adelaide audit documentation.

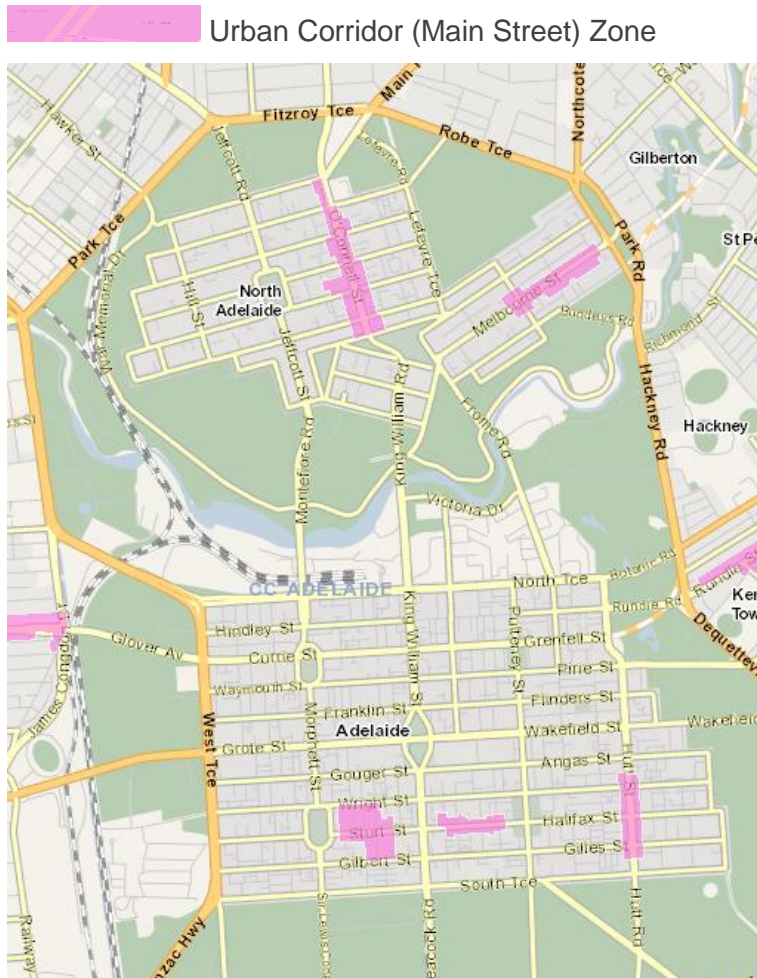
Urban Corridor (Main Street) Zone

Subzones: Nil

Replaces: Main Street (O’Connell) Zone, Main Street (Melbourne East) Zone, Main Street (Hutt) Zone and Main Street (Adelaide) Zone

Spatial changes: Nil

Spatial Application



Overview:

These areas are some of the State’s earliest Main streets with historic building stock that provides character that supports a vibrant and attractive area to reside, set up businesses and visit. These areas are underpinned by dynamic economic activity with a strong retail focus.

This proposed Zone does not recognise the City as the capital of South Australia and dilutes a number of existing policies that effectively guide high quality development in the City. There is a need to reinstate the retail opportunities and reinforce the heritage values and character of these main streets.

An evidence base indicating the economic implications of the proposed retail hierarchy has not been provided and an informed study is required prior to making such substantial policy change to some of the State’s earliest main streets.

In summary, the concerns with the Urban Corridor (Main Street) Zone applying to these proposed areas are:

- **Change to land use and intensity without evidence or analysis.** The land use strategy of the existing main streets has been changed without analysis shared through the consultation.
- **Reduction in fine grain building detailing.** All of the City of Adelaide Main Streets have a strong built form pattern from its historic built form. This needs to be recognised in detail in the policy.
- **Catalyst sites policy has been replaced with Significant Development Sites** which still impacts adjacent Historic Areas and the overall form of main streets. Whilst it appears to be a reduction of impact there are still some concerns. The incentive policy approach is not supported as the main street form and character should be reinforced rather than an adhoc approach to building height and intensity. Interfaces to historic areas need to be carefully curated as the historic areas typically have small sites and have limited ability to manage the impact of the adjacent zone.
- **Movement** requirements reflecting the needs of the City are simply not captured in this proposed Zone.

