

Think  
Design  
Deliver

Creating a new  
planning system  
for South Australia

South Australia's Expert Panel

# OUR IDEAS FOR REFORM

on Planning Reform



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**Hon John Rau MP**

Deputy Premier  
Minister for Planning  
Parliament House  
Adelaide

# LETTER TO THE MINISTER FROM THE CHAIR



Dear Minister

It is with pleasure that I provide you with the second report of the Expert Panel on Planning Reform.

This report outlines ideas for reform to the planning system based upon research, investigation and discussions between the panel and interested parties as part of the panel's 'exploring and discussing' phase since the release of our first report. This followed our 'listening and scoping' engagement process in 2013.

The proposals in this report represent those ideas the panel believes are most suitable for South Australia to address the issues and expectations that emerged during the engagement process. They range from reforms that will significantly change the way planning is viewed and undertaken across government, to those that will improve everyday planning practices of professionals and the experience of the system by citizens.

Many of the reform proposals in this report reflect planning's necessary, frequent and significant overlap with other areas of government policy, regulation and activity. In developing these ideas, the panel has undertaken research and analysis and worked closely with our two reference groups to identify and fine-tune the ideas presented.

We believe the reform ideas outlined in this report will build on the foundation of our existing planning system so it may meet the needs of all users today and for many years to come. However, it is important to note that at this point each and every reform presented is no more than a suggestion and must be tested with business, communities, professionals, councils and government. In addition to seeking wider public responses to this report, we will therefore undertake reform-testing workshops with relevant stakeholders to elicit feedback that will inform our final recommendations.

On behalf of the panel, I thank all those who took the time to provide ideas and comments. I would also like to thank the staff members of the Department of Planning, Transport and Infrastructure, the consultants engaged by the panel, and staff in other government agencies who helped us undertake research and prepare this report.



**Brian Hayes QC**

Chair  
Expert Panel on Planning Reform

August 2014

# A MESSAGE FROM THE EXPERT PANEL

Planning has a pivotal role in South Australia's future. It shapes economic activity, the growth of our communities, how we interact with our environment, and our individual capacity to live satisfying lives where and how we want.

Planning decisions can and must boost productivity, competitiveness, resilience and sustainability, well-being and community development. They can and must be clear, transparent and reliable, driven by evidence, and executed professionally. They can and must provide and engender certainty and confidence.

Our planning system provides the structure in which planning decisions are made and given effect—and it should ensure those decisions reflect these community needs. This panel has been given a rare opportunity to review South Australia's planning system from its very foundations. We were given a clear mandate by the government to be probing, unconstrained by current practices or policy. Accordingly, we have sought the ideas and opinions of people across the state on any and every planning-related issue they wished to raise.

We have listened, studied and learned. We have come to recognise the many positive attributes of a system that has formed the basis of economic, social and environmental policy for two decades. The proposals presented in this report outline reforms we think are desirable and suitable for

South Australia today and in the years to come. We expect some will prompt disagreement but also believe there will be much common ground. We hope people will engage with these ideas in the spirit they are offered: as genuine attempts to explore how planning can be improved to meet our state's future needs and aspirations.

For this review process to be successful, all of us must be open to new ideas and willing to set aside historic debates that have reached their use-by dates. South Australia has often embraced innovative approaches to planning and we must have the courage to do so again. Our state can and must rise above parochial viewpoints, partisan conflict and polarising debates.

As an independent panel we are very clear: our task is not to choose sides, but rather to choose the best ideas—and present them as an integrated system. We offer the ideas in this report as a step towards building an effective, efficient and enabling planning system that will meet the current and future needs of this state and its people.

