OFFICE OF THE LORD MAYOR

Hon. John Rau MP
Minister for Planning
GPO Box 464
ADELAIDE SA 5001

Dear Minister Rau

New Submission on Planning Development and Infrastructure Bill 2015

The Planning Development and Infrastructure Bill is landmark legislation with major, long-term implications for the State and the City of Adelaide.

Adelaide City Council is open to reform of the planning system and was an active participant in the 2013-14 review by the Expert Panel on Planning Reform. In October 2015, Council made a submission on the Bill before the House of Assembly.

Adelaide City Council has reviewed amendments made in the Legislative Council and those awaiting consideration. A number of amendments address our earlier submission, in part, if not in full. While this is pleasing, it is of concern that arbitrary time pressures may have contributed to selective uptake of feedback. There is substantial scope for further improvement to the Bill. It is important to have regard to the feedback of those who will operate and/or be impacted by a new system.

As well as reiterating key points in our October 2015 submission, the attached submission sets out Council's response to amendments proposed by the Government, Hon. Mark Parnell MLC, Hon. Kelly Vincent MLC, Hon. John Darley MLC and Hon. Dennis Hood MLC, due for consideration by the Legislative Council.
Like our earlier submission, this is being distributed to all State Parliamentarians.

We acknowledge the valuable work of the Expert Panel on Planning Reform and others who have helped develop a first set of reforms. Council is committed to supporting genuine planning reform that ensures Adelaide's future as one of the great cities of the world.

Yours sincerely

Martin Haese
LORD MAYOR

5 February 2016

cc SA Members of Parliament, President LGA, SA Councils, DPTI, PCA, UDIA, PIA

TOWN HALL, ADELAIDE, SOUTH AUSTRALIA 5000. TELEPHONE **(08) 8203 7252** FACSIMILE **(08) 8203 7575**

Adelaide City Council Submission on Planning Development and Infrastructure Bill 2015 – January 2016

PREAMBLE

Council has demonstrated a keen interest in the planning reform process announced by the State Government in 2013. Council has undertaken research to contribute to the evidence base as well as making submissions that indicated that it was supportive of, or open to, many of the outcomes sought by the Expert Panel on Planning Reform, prior to the eventual release of a Bill prepared by the State Government on 9 September 2015.

On 8 October 2015, Council adopted a submission on the Bill, which has subsequently been amended. Late last year, the Legislative Council began its review of an extensively amended Bill, and will be reviewing further proposed amendments during 2016.

This submission augments our earlier submission, which recorded our concern with some significant features of the Bill, and made specific recommendations which had regard to expert legal advice.

COMMENT ON PROCESS

There has been a lack of effective consultation and dissemination of accessible information in the endeavour to have this Bill accepted by Parliament. This has severely hindered meaningful participation. In reforming their planning systems, other States offered far greater opportunity for participation at the draft legislation stage.

Council and other stakeholders, by and large, have not been adequately consulted on the amended Bill or on amendments still to be considered.

Better information is vital to facilitate effective delivery of wide-ranging reforms.

The lack of a well-articulated implementation schedule for staged reform (as recommended by the Expert Panel) needs to be rectified. Local government, a pivotal player in the delivery of effective reform, needs to be properly consulted and involved.

SAMPLE OF STATED CONCERNS NOT ADDRESSED IN BILL

There is substantial scope for further improvement to the Bill. A range of key concerns were stated in Council's October 2015 submission, but relatively few have been addressed substantially, if at all.

Matters that remain of significant concern to Council, include, but are not limited to, the following:

- A **Community Engagement Charter** has not been prepared and released, and principles included in the Bill fall well short of what is essential to promote good practice based on research commissioned by Council – "Principles for Engagement in a New Planning System" by Donna Ferretti and Associates at: http://yoursay.adelaidecitycouncil.com/expert-panel-on-planning-reform/documents

- Significant existing protections for the **Adelaide Park Lands** are to be removed (see Attachment for more detail) and this is likely to expose the Park Lands to application processes which may well adversely affect its significant values.

- The proposed **State Planning Commission** should be empowered to work more independently from the Minister. Support for the Commission by Council, the Expert Panel on Planning Reform, and others assumed a higher degree of independence.