Recommendation:

The City of Adelaide seeks the replacement of this zone with the City Main Street Zone. Each existing main street will be a subzone to support clear directions for the City of Adelaide and localised nuisance where necessary.

Additions and amendments have been described in Attachment A.1 City of Adelaide P&D Code amendment document and Attachment A.2 City of Adelaide audit documentation.

State Heritage Place Overlay

Function: Mechanism for identification of Individual State Heritage Places in the Code.

Replaces: Development Plan Council Wide Heritage and Conservation and Heritage, Conservation - North Adelaide and Table Adel/1- State Heritage Places

Overview:

The State Heritage Place (SHP) Overlay is the mechanism for identifying individual SHPs in the Code and replaces Table Adel/1 State Heritage Places and the Council Wide policies in the Development Plan.

The Overlay provides the policy settings for the assessments of development applications affecting SHPs. It also contains the referral trigger for applications to be referred to the heritage Minister.

Note: The pathway by which the application is assessed is found in the Zone.

City of Adelaide has the following comments on the State Heritage Place Overlay;

- The Draft Code does not require **public notification** for development applications seeking demolition of a SHP. This is not supported.
- The criteria for assessing whether **demolition** should be approved are rigorous and should be adequate to prevent unwarranted demolition. And, the heritage Minister now has the power to 'direct' that a SHP not be demolished. This is significant change as previously the Minister could only provide advice.
- The Draft Code does not provide an **adjacency provisions** and should be incorporated into the Code to enable development adjacent to SHPs to be sympathetic.
- There are inconsistencies with the Code's **use of terms**, even when those terms have been defined to have specific meanings. Minor corrections of terminology are required.
- The **land division** Performance Objectives in the Code should be expanded to enable applications to be refused in situations where the SHP should be able to retain enough land to enable flexible future uses. This is to prevent SHPs remaining on small land parcels that do not allow any future development and hence, substantially limit use options for the future.
- Performance Objectives are recommended to be added to the Code, relating to the following matters which are currently not accounted for within the Draft Code:
 - **Fencing**
 - **Landscaping**
 - **Views and vistas**
 - **Land use**
- The **referral triggers** are generally adequate with the following provisos.
 - The referral trigger includes a provision that allows the relevant authority not to refer a 'minor' application to the heritage Minister. There is concern that DA planners do not have the knowledge or experience to feel confident that works are 'minor', in which case, referrals to the heritage Minister will occur as they currently do.

Recommendation:

Support the State Heritage Place Overlay subject to the relevant additions and amendments described in Attachment A.1 City of Adelaide P&D Code amendment document and Attachment A.2 City of Adelaide audit documentation.

Local Heritage Place Overlay

Function: Mechanism for identification of Individual Local Heritage Places in the Code.

Replaces: Development Plan Council Wide Heritage and Conservation and Heritage, Conservation - North Adelaide and Table Adel/2- Local Heritage Places, Table Adela/3 – Local Heritage Places (Townscape) and Table Adel/4 – Local Heritage Places (City Significance).

Note: *The LHP Overlay should be read in conjunction with the Practice Guideline - (Interpretation of LHP Overlay, Historic Area Overlay and Character Area Overlay) 2019.*

Overview:

The Local Heritage Place (LHP) Overlay is the mechanism for identifying individual LHPs in the Code and replaces Tables Adel/2, 3 and 4 and the Council Wide policies in the Development Plan.

The Overlay provides the policy settings for the assessments of development applications affecting LHPs.