**Brian Hayes QC (Chair)**

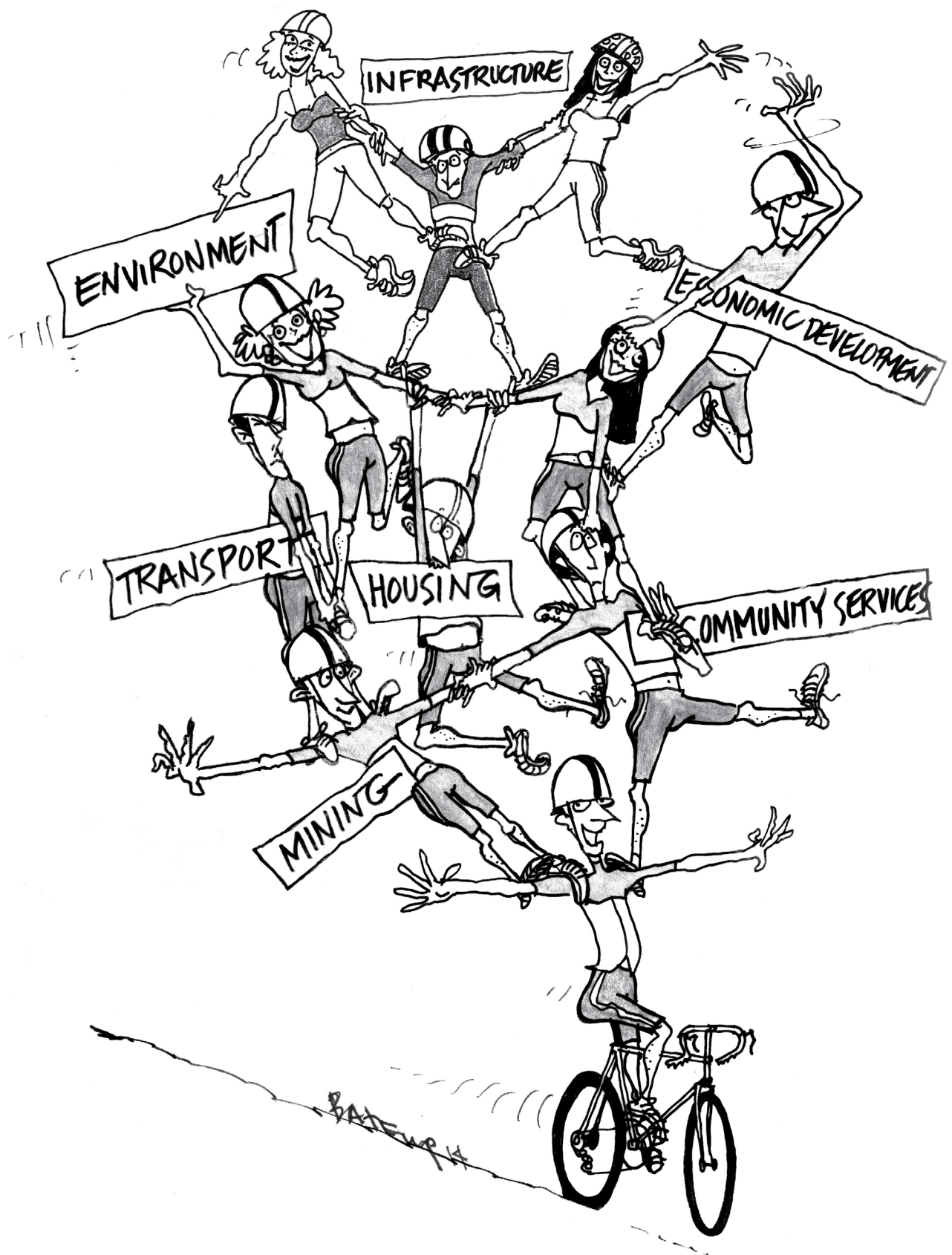
**Natalya Boujenko**

**Simone Fogarty**

**Stephen Hains**

**Theo Maras AM**

August 2014



**“DIRECT ENGAGEMENT WITH  
THE EXPERT PANEL HAS BEEN  
SIGNIFICANT TO OUR MEMBERS,  
PROVIDING MEANINGFUL  
OPPORTUNITIES TO EXPRESS  
IDEAS AND VIEWS.”<sup>1</sup>**

Australian Institute of Architects



## **PART 1**

### Introduction

- Overview
- The review process
- What has happened since our last report
- Purpose of this report



# 1 INTRODUCTION

## 1.1 Overview

The Expert Panel on Planning Reform is in the second stage of its review of the planning system in South Australia.

The review process began in 2013, two decades after the *Development Act 1993* was brought into operation. It will produce recommendations for a new legislative framework for the planning system. The recommendations will be directed towards framing laws that can help the planning system resolve issues that have arisen over the last 20 years and are capable of addressing trends and issues as they emerge.

The Expert Panel's Terms of Reference appear in **Appendix 1**. The panel is supported by a secretariat within the Department of Planning, Transport and Infrastructure.

## 1.2 The review process

The key stages in the panel's review process are outlined in **Figure 1** (on the next page).

In its 'establishing partnerships' phase, the panel formed two reference groups—comprising representative organisations from a number of sectors—to help it undertake its tasks and prepare a broad engagement program.