- Development assessment devolved to the lowest possible level of government, and the need for elected member representation on Development Assessment Panels, are fundamental outcomes supported by reputable research and independent institutions. It is deeply concerning that, contrary to this, the Bill contemplates:
    - Wide discretion for applications of local significance to be 'called in' by the Minister for assessment at higher level.
    - Democratic deficit due to exclusion of Council elected representatives from development assessment panels.

- The unique and distinctive circumstances of the City of Adelaide, as the state capital with a primary role for business, entertainment, culture, and retailing, should be better recognized.

- Appeal rights against existing local heritage items may bring a risk of unproductively going over 'old ground' at considerable expense to Council and/or other parties.

- New powers to be granted to the Minister include the power to impose Council financial contributions and require Council to collect property charges relating to infrastructure.

Action to remedy these concerns via amendment of this Bill is urged, or, failing that, by whatever other appropriate means are available.

FOCUS ON NEXT STEPS - LEGISLATIVE COUNCIL AMENDMENTS

A number of proposed amendments (some supported by Council) are due for consideration by the Legislative Council presenting opportunity for mitigating issues of concern outlined in the detailed submission below.

ATTACHMENT: Detailed Response to Proposed Amendments to Planning Bill, January 2016

The following tables provide Adelaide City Council's response to proposed amendments awaiting further consideration in the Legislative Council as at the date of this submission.

To assist in summarising our response:

- means that the amendment (not necessarily original idea or relevant provision in full) has merit
- means unconvinced of merit or application.

(Others amendments lack enough detail to say whether there is merit or not at this stage)

The tables exclude a number of more minor amendments and those the Legislative Council has already agreed to.

GOVERNMENT AMENDMENTS

Key Points:

1. Council supports amendments to remove local government responsibility for administering the requirements of developers to have access to adjoining land [amendments 28-37].
2. Other Council concerns are not overcome, eg. development assessment panels without local elected representatives, removal of Council decision-making on encroachments, and enforced Council contributions and collection of charges for infrastructure (see 4 following) – even if changes such as providing for consultation are improvements.
3. Council has not had reasonable opportunity to assess the substantial infrastructure framework and the implications for the City are unclear. The relevant amendments have not been subject to consultation with Adelaide City Council or the public.
4. Council reiterates its opposition to being directed by the State to contribute to infrastructure it does not currently provide, and to act as a collector of State charges (other than where Council voluntarily elects to do so).
5. Council is opposed to the ineligibility of elected representatives to serve on development assessment panels and to intervention by a Planning Minister to remove local panel members for the reasons articulated below.

Summary of Proposed Amendment	Rating (of effect of proposed amendment only)	Comment
Chief Executive (DPTI) to take reasonable steps to consult with LGA before setting or varying a contribution to be paid by a council in relation to maintaining the planning portal [amendment 20 / clause 55, new subsection (3a)]	 Note 1: Does not currently overcome Council's opposition to Clause 55(2) and imposing fees and charges on Council	Planning Portal concept is strongly supported but requires genuine State-local partnership incorporating those who manage and maintain the system. The relevant clause (including as proposed to be amended) fails to address this and should be opposed. Councils have invested significantly in systems that may need to be incorporated or potentially run in tandem with a centralised system about which very little is known, including cost impacts on individual Councils (direct or indirect) as well as on the local government sector as a whole. Solutions need to be negotiated.
Changing Plans		
A report of a designated entity preparing an amendment provided to the Minister to be published on the SA planning portal in accordance with a practice direction that applies for the purposes of this section [amendment 21 / clause 70]	 Note 2: Limited step. Does not overcome concern about new designated entities preparing amendments that by-pass Council	Support, but recommend details be published upfront and at other key stages - name of initiator, agreed terms of reference, area affected, scope, status/timing etc - as in other States. This is important due to expanded range of initiators, and need for better coordination /transparency. Also, the Minister should consult the appropriate council before granting approval to a party to initiate a proposal to amend a designated instrument under s 69(2)(c)(vi) and (vii).
Amendments suggested by ERD Committee to Minister to be first		Support in principle