Note: there are no referral triggers for LHPs. This maintains the current situation where Council staff provide advice on development affecting LHPs. However, in some instances this will need to be achieved in reduced assessment timeframes.

Note: The pathway by which the application is assessed is found in the Zone.

City of Adelaide has the following comments on the Local Heritage Place Overlay;

- The Draft Code does not require **public notification** for development applications seeking demolition of a LHP. This is not supported.
- Unlike for SHPs, the criteria for assessing whether **demolition** should be approved does not include the provision that the reasons for demolition result from ‘the actions and unforeseen events beyond the control of the owner’. This could enable demolition applications caused by neglect to be approved. The Performance Objective should be amended to include this clause.
- An application for the total or part demolition of an LHP will require a **Local Heritage Place Impact Assessment** to be submitted. This is a justification for the proposed demolition and must be accompanied by appropriately qualified experts ranging from heritage professionals to structural engineers. The provision of these reports will be expensive for the applicant and for Council to seek an independent expert advice or review of the report.
- The Draft Code does not provide any **adjacency provisions** and should be incorporated into the Code to enable development adjacent to LHPs to be sympathetic.
- There are inconsistencies with the Code’s **use of terms**, even when those terms have been defined to have specific meanings. Minor corrections of terminology are required.
- The **land division** Performance Objectives in the Code should be expanded to enable applications to be refused in situations where the SHP should be able to retain enough land to enable flexible future uses. This is to prevent SHPs remaining on small land parcels that do not allow any future development and hence, substantially limit use options for the future.
- Performance Objectives are recommended to be added to the Code, relating to the following matters which are currently not accounted for within the Draft Code:
 - **Fencing**

- **Landscaping**
- **Views and vistas**
- **Land use**

Recommendation:

Support the Local Heritage Place Overlay subject to the relevant additions and amendments described in Attachment A.1 City of Adelaide P&D Code amendment document and Attachment A.2 City of Adelaide audit documentation.

Historic Area Overlay

Function: Mechanism for replacing Historic (Conservation) Zones in the Code.

Replaces: North Adelaide Historic (Conservation) Zone including Policy Areas 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 15) and Adelaide Historic (Conservation) Zone.

Zones and Subzones: The HA Overlay sits over the City Living Zone and includes 2 new Subzones; the North Adelaide Low Intensity Subzone and the Medium-High Intensity Subzone.

Spatially: The HA Overlay applies to all the area that was previously covered by the North Adelaide HCZ and Adelaide HCZ with the exception of former Policy Area 9. This PA covers the site of the Women's and Children's Hospital and has been designated to be a Community Facilities Zone in the Code.

Note: *The Historic Area Overlay should be read in conjunction with the Practice Guideline - (Interpretation of LHP Overlay, Historic Area Overlay and Character Area Overlay) 2019.*

Overview:

The Historic Area (HA) Overlay is the mechanism for replacing all HCZs in the Code and replaces the 2 existing HCZs as described above. The Overlay sits over a base, but City specific residential Zone; the City Living Zone. The Overlay does not apply to all the Zone, just the area that was covered by the previous North Adelaide HCZ and Adelaide HCZ.

The Overlay provides the policy settings for the assessment of development applications for all sites contained within the boundaries of the Overlay.

Note: there are no referral triggers for the HA Overlay. Council staff will provide advice on development affecting sites in the HA Overlay.

Note: Unlike many other councils, the City of Adelaide does not have 'contributory items'.

Note: The pathway by which an application is assessed is found in the Zone.