The Planning Reform Reference Group has worked closely and directly with the panel and consists of representatives of community, professional and industry representative groups

“Where in the wide world will you find a city better planned than Adelaide? Adelaide with its broad streets and with its quincunx of squares and its park lands 2,300 acres in extent—a **grand inheritance** of the citizens for all time.”<sup>2</sup>

*Sir Samuel Way, former Chief Justice of South Australia*

that are affected by and regularly use the planning system and its legislation. The Agency Reference Group comprises representatives of state government agencies that regularly interact with the planning system and has assisted the secretariat in exploring and testing the panel's reform ideas. Organisations represented in the two reference groups are detailed in **Appendix 2**.

In its 'listening and scoping' stage, the panel gathered views and ideas through a lengthy process of community engagement. This process culminated in the panel's first report, *What We Have Heard*, published in December 2013 and available from the panel's website [www.thinkdesigndeliver.sa.gov.au](http://www.thinkdesigndeliver.sa.gov.au). This report collated the ideas, views, aspirations and experiences of South Australians gathered through the engagement process.

Figure 1

## • EXPERT PANEL'S PROCESS

• MARCH – JULY 2013 • AUG – DEC 2013 • JAN – JULY 2014 • AUG – DEC 2014

### • ENGAGEMENT:



### • RESEARCH:

### • OUTPUTS:



The views summarised in *What We Have Heard* together with subsequent research has helped frame the options examined during the panel's 'exploring and discussing' phase and the reform proposals presented in this report. The third stage will culminate in the publication of the Expert Panel's final report in December 2014. That report will present recommendations for a legislative framework that will guide and shape the future of planning in South Australia.

"Planning law is never static and there is, in all countries, a constant attempt to **innovate and experiment** with new ideas to accomplish effective planning."<sup>3</sup>

Leslie Stein, Centre for  
Environmental Legal Studies

# 1 INTRODUCTION



“The enormous losses in human happiness and in money, which have resulted from lack of city plans which take into account the conditions of modern life, need little proof.”<sup>4</sup>

*Herbert Hoover, former American president*



## 1.3 What has happened since our last report


*What We Have Heard* categorised ideas, experiences and perspectives according to five broad themes that emerged as the panel assessed the wide-ranging community input:

- roles, responsibilities and participation
- setting directions and coordinating outcomes
- planning rules, tools and frameworks
- development pathways and processes
- alignment, integration and culture.

Using these themes as a guide, the panel's secretariat developed and completed a series of detailed research papers that explored each issue with reference to interstate and overseas practices and planning systems.

Each paper identified options and ideas for reform. The papers also tested evidence, claims and suggestions for reform that emerged during the engagement process. These research papers assisted the panel and the two reference groups in the deliberations that have resulted in this report. Each of these research papers, together with the detail of all options considered by the panel, is published as background material on the panel's website.

A small number of further submissions has been received. These submissions also appear on the panel's website.





## 1.4 Purpose of this report

This report highlights our top reform ideas. In it we outline and explain our reform proposals and the issues they are designed to address. Towards the end of this report, we have included a ‘reform ready reckoner’ that you can use to identify those ideas of most interest to you.

The panel has chosen to present only those reform ideas it considers to be viable and that best suit the South Australian context. Each of the reforms outlined in this report has been identified and developed through the panel's earlier engagement and our background research, and with feedback and commentary from the panel's two reference groups. We have considered each reform in the context of our guiding principles (see part 3).

This report outlines the reforms that we believe have the most significance for the future shape of the planning system. Other ideas we have examined and that have influenced our thinking may be found in our online background material.

At this stage, the panel has not explored the costs, benefits and administrative implications of the proposed reforms. We expect to undertake this as part of our final report, based on the feedback we receive, and will be pleased to receive comments on these and other issues.

### Figure 2: Key questions for feedback

- Which ideas are most workable and suitable?
- How can specific ideas be improved or modified?
- What costs, benefits or other implications should the panel consider?
- What other reform ideas should be considered?

In providing feedback, you may wish to respond to the key questions outlined in **Figure 2**. Your comments may be submitted through our website [www.thinkdesigndeliver.sa.gov.au](http://www.thinkdesigndeliver.sa.gov.au).

The panel has adapted the initial five broad themes used in our first report to better outline the reform proposals. Each part of this report cross-references the relevant section of *What We Have Heard*.