subject to consultation with council [amendment 22 / clause 71]		
Assessment Panels		
Minister, acting on advice from the Commission, can direct a Council to substitute the existing members of the panel [amendment 23 / clause 78, new sub-section (i)]		Council supports retention of current 'hybrid' DAP model including elected representatives. Council does not support further erosion of local autonomy, and this amendment will further erode local autonomy. Council's October 2015 submission indicated that criteria should be written into legislation identifying circumstances by which the Minister can dismiss and replace a local assessment Panel (ie. corruption, unreasonable delay in decision-making, excessive administration costs, errant decisions). Council recommended amending 41(1) to require objective criteria for the appointment of a local assessment panel, and requiring an adverse finding from the Ombudsman, ICAC, court or the Commission before an appointment can be made under s 41(1). Further, it called for amendment of s 78(1)(d) to require objective criteria for the appointment of a local assessment panel, and require an adverse finding from the Ombudsman, ICAC, court or the Commission before an appointment can be made under s 78(1)(d).
Minister can only form a local assessment panel if acting on recommendation of the Commission [amendment 24 / clause 79]		Refer above.
New clause enabling Minister to request an inquiry by the		Council's October 2015 submission indicated

Commission into an assessment panel during which the council must be consulted, and where the panel has consistently failed to comply with a requirement under the Act, enable the Minister to form a new local assessment panel if acting on recommendation of the Commission [amendment 25 / new clause 80A]	Note 3: General improvement but falls short of being an adequate response to the concerns and recommendation of Council's earlier submission	that criteria should be written into legislation identifying circumstances by which the Minister can dismiss and replace a local assessment Panel (ie. corruption, unreasonable delay in decision-making, excessive administration costs, errant decisions). Council recommended amending 41(1) to require objective criteria for the appointment of a local assessment panel, and requiring an adverse finding from the Ombudsman, ICAC, court or the Commission before an appointment can be made under s 41(1). Further, it called for amendment of s 78(1)(d) to require objective criteria for the appointment of a local assessment panel, and require an adverse finding from the Ombudsman, ICAC, court or the Commission before an appointment can be made under s 78(1)(d). What if a "requirement" is contested or inappropriate on planning grounds?
Impact-assessed Development		
Ensure that a copy of an Assessment Report (as part of EIS process) is published on the planning portal [amendment 27 / clause 107]		Support in principle
Outline Consent – which allows for approval to be staged		
Allowing for further notification and consultation and assessment where a new applications makes material change/s to the development [amendment 28 / clause 114]		Support in principle

Access to Land		
Government has decided to not make local government responsible for administering the requirements of developers to have access to adjoining land and this has resulted in a number of proposed changes [amendments 28-37]		Accords with Council's October 2015 submission
Infrastructure Framework, including Infrastructure Charges		
3 pages of new text inserted, creating a process for the Minister to establish schemes for "basic infrastructure" as defined (narrower in scope than the already defined "essential infrastructure") for a "designated growth area" as defined (which may be an urban infill area). In doing so, the Minister must take into account any relevant state planning policy and regional plan, and relevant provisions of the Planning and Design Code. The scheme may be a basis for charging. In developing such schemes, the Minister must receive and publish advice from the Commission [amendments 38 / new clauses 155A & 155B]	 Note 4: While of some merit, the proposed amendment does not overcome Council's opposition to required Council contributions and role in collecting State charges	Council objects to being directed by the State to contribute to infrastructure it does not currently provide, and to act as a collector of State charges (other than where Council voluntarily elects to do so). Council is unaware of any consultation about these measures prior to the Bill being presented to Parliament. Notwithstanding, on balance, the proposed amendment adds useful provisions, including linkage to regional plans as advocated in Council's October 2015 submission.
Greater guidance in terms of what the Minister must seek to facilitate in establishing schemes for provision of infrastructure [amendment 40 / clause 156]		Contains appropriate safeguards
In considering arrangements for charging, Minister must take into account the impact of the scheme on any council, including through transfer of assets, after taking into account submissions by the council under subsection (7) [amendment 41 / clause 156]	 See Note 4 above	As above
Principles for charging outside a designated growth area for basic infrastructure [amendment 44 / clause 156]		Recognises networked infrastructure is not area-specific
Commission advice on a draft outline of a scheme to be published on the planning portal [amendment 46 / clause 156]		Support in principle