City of Adelaide has the following comments on the Historic Area Overlay;

- This Overlay was originally named the 'Local Heritage Area Overlay'. It is recommended that this name be re-utilised as the use of the **word 'heritage'** encourages the Overlay to be considered as an area where the retention of appropriate buildings occur as opposed to their replacement.
 - If this recommendation is not taken up, the **Planning, Development and Infrastructure (General) Regulations 2017** will need to be amended to reflect the 'Historic Area Overlay' to ensure that the Overlay is valid.
- The **Historic Area Statements** currently in the Code are not adequate to protect these important and unique areas and should be expanded to more adequately address the characteristics of the locality.
- **Demolition:**
 - will be supported if the façade of the building has been substantially altered and cannot be reasonably, economically restored in a manner consistent with the building's original style. The term 'reasonably, economically restored' needs to be defined.
 - A criterion for demolition is if 'the building facade does not contribute to the historic character or the streetscape.' It is unclear the extent of this provision. What will occur if a building has a tall fence to the street or vegetation blocking the view? Will that enable demolition to occur?
 - An assessment of the 'structural integrity or condition of the building being beyond economic repair'. The Practice Guideline instructs that the economic

cost of repair should be balanced against replacement costs, but no further guidance is provided and is required.

- An application for the demolition of any building within the HA Overlay will require a Heritage Area Impact Assessment to be submitted. This is a justification for demolition and must be accompanied by appropriately qualified experts ranging from heritage professionals to structural engineers and quantity surveyors. The provision of these reports will be expensive for the applicant and for Council to seek an independent expert advice or review of the report.
- There is concern that the HA Overlay does not adequately reinforce the importance of the **design of new development** being based on the context.
- The patterns of existing **vehicle parking arrangements** (ie driveways and their locations) should be considered in any new development.
- The HA Overlay contains a Performance Objective that requires that valued **landscape elements** (which are not defined but presumably including public realm elements such as trees, verges, driveway locations, light poles) be maintained except where they compromise safety, create nuisance, or adversely impact on existing buildings or infrastructure. The meaning and implications of this PO is not clear.

Recommendation:

Support the Historic Area Overlay subject to the relevant additions and amendments described in Attachment A.1 City of Adelaide P&D Code amendment document and Attachment A.2 City of Adelaide audit documentation.

Summary Sheet:

Regulated Tree Overlay

Replaces: Regulated Tree policy; Significant Tree policy

Overview:

There is one Overlay proposed by the Planning and Design Code: the 'Regulated Tree Overlay' which generally applies across the City of Adelaide and is triggered by trees that satisfy the criteria of a 'regulated tree'. The Overlay applies to Adelaide, Adelaide Hills Council townships and parts of the Mount Barker Council and this is illustrated on the Consultation Map Viewer found on the SA Planning Portal.

The Consultation Map Viewer also includes a 'Significant Tree Overlay' which represents the list of 'significant trees' contained in Table Adel/5 of the City of Adelaide Development Plan.

However, there is no reference to the Significant Tree Overlay in the Regulated Tree Overlay policy. In addition, there is current policy relating to 'significant trees' which is missing from the Regulated Tree Overlay. Specifically:

- no policy which recognises the importance of significant trees as a habitat for native fauna
- no policy on replacement trees (where a significant tree has been removed)
- no policy on fencing type to protect significant trees during development.

Recommendation:

- *The City of Adelaide supports this General Development Policy Module subject to the relevant additions and amendments described in Attachment A.1 City of Adelaide P&D Code amendment document and Attachment A.2 City of Adelaide audit documentation.*

Summary Sheet

General Development Policy: Transport, Access and Parking

Replaces: Council Wide Transport and Access (Access and Movement; Pedestrian Access; Bicycle Access; Public Transport; Traffic and Vehicle Access; Car Parking)

Overview:

As the capital city of our state, the City of Adelaide is a significant hub for all forms of transport and access. The high volumes of movement through the City of Adelaide daily requires effective planning policies to ensure that all forms of movement can coexist and not diminish the amenity or negatively impact the function of the City.

The Draft Code provides a General Development Policy, as well as some Overlays and details within Zones relating to these matters. It is apparent from reviewing these various areas of the Draft Code, that several important policies that the City of Adelaide currently relies on, have been omitted from the Code. In particular, there are Overlays such as the 'traffic generating development' and 'urban transport routes overlay' which only apply to roads under the care and control of the State Government. Subsequently, these policies do not have any application within the City and have the resultant effect that there are insufficient policies to adequately address the transport, access and movement needs of the City.