Throughout this report, we have used a number of terms that may be technical or have a variety of established meanings. To assist readers, we have included a glossary at the end that defines some of the specific terms.

**“THE REGULATIONS AND AGENCIES INVOLVED IN PLANNING, ZONING AND DEVELOPMENT ASSESSMENTS CONSTITUTE ONE OF THE MOST COMPLEX REGULATORY REGIMES OPERATING IN AUSTRALIA. THIS REGULATORY SYSTEM IS NOT LIKE MOST OTHER REGIMES WHICH HAVE A CLEARER DELINEATION BETWEEN POLICY MAKING, REGULATION WRITING AND ADMINISTRATION.”<sup>5</sup>**

Productivity Commission

## **PART 2**

# Shaping the new planning system

- The panel's vision
- Why planning reform is important
- The panel's approach
- Statutory objectives for planning



## 2 SHAPING THE PLANNING SYSTEM

### 2.1 The panel's vision

The panel's fundamental goal in undertaking this review is to ensure that South Australia has an **effective**, **efficient** and **enabling** planning system.

To achieve this, we believe the planning system must:

- be simple, transparent, easy to understand and user-oriented
- be outcome-focused, evidence-driven and open to innovation
- provide streamlined processes for investment at any scale
- be responsive to changing circumstances and priorities
- place a premium on professionalism and integrity.

Importantly, many features of the current planning system that are sound and have proven their effectiveness should be retained and strengthened.

“Regulation is an important planning tool but it is not the only tool. Most importantly, poorly planned and overly complex regulation adds to system costs and **red tape**.”<sup>6</sup>

*Planning Review 2008*

“Planning reform should be based on the principle of achieving ecologically sustainable development with comprehensive **public participation** in the planning process.”<sup>7</sup>

*Environmental Defender's Office*

### 2.2 Why planning reform is important

Broadly, planning is the process of making decisions that guide future action. Land use planning shapes the places in which people live and work and our interactions with the natural environment.

Planning legislation provides a framework within which such decisions can be made and given effect. It works in tandem with other legislation, particularly environmental and infrastructure laws, to articulate long-term ambitions, minimise avoidable risks, and ensure delivery of infrastructure and services.

What distinguishes the planning system from other areas of government activity is its focus on shaping places and translating broader policy priorities into spatial outcomes. The planning task does not stop at property boundaries and should not be seen as limited to development control alone; it is, and can be, far more than this.



“The planning decision-making process is **not transparent** and there is little requirement for the Government and the Minister to account for their decisions.”<sup>8</sup>

*Coalition for Planning Reform Communiqué*

In recent years, there has been significant emphasis at state and national levels on re-shaping planning systems to better respond to economic demands, as well as emerging social and environmental challenges. The 2008 review commissioned by the Economic Development Board focused on the importance of the land use planning system to South Australia’s economic growth. Nationally, too, there continues to be an emphasis on an economic case for reform that cannot be ignored. In this context, it is important to recognise the strengths of the South Australian system that have been praised by national observers such as the Property Council and the Productivity Commission.

The panel views planning reform as important in unlocking economic opportunities for our state. South Australia has often led the way in planning innovation. By embracing reform, we can help attract investment and new industries that will underpin jobs now and for future generations, and help maintain our affordable lifestyle. Along with smart reforms in many areas of public policy, this will help build a stronger South Australia.

However, while the economic dimensions of planning are an important motivation for this review, the panel also notes that there are many emerging environmental and social challenges—such as the

ageing profile of our population, changes in housing preferences, climate change and water scarcity—that planning can help address.

Planning invites us to recognise and respond to links between investment, sustainability and community interest; for example, water scarcity and housing affordability should be seen as issues cutting across social, economic and environmental policy. The planning system must be able to respond to these issues effectively and efficiently. At all times, planning must aim to address both the aspirations and needs of local communities and the wider interests of the state and the environment.

“South Australia was rated the best state development assessment system in 2010, but **the expected benefits** from its planned reforms are **yet to materialise**.”<sup>9</sup>

*Productivity Commission*



## 2 SHAPING THE PLANNING SYSTEM

### 2.3 The panel's approach

The panel has worked from the premise that the planning system must have the confidence of both community and business.

We acknowledge that the planning system includes many elements that are sound and should be retained. Many issues that we have heard relate to the way the system is used, rather than the legislation itself. Our engagement and research have indicated those areas where improvements can be made and have helped us understand where these could generate the greatest benefits for government, private and community users.