Principles to address economic implications of charging and value for money [amendment 51 / clause 158]		Value for money makes sense. It is noted however that some public assets need to befit iconic places they are part of. Due regard to environmental factors should be added (eg. Carbon Neutral Adelaide objective).
Scheme administrator's report to be published on the planning portal by Minister [amendment 54 / clause 138]		Support in principle
Liabilities of a scheme will accrue under terms of the scheme and if relevant against a fund established and not against a council that is required to contribute [amendment 56 / clause 159]	 See Note 4 above	Council objects to being directed by the State to contribute to infrastructure it does not currently provide, and to act as a collector of State charges (other than where Council voluntarily elects to do so).
Further principles guiding role of scheme coordinator with regards to cost, flexibility, economic growth, timeliness and transparency [amendment 58 / clause 160]		
Relates to Minister and Registrar-General's role in relation to property charges in a designated growth area [amendment 65 / new clause 163A & B]		Operational detail which Council has not had reasonable opportunity to review
Relates to Minister and Registrar-General's role in relation to property charges in a designated growth area [amendment 65 / new clause 163A & 163B]		Similar to above. Affects Council as property owner
If a council incurs costs in recovering a charge as a debt, the council is entitled to claim the reimbursement of these costs…[amendment 66 / clause 169]	 See Note 4 above	
New clause establishing two advisory committees on implementation of the Act, one relating to the local government sector and one relating to entities involved in undertaking development within the State [amendment 69 / new clause 231A		Council is broadly supportive of involving stakeholders via one or more committees, but is not convinced sector-specific advisory committees are necessarily better than the option of a cross-sectoral reference group like that established by the Expert Panel on

		Planning Reform for instance. More explanation and detail is required. It is unclear what consultative measures will be specific to stages of reform implementation, or what standing committee/s (if any) would advise on. Finally, excluding the community is not supported; it is important to re-build public confidence in planning.
<u>Encroachments on a Public Place</u>		
With encroachments, provides that an accredited professional may only grant approval with concurrence of council - or in case of any other relevant authority (other than an assessment panel appointed by the council), after consultation with council [amendments 70 & 71 / schedule 6, clause 21]	 Note 5: Does not currently overcome Council's opposition to Clause 21.	Clause 21 does not ensure integrated development and public realm management. It transfers public realm decision making from Council to bodies with less direct accountability for public realm. It promotes a less coordinated approach to complex issues concerning public land, 'privatisation', public realm enhancement and tenure. To review the merits, risks and workability of reform options for encroachments, there is a strong case for postponement / further consultation.

OPPOSITION AMENDMENTS

Key Points:

1. Council is not aware of the specific content of amendments proposed by the Opposition.
2. Council would encourage the Opposition to support eligibility of elected representatives to serve on development assessment panels as well as other Council positions.

HON. MARK PARNELL MLC AMENDMENTS

Key Points:

1. Like the Local Government Association, Council supports the majority of these proposed amendments.
2. For reasons indicated below, Council (like the Hon. Mark Parnell MLC) is opposed to and supports removal of:
    - Exemption of planning system information from the Freedom of Information Act (Clause 53);
    - Provision for fees and charges for use of the planning portal (Clause 54);
    - Ability of Commission to dispense with notification of a restricted development if considered "unnecessary in the circumstances of the particular case" (in Clause 103);
    - Provision for deemed approval of an application before it has been properly assessed on its merits (Clause 119).
3. Council supports the proposed amendments to:
    - enable local variation of development policies to suit unique local character, and promote development that is sustainable (Clause 56);
    - notify affected owners of significant amendments, eg. rezoning (Clause 70);
    - ensure Ministerial amendments to Planning and Design Code are subject to consultation under the Community Engagement Charter (Clause 71);
    - retain the eligibility of elected representatives to serve on development assessment panels based on the existing legislative formula for composition of panels (Clause 78);
    - ensure timely publication of Commission advice to Minister and other information /reporting of certain matters by Minister (Clause 87 etc);
    - remove open-ended discretion of Minister to 'call-in' applications to be assessed by Commission (clause 88, sub-section (2)(g));

- address concern that a representation addressing planning merit might be entirely disregarded based on a technicality / grounds unspecified in the Bill (Clause 101);
- provide for consultation of council before Minister's declaration of an application as "impact assessed development", plus Minister to take into account principles prescribed by regulation (Clause 101).