City of Adelaide has the following comments to make specifically on the 'transport, access and parking' general development policy module:

- The Draft Code must reinstate the following policies:
 - Ensuring protection of the City's **fine urban grain** and active frontage by directing off-street parking away from street frontages.
 - Maintaining an **uninterrupted pedestrian and cycle pathway**.
 - limit the location of **multi-level car parks or non-ancillary car parking** use to particular locations throughout the City.
 - Include public transport routes **mapping** and the **pedestrian** routes mapping to ensure maintenance of attractive, comfortable, legible and safe pedestrian and cycling environments.
 - **Car parking rates** have changed and in some cases are higher than current rates outlined in the Adelaide (City) Development Plan which is a poor outcome.
 - There is also a reduction on **bicycle parking** requirements in some circumstances and some land uses are not listed as requiring consideration of a bicycle rate.
 - **Disabled vehicle parking rates**.
 - **Design principles** relating to parking areas, pedestrian comfort, waste movement etc. requires strengthening.
 - Increased policies on other sustainable forms of transport and emerging technologies is needed.

Recommendation:

- *The City of Adelaide supports this General Development Policy Module subject to the relevant additions and amendments described in Attachment A.1 City of Adelaide P&D Code amendment document and Attachment A.2 City of Adelaide audit documentation.*

Summary Sheet

New General Module: Design in Urban Areas

Replaces: Council Wide Living Culture; Community Facilities; City Living; Environmental; Housing Choice; Student Accommodation; Built Form and Townscape; Squares and Public Spaces; Centres and Main Streets

Overview:

The Design in Urban Areas Module reflects design-related policies derived largely from the South Australian Planning Policy Library (SAPPL). It is acknowledged that the Draft Code incorporates best practice policy relating to Water Sensitive Urban Design (WSUD), however would benefit from WSUD principles appearing under all subheadings within this Module and therefore applying to all development types.

Further to review of this module and consideration of the principles of good planning (section 14, *Planning, Development and Infrastructure Act 2016*), this module still requires further policy work to achieve the design excellence aspired for a vibrant City.

A summary of the key gaps has been provided below using the key 'Principles of Good Design':

- **Contextual Development:**

The Design in Urban Areas contains many policies that can apply broadly to development outside of the city. However, the Adelaide (City) Development Plan contains bespoke policy that is unique to the city context due to its compact and high-scale built form and its historic built form pattern. In particular:

- A contextual assessment should also include consideration of a context's 'built environment'; the current DO1 of Design in Urban Areas places emphasis on a 'natural' surrounding.
- There is no specific policy guiding the design of public art. The current Development Plan policy not only supports the incorporation of art within a building but also seeks innovative and creative architecture so that the building is a piece of art-in-itself.
- The Code has not introduced anything to replace the principle of 'Landscaped Open Space' which plays an important role in maintaining the established character of areas by ensuring landscaped space around buildings and heritage places in the residential areas south and north of City of Adelaide.
- There are no provisions within the Code that encourages the use of indigenous tree species.
- The Code speaks at a very high level requiring fine-grain detail at street level to reinforce human scale and only applies to buildings of 4 or more building levels. Human scale element plays an important part of the diversity, character and comfort of the pedestrian environment. It would be beneficial if the Code was more prescriptive on what is expected in built form terms in the City.
- Other than corner sites, no policy of articulation and modelling of buildings has been incorporated into the Code for all development.
- There is no policy which supports innovative and interesting skylines to contribute to the overall design and performance of the building.
- There is limited policy which supports the provision of pedestrian links connected to publicly accessible open space and plazas.
- Limited design policy for fencing and walls and there is no limit on height of fencing and walls forward of the building line.