Necessarily, our attention has focused on the system of development control established by the *Development Act 1993*. However, the panel feels that planning, and therefore this review, should not be defined by this alone. Our terms of reference enable us to comment on other legislation and we have done so, taking the view that planning outcomes can be affected by a wide range of government activities and that we must have the fit-for-purpose tools that ensure integration across the statute books.

Many of the issues raised with us demonstrate opportunities to streamline existing features of the planning system and provide stronger coordination within government. We suggest the planning system must be efficient, responsive and user-oriented; it should be easy to use and seamlessly linked with other areas of government policy. We have therefore proposed changes where we see opportunities for streamlining,

#### Strengths of the current planning legislation

- the straightforward legislative structure
- a focus on sustainable development outcomes in statutory objectives
- the primacy of strategic planning
- consolidation of development approvals under one regime
- integration of planning and building regulation
- mechanisms to link with other areas of legislation
- independent assessment bodies
- the ability to undertake environmental impact assessments
- the role of professional advice
- low-cost merit review processes

along with tools that will extend and complement existing regulatory approaches and improve delivery of planning outcomes.

The panel recognises that legislative change alone will not address the issues identified as requiring improvement. Legislation must be supported by an enabling culture and administrative practices, and a number of the reforms outlined in this report reflect this. We believe the planning system must be grounded in a more positive, open and facilitative culture and supported by mechanisms that encourage coordination within and between spheres of government.





It is important to note that, under our terms of reference, the panel's task is to review the planning legislation, not the planning policies of the government or individual councils. However, to design a system that will be lasting, we have taken account of likely future policy directions of government and the challenges planning is likely to face. This has included consideration of current government policy priorities, as required under our terms of reference.

## 2.4 Statutory objectives for planning

In our first report, the panel noted differing views about how the principles outlined above should be framed as statutory objectives. A number of submissions argued for a focus on economic outcomes, while others argued that environmental and social outcomes should be prioritised.

As noted by the Productivity Commission in its 2011 benchmarking review, a critical risk for planning systems is 'objectives overload'. The commission noted that the complexity of the planning task has grown significantly, with planning systems increasingly being asked to address more urban and regional problems. This suggests to the panel that statutory objectives should be kept as simple and straightforward as possible.

The panel also notes that while planning should strive to strike a balance between overlapping 'triple bottom line' objectives, the right balance for a site or location needs to be tailored to its specific circumstances. Moreover, for the system

to be long lasting it must be able to respond to changes in policy priorities, as set by state and local governments, over time.

Accordingly, the panel believes that planning objectives should be expressed succinctly, but provide sufficient flexibility for decision-makers to apply them as context and circumstance require. **Figure 3** outlines goals for the planning system that could help inform the development of statutory objectives.

*Linkages to What We Have Heard: 2.7 'Statutory objectives'*

### Figure 3: Goals for the new planning system

- shape cities, towns, neighbourhoods and country regions according to the needs and aspirations of communities, present and future
- underpin the state's economic growth, competitiveness and productivity in ways that are just, sustainable and reflect community aspirations
- maximise the economic potential, social utility and amenity of land and natural resources for the state as a whole, as well as for specific communities
- minimise and mitigate avoidable adverse impacts on, and contribute to enhancements to, natural environments, ecosystems and biodiversity





## **PART 3**

### The panel's guiding principles

- Partnerships and participation
- Integration and coordination
- Design and place
- Renewal and resilience
- Performance and professionalism



### 3 THE PANEL'S GUIDING PRINCIPLES

To design an effective, efficient and enabling planning system the panel has developed guiding principles against which reforms can be assessed. These have emerged progressively through our engagement and research over the last 18 months. Each reform in this report has been developed using the guiding principles as a framework. Later in this report, we assess our reform ideas against these guiding principles (see part 9).