4. While unconvinced of the value of notifying /deemed-to-satisfy applications - by definition, applications which must be approved regardless - Council is open to smart use of the proposed planning portal to improve open-ness and accountability.

5. Existing Development Plans exclude specified classes of development from public notification, hence we prefer Clause 101 as it stands to the proposed amendment to Clause 101 to prevent the Planning and Design Code from doing so.

6. The test in clause 101 that would be applied in deciding merit applications is too vague and open to varied and subjective interpretation. However, Council does not support the specific text of the proposed amendment. Parties are urged to provide a sound alternative.

7. Disclosure of Political Donations (Amendment 73-81) is a significant amendment, and while Council has not had sufficient chance to consider it in detail at this stage, it is supported in principle.

Summary of Proposed Amendment	Rating	Comment
Information		
Opposed to exemption of planning system information from freedom of information legislation [amendment 30 / clause 53]		Support this position. Clause is additional to ideas put forward in Expert Panel review. Much of the feedback was about improving access to information and greater transparency.
Opposed to provision for fees and charges for use of planning portal [amendment 31 / clause 54]		As above. To the best of Council's knowledge, this, plus use of exclusive passwords to limit access to information (as occurs at present), would be without interstate precedent.

Planning and Design Code and other Designated Instruments		
In clause 56, insert: "(ca) rules should aim to achieve consistency while providing for local variations that reflect unique character at the local level; (cb) rules and standards must seek to protect the environment and the pursuit of ecologically sustainable development." [amendment 32]		Addition of (ca) directly reflects specific recommendation of Council's October 2015 submission and is integral to good planning. Adding (cb) or words similar to existing Act's Objects is supported in principle.
Changing Plans		
Seeks to enhance Parliamentary review of designated instruments and changes to these before they take effect [several]		Warrants closer examination, but it may be better (if still possible) to improve earlier review mechanisms and independence of Commission than have Parliament review specific content. Independence of Commission was a key recommendation and position of Council (greater than required by the Bill).
Seeks to ensure that affected owners are notified of certain proposed amendments to the Planning and Design Code [amendment 37 / clause 70]		Good practice. Council already directly notifies affected owners, but this has not occurred with Ministerial amendments in the City.
Seeks to ensure Ministerial amendments to Planning and Design Code under clause 71 are subject to consultation under the Community Engagement Charter [amendment 46]		To be meaningful, Charter needs to apply to all key policy proponents, which may require other amendments in addition to this.

Seeks to limit early commencement of an amendment (like rezoning or design standard etc) for purpose of countering applications for undesirable development [defined] ahead of the outcome of the consideration of the amendment. Further, the Minister must consult with the Commission before declaring an early commencement [clause 74, amendments 48 and 49].		Supported. There have been instances where effective consultation has been pre-empted by development approvals under 'early commencement' of an amendment. This undermines public participation. Council's October 2015 submission proposed that decisions on early commencement be made by the Commission not the Minister.
Seeks to limit what may be approved under an amendment operating with interim effect and the ability of early commencement to reduce the level of notification and consultation (clause 74, amendment 50]		Council agrees that the level of notification and consultation should not be reduced during interim operation, and is, in principle, open to further limitation of interim effect subject to further examination of implications
Seeks to ensure timely publication of Commission advice to Minister and other information [several] and reporting of certain matters by Minister [eg. amendment 62 / clause 87]		Council strongly supports that this advice be public as far as practical.
Development Assessment and Panels		
Retains elected representatives on assessment panels [eg. amendment 55 / clause 78]		Accords with Council's position. The exclusion of Councillor members from decision-making DAPs goes against the national trend which is to provide for a "local voice" and apply local knowledge (in the City's case, CBD-specific local knowledge) in decision-making on significant applications by panels. This principle is equally applicable to local and regional panels. No attempt has been made to objectively review the