- There is no policy that addresses the design of development on, over, encroaching upon, or opening on to public spaces, including verandahs or outdoor dining.
- **Durable Development:**
Policy within the current Adelaide (City) Development Plan that supports universal design has not been carried across. In particular:
 - residential development policy that seeks regard to adaptable housing standards as set out in the 'Australian Standard AS 4299: Adaptable Housing'.
 - finished ground floor levels of buildings that are at grade and/or level with the footpath.
- **Performing and Sustainable Development:**
Policy within the current City of Adelaide Development Plan seeks to facilitate a high-quality living environment for its residents. In particular:
 - There is no policy which supports a mix of housing types to meet the widely differing social and economic needs of residents.
 - The Interface between Land Uses Module contains policy which seeks to protect access to daylight and sunlight of neighbouring residential premises; however, there are no minimum requirements for ensuring protection of the development site's private open space, landscaped open space or communal open space from unreasonable levels of overshadowing. The built form interface component of the code is lacking.
 - There is no minimum floor space area for studios. The purpose is to provide a high-quality living environment for all future residents in varying accommodation.
 - The Code policy requires buildings to be designed and sited to maximise ventilation and light to main activity areas, habitable rooms, common areas and open space; however, the Code does not contain provisions on how this can be achieved. The maximum distance of 8 metres from a window that provides natural light and ventilation to a room (which could be used as a Deemed to Satisfy policy).
 - There is no policy which restricts the use of light wells as the primary source of daylight for living rooms or the appropriate dimensions of a light-well to be used as a source of daylight to other rooms.
 - The private open space requirements within the Code are higher than what the Adelaide (City) Development Plan stipulates. Many sites within the City are small and the high provision of open space required by the Code could potentially physically prohibit the ability to build dwellings within the City.
 - The Adelaide (City) Development Plan has more specific policy relating to distances from bedrooms to parking areas and access ways to minimise disturbance for occupants which has not been carried across.
 - There is no policy which ensures that the useable space within a dwelling/apartment is not compromised by internal structural columns.
 - There is no policy to protect dwellings/serviced apartments from noise associated with common access ways (for example, incorporation of acoustic core filled doors with airtight rubber seals for all entry doors into common access ways).
 - Further policy is needed that guides energy efficient outcomes and the incorporation of efficient energy use technologies such as geo-exchange and embedded, distributed energy generation systems such as cogeneration, wind power, fuel cells and solar photovoltaic panels that supplement the energy needs of the building.

Other Policies:

- **Crime Prevention Through Urban Design (CPTUD):**
The Code does not cover all CPTUD principles within the Development Plan for the City of Adelaide. In particular, design of shopfronts that provide security whilst ensuring visual permeability. These provisions are used frequently in the assessment of development proposals.
- **Student Accommodation:**
To ensure quality living environments for students, it is recommended that the Code include a policy that seeks provision of a room that is suitable in size to accommodate a single bed, book shelves, a desk and workspace and a cupboard/wardrobe to provide a quality living environment for students.
- **Demolition:**
Under the Draft Code, no provision is made for demolition control in the City of Adelaide apart for a listed heritage place. Unnecessary and premature demolition of buildings leading to vacant sites which provide little or no economic benefit to the city, reduce activation opportunities and negatively affect city streetscapes.
- **Waste Management:**
There is limited policy relating to the provision of a dedicated area for collection and sorting of on-site waste.

Recommendation:

The City of Adelaide supports this General Development Policy Module subject to the relevant additions and amendments described in Attachment A.1 City of Adelaide P&D Code amendment document and Attachment A.2 City of Adelaide audit documentation.

Summary Sheet

Other New General Modules (of note):

Advertisements

Infrastructure and Renewable Energy Facilities

Interface between Land Uses

Replaces: Advertising; Squares and Public Spaces; Park Lands; MOSS (Metropolitan Open Space System); Telecommunications Facilities.

Overview:

There are several General Modules proposed for the Draft Code which will address the majority of the current policies within the Adelaide (City) Development Plan.