#### Partnerships and participation

An easily understood planning system that establishes constructive engagement between users and decision-makers

#### What does this mean

The planning system should:

- be based on meaningful partnerships and shared responsibilities
- maintain clear roles for state and local governments
- strike a fair balance between state, regional and local interests
- help citizens participate in and understand decisions that affect them and the reasons for them
- be supported by effective decision-making frameworks





### Integration and coordination

A planning system that enables an integrated approach to both high-level priorities and local policy and decision delivery

#### What does this mean

The planning system should:

- be seamlessly integrated with other legislation
- be aligned to budget and investment cycles
- help marshal and coordinate infrastructure delivery to support development
- avoid duplication with other policy areas
- enable coordination across government and ensure issues critical to land use are not left unresolved



### Design and place

A planning system that supports the creation of places, townships and neighbourhoods that fit the needs of the people who live and work in them now and in the future

#### What does this mean

The planning system should:

- shape places through an emphasis on high-quality design of public and private development
- encourage design of the public realm that is creative, inclusive and adaptable
- promote, guide and enable redevelopment, urban renewal and adaptive reuse
- enable public infrastructure to be designed to integrate with urban design ambitions
- contribute to a culture in the professions and industry that values and promotes high-quality design



### 3 THE PANEL'S GUIDING PRINCIPLES



#### Renewal and resilience

A planning system able to respond and adapt to current and future challenges through innovation and the implementation of sustainable practices

##### What does this mean

The planning system should:

- respond to contemporary challenges and needs, including the impacts of climate change
- identify risks and proportionately manage development impacts
- embed sustainability in planning, design, development and infrastructure
- encourage innovation and be responsive to evolving practice
- support economic, social and environmental resilience



#### Performance and professionalism

A planning system that is consistent, transparent, navigable, efficient and adaptable, that supports clear decision-making and encourages and facilitates investment

##### What does this mean

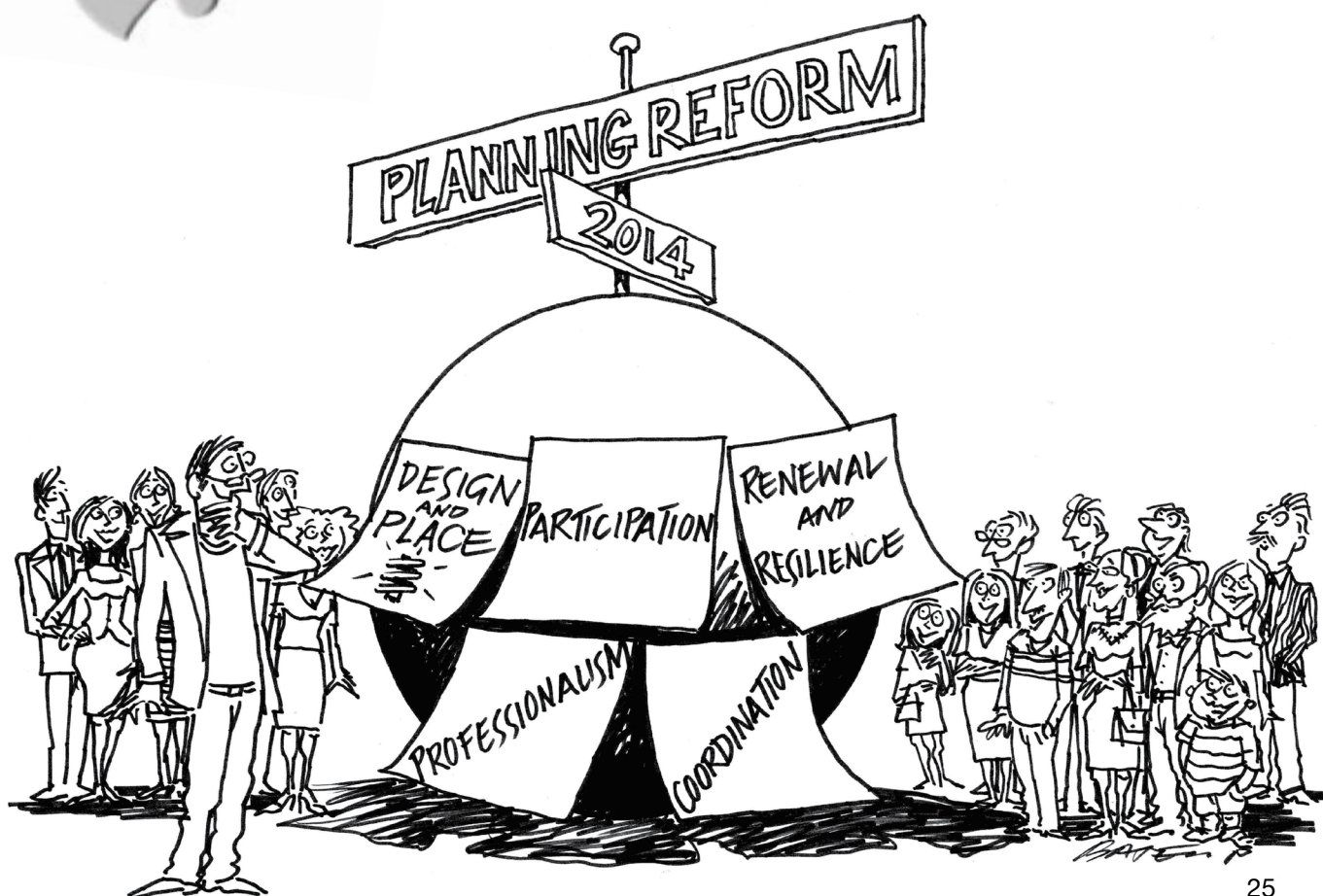
The planning system should:

- maximise productivity and competitiveness through effective and efficient processes
- be accessible, easy to use and clear about what can happen where
- be user-oriented with an enabling and facilitative culture
- capitalise on new and emerging technologies to improve access to information and services
- ensure accountable, transparent and professional decision-making
- inspire confidence through decision-making that is grounded in uncompromising integrity

The reform ideas based on these principles should be examined as a whole rather than on an individual basis, reflecting the interactions between the various elements of the system and the needs of the people who use and rely on it.

We believe the South Australian planning system should look to the best practices in other Australian planning systems and consider them for adaptation where appropriate to our state's needs and circumstances. Where there are clear economic benefits, South Australia should aspire to achieve consistency with planning practices in neighbouring jurisdictions to minimise unnecessary costs on communities and business.

*Linkages to What We Have Heard: 9 'Aspirations for a new planning system'*



Since the release of *What We Have Heard*, the Expert Panel has explored and assessed the many suggestions for system reform presented during the engagement process.

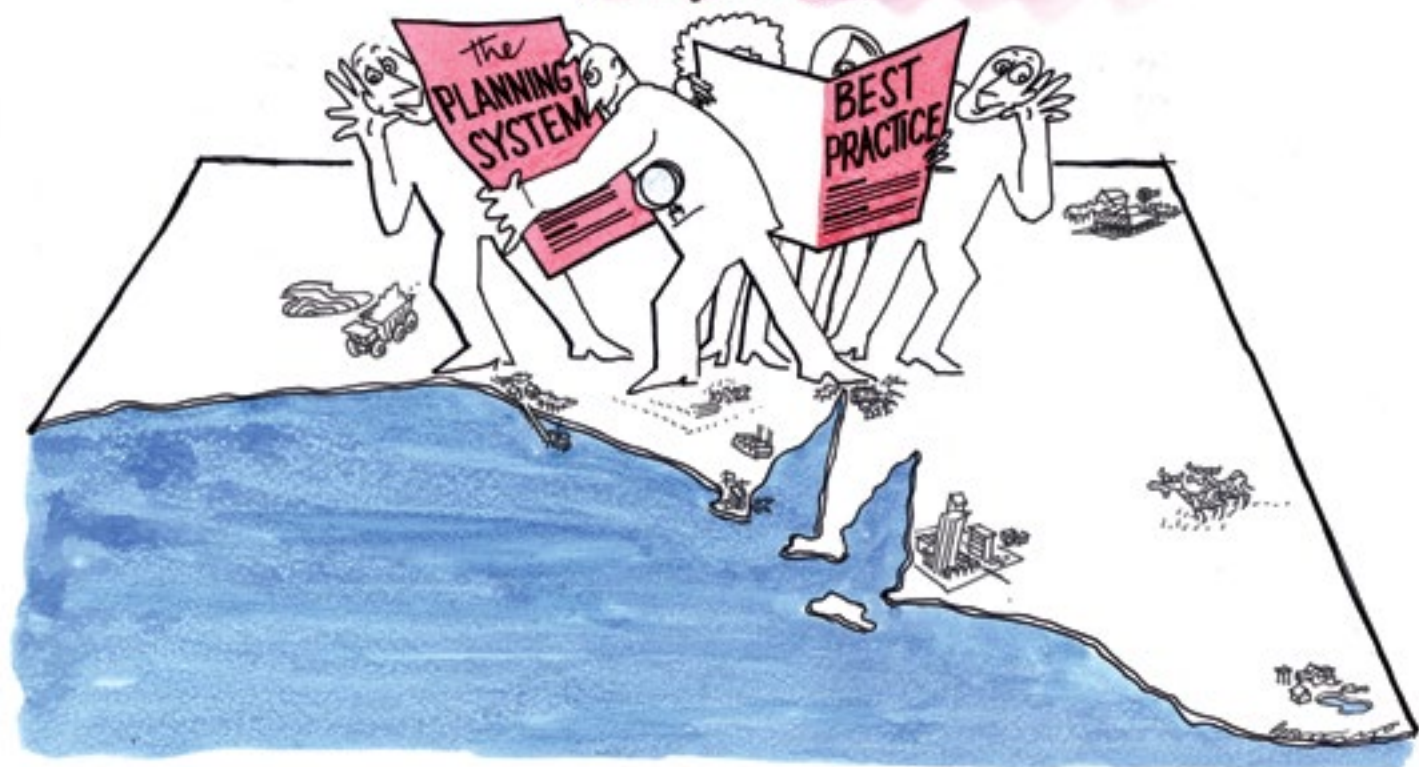
In this part, we set out our top ideas for reform. These are the reforms we think are the most important and will drive the overall shape of the new planning system.