		performance of South Australian DAPs. As the reform process will take several years, there is ample time to undertake a proper review rather than locking into an untried, contentious option.
Reduce Minister's discretion to call in applications to be assessed by Commission [amendment 63 / clause 88, sub-section (2)(g)] by deleting: (g) the Minister considers that it is otherwise necessary or appropriate for the proper assessment of the proposed development that the proposed development be assessed by the Commission.		Deleting (g) still leaves considerable discretion for call in. Expert Panel called for objective criteria and clarity. Council supports Expert Panel's recommendation on this matter.
Notice of applications to be published on planning portal within 2 business days after the application has been made[amendments 68 & 70 / clauses 99 & 100]		Open to smart use of portal, including potential inclusion of a public register of applications lodged, but need more time and explanation to adopt an informed view on this proposed amendment. Based on existing practices, it would often be extremely difficult to commence consultation within 2 business days of lodgement unless perhaps it is done by applicant (in certain circumstances). As Bill stands, it is unclear who undertakes notification (of applications) and what information must be included.

Introduces limited public notification (via planning portal) for deemed-to-satisfy assessment of development applications, with representations able to be taken into account by relevant authority [amendment 68 / clause 100]		Cost-effective, meaningful notification generally means consultation. As 'deemed-to-satisfy' matters must be approved, it is suggested the effect of this amendment will only be to inform. Until the Code is prepared, it is impossible to be clear on any justification for notifying a deemed-to-satisfy development for information only based on degree of impact (and if impact is high, it would be more appropriate as a merit matter).
Alters test for merit assessment [amendment 69 / clause 101] ie: …the development must not be granted planning consent if it is at variance with the Planning and Design Code (disregarding minor variations) [replacing "…the development will be assessed on its merits against the Planning and Design Code" as per Bill passed in House of Assembly]		Clause 101 lacks clear test as basis for decision. Aim should be to match or improve clarity of existing Act. The original Bill and amended version of Clause 101 both fail to do so. It is a pivotal clause that Court cases will rely on and further consideration is therefore required.
Specifies that a representation may (rather than "is not required to") be taken into account if representation "is not made in accordance with any requirement prescribed by the regulations for the purposes of this section" [amendment 69 / clause 101, subsection (5)]		Proposed amendment seeks to protect a representation addressing planning merit from being struck out on grounds unspecified in the Act - though that still may occur. Sub-section (4) may need to be altered to prevent disregard of representations to the extent that they address planning merits.
Deletes provision that enables Planning and Design Code to exclude specified classes of development for public notification pursuant to Clause 101, subsections (3) and (4) [amendment 73]		On balance, it is appropriate that the Code list matters not requiring notification as Development Plans

		currently do. (This presumes meaningful public participation in development and amendment of Code.)
Provides for consultation of council before declaration by Minister of impact assessed development [amendment 74 / clause 101] with Minister to take into account principles prescribed by regulation [amendment 75 / clause 101]		Support in principle.
Notification of Restricted Development		
Removes ability of Commission to dispense with notification of a restricted development if considered "unnecessary in the circumstances of the particular case" [amendment 76 / clause 103]		Notification rights should not be able to be waived by an authority (or a delegate thereof) exercising such wide discretion.
Deemed Approval		
Removes a new process whereby an application may be deemed to be approved before it has been properly assessed on its merits, with onus then being placed on the relevant authority to apply to a Court for an order quashing a consent [amendments 87 and 88, clause 119)		While time efficiency is very important, this specific 'deemed approval' clause is opposed by Council. Delays in processing applications stem from a range of factors including some more controlled by the applicant and some more controlled by the assessment manager / relevant authority. The outcomes of this clause could well include escalation of legal costs and sub-standard development. The approach is adversarial not evidence based. Administrative and cultural changes based on sound systems and verification mechanisms are more likely to produce better all-round results – efficiency-wise and otherwise.

Disclosure of Political Donations		
Introduces requirement (similar to NSW) whereby applications for prescribed development must include a statutory declaration setting out any political donations made by the proponent, or associate of the proponent, within the 2 years preceding the date on which the application or project proposal is lodged [amendments 78-83 / several]		This is a significant amendment and while Council has not had sufficient chance to consider it in detail at this stage, it is supported in principle. (Council has called for greater public participation, clarity and transparency, with more limits on areas of discretion, all of which are recommended by the NSW ICAC in regard to planning law and reforms in NSW.)