This summary sheet will focus on policy gaps that exist within some of the General Modules:

Advertisements:

The policies that guide temporary advertisement hoardings or shrouds generally and for the screening of construction sites has not been carried across.

Sky signs (undesired) and LED signs are lacking detail in the Code and guidance on these structures is paramount in the City.

In addition, current advertisement policies contained within Zones are predominately missing in the Draft Code Zones and should be reinstated.

Infrastructure and Renewable Energy Facilities:

Although this module addresses the provision of renewable energy facilities, it is also important development minimises the consumption of non-renewable resources and uses alternative energy generation systems. Currently, the Adelaide (City) Development Plan contains policy that supports alternative energy generation systems.

Interface between Land Uses:

Due to the intensity and diversity of uses in the City, it is important that there is responsible co-existence between different desired uses to avoid land use conflict. Importantly, responsible co-existence between different desired land uses ensures the viability of more populous City with thriving businesses. Council's noise management policies currently play an important role in achieving this.

Currently, the Adelaide (City) Development Plan incorporates well regarded best practice noise policy that is recommended to be carried across to the Code.

Recommendation:

The City of Adelaide supports this General Module subject to the relevant additions and amendments described in Attachment A.1 City of Adelaide P&D Code amendment document and Attachment A.2 City of Adelaide audit documentation.

Summary Sheet:

What is missing from the Planning and Design Code?

Overview:

This Summary Sheet seeks to outline the missing elements from the Code that currently the City of Adelaide has the benefit of using during assessment of development. These are in addition to those outlined by the other Summary Sheets (Design in Urban Areas; Transport, Access and Parking, Other General Modules (of note), Regulated Tree Overlay and Heritage and Historic Area Overlays).

- **Managing Public Realm:**

Many developments within the City of Adelaide have an impact or propose development on or within the public realm. The Draft Code has not released any policies relating to the public realm nor were any Design Standards released for consultation. This is currently a missing element of the planning reform and significant risk to Council. Without policies in place, when the Code is implemented, many public realm matters may be at risk of not having a policy framework within which these would be appropriately dealt with.

- **Social Infrastructure**

The Code provides for a diversity of dwelling sizes however there isn't anything that specifically addresses, encourages or provides for a range of housing types, tenures or costs for the widely differing social and economic needs of residents. Some sort of formal provision or incentive should be built into the structure of the Code to ensure developments are required to provide for a variety of accommodation to meet the needs of low income people, student housing, social housing, housing for single people, large and small families, people with disabilities and people with other complex needs whilst ensuring integration with existing residential communities.

Recommendation:

- *The City of recommends that the State Planning Commission addresses these gaps as a matter of priority.*

ATTACHMENTS

- Attachment A.1** City of Adelaide P&D Code amendment document – proposed rewording and additional policies to be added
- Attachment A.2** Audit of Adelaide (City) Development Plan into draft Planning and Design Code
- Attachment A.3** Code Testing using City of Adelaide examples
- Attachment A.4** Low Risk Application study
- Attachment A.5** City of Adelaide proposed Historic Area Statements
- Attachment A.6** Commentary on draft Practice Directions / Guidelines
 - A.6A – Draft Practice Guideline – Interpretation of Local Heritage Place Overlay, Historic Area Overlay and Character Area Overlay 2019
 - A.6B – Draft Practice Direction – Site Contamination Assessment
- Attachment A.7** Legal advice obtained by City of Adelaide relating to public realm matters
- Attachment A.8** Detailed analysis of how the State Planning Policies have been captured in the Draft Code
- Attachment A.9** Recommendations for improvement to Part 1 – Rules of Interpretation of the Planning and Design Code
- Attachment A.10** Recommendations for improvement to Parts 7 and 8 – Land Use Definitions and Administrative Definitions of the Planning and Design Code
- Attachment A.11** Preliminary commercial advice on impacts of policy introducing increased mixed-use development to residential areas and impacts on Main Streets