PROTECTION OF ADELAIDE PARK LANDS

Key Points:

1. Amendment 9, moved by Hon Mark Parnell MLC and agreed to by the Legislative Council (though not supported by the Government) adds *Adelaide Park Lands Act 2005* as a Special Legislative Scheme (Clause 11). This is supported.

2. However, further amendments recommended by Council's October 2015 submission appear not to have been taken up.

3. This means the Park Lands will not be exempt from Crown, 'impact assessed' or streamlined 'essential infrastructure' approval paths, which will tend to undermine the protection and value of the Park Lands.

4. The risk to the values of the Park Lands is clearly not acceptable and it is urged that Council's recommendation is implemented in full.

Further Information:

Council's October 2015 submission recommended amendments to restore recognition to the Adelaide Park Lands and support exemptions of development in the Adelaide Park Lands from development approval paths which bypass normal policy controls, as follows:

> Include *Adelaide Park Lands Act 2005* in s 11(b) as a Special Legislative Scheme and thus recognise the unique nature of the Park lands and existing management arrangements and controls. Doing so will require the creation of a specific state planning policy to address the Park Lands and recognise the Statutory Principles of the *Adelaide Park Lands Act 2005.*

This is achieved by Parnell amendment 9. However, as far as Council is aware, it is not proposed to address the second part of the recommendation as follows:

> **Include new sub-sections in sections 101, 123 and 124 exempting development within the Adelaide Park Lands from being declared by the Minister to be impact-assessed development under s 101(1)(c), assessed as essential infrastructure under s 123, or assessed as Crown development under s 124. (This carries over exemptions from the present legislation.)**

If so, this is unfortunate. While the agreed "Parnell amendment 9" is welcomed, it does not reinstate the exemptions introduced to the Development Act by the Adelaide Park Lands Act in 2005. The amendments in bold above are required to carry over the exemptions in question, and to extend them to include essential infrastructure.

Parnell amendment 9 triggers a need for preparation of a State Planning Policy (under Clause 59), but a State Planning Policy by virtue of Clause 56(4) cannot directly instruct how an application is to be assessed or processed, including whether it follows an "impact-assessed", "Crown" or other path (involving a decision on an application). Clause 56(4) provides that "A state planning policy is not to be taken into account for the purposes of any assessment or decision with respect to an application for development authorisation under this Act". (The Clause numbering here is based on the version of Bill accessible to the public and Council on the DPTI website.)

Based on this interpretation, amendment 9 cannot be said to offer a remedy to the cessation of exemptions relating to development in the Park Lands (in the original Bill and version passed by the House of Assembly). The resultant risk to the values of the Park Lands is not acceptable.

HON. KELLY VINCENT MLC AMENDMENTS

Insert in Clause 58: "Design quality policy must include specific policies and principles with respect to the universal design of buildings and places to promote best practice in access and inclusion planning"		Council fully supports reinforcement of universal design principles and inclusive environments generally. Council submitted in October 2015 that there is a need to include a requirement that any minimum design standard for the Capital City be developed in consultation with Council. Council also recommended amending s 65(1) to provide that the Commission rather than the Minister is

		responsible for preparing, maintaining and amending the Design Standards and adding new - 65(2)(b) - to ensure that local government and regional planning boards are consulted in relation to the preparation of design standards.

HON. JOHN DARLEY MLC

Persons who are or have been in the preceding 2 years a member of the Parliament of the State or member of council or an officer or employee of a council will be ineligible to be appointed as a member of an assessment panel [clauses 78 & 79]		Will deprive DAPs of experienced candidates. DAP membership would be skewed without clear and coherent rationale. Discriminates against a class of persons who are not and haven't been elected representatives as well as those who are or who have been elected representatives within 2-year limitation. Leaves other persons able to serve on DAPs who act as advocates for applicants during, up to and after a DAP term. Substantially limits the pool of high calibre available candidates without there being relatively few DAP positions necessarily.

HON. DENNIS HOOD MLC

Heritage charter [character?] or preservation zone or subzone must be approved by 51% of owners of allotments within the affected area [clause 64]		Intent of involving affected parties is good but viable zone or sub-zone may be compromised by such a prescriptive approach. Approach should be merit and evidence based, as well as consultative.