The options are the result of our consideration of proposals and ideas raised during our engagement in 2013 and their application to the South Australian context, as supported by the secretariat's research.

# OUR TOP REFORM IDEAS



the EXPERT PANEL  
ON PLANNING  
REFORM





**THE PLANNING  
SYSTEM HAS  
BECOME VERY  
POLITICISED...IT  
DOES NOT NEED  
TO BE AND NOR  
SHOULD IT BE.<sup>10</sup>**

Building Advisory Committee submission



## PART 4

# Roles, responsibilities and participation



- **Reform 1** Establish a state planning commission
- **Reform 2** Create a network of regional planning boards
- **Reform 3** Enact a charter of citizen participation
- **Reform 4** Allow for independent planning inquiries
- **Reform 5** Make the role of parliament more meaningful and effective

## 4 ROLES, RESPONSIBILITIES AND PARTICIPATION

Engagement highlighted the need to examine who makes planning decisions, how they are made and how the community can participate in them. This is a complex topic and will have significant influence over the structure of the planning system.

In our view, the shared interests of state and local government in planning decisions will always create some tension and this can be productive if used to drive an

improved outcome. However, relationships can be improved with give-and-take by both spheres of government. Ultimately, the system should be structured so elected members, at both local and state levels, can exercise their roles as representatives effectively and their policies can be delivered efficiently—with the minister maintaining accountability to parliament for the operation of the system as a whole.



Equally important are opportunities for community members to participate at meaningful stages in the decision-making process.

The panel believes the system will work most effectively if elected representatives can focus on leadership and not be caught up in operational minutiae. Many of our reform ideas are directed to freeing elected representatives—ministers, councillors and parliamentarians—from the administrative tasks that take up their time and may restrict their capacity to focus on vision and direction. Statutory processes should be framed to meet this principle, while supporting democratic accountability and allowing for public input.

In this section, we propose five reform ideas to address these issues.

“Greater emphasis needs to be placed on state and local government **working together** in clearly defined roles to develop and deliver shared goals.”<sup>11</sup>

*Local Government Association submission*

#### Key questions for feedback

- Which ideas are most workable and suitable?
- How can specific ideas be improved or modified?
- What costs, benefits or other implications should the panel consider?
- What other reform ideas should be considered?

“Our current planning system encourages the politicisation of planning decisions at a project by project basis, leading to **delays, deferrals and refusals** of proposals that are ostensibly sound. Strategic debates are being played out at a project level.”<sup>12</sup>

*Australian Institute of Architects submission*

## 4 ROLES, RESPONSIBILITIES AND PARTICIPATION



### Reform 1

#### Establish a state planning commission

- 1.1 The state planning commission will be the pre-eminent state planning body, established as a statutory authority with specific powers.
- 1.2 The planning commission will provide high-level advice to the minister and Cabinet on planning, provision of infrastructure and services, urban renewal and related issues. The commission should make its advice publicly available wherever possible.
- 1.3 It will have a primary role in advising the minister on planning policies and directions and in delivering state priorities.
- 1.4 The minister will maintain overall responsibility for the system, with the support of the planning commission.
- 1.5 The planning commission will have general responsibility for administering the planning system, including coordinating and overseeing engagement practices.
- 1.6 It will work with local councils and other government agencies to coordinate infrastructure and policies relating to planning issues.
- 1.7 It will include independent members (including an independent chair) with professional expertise and community standing together with senior officials from relevant government agencies.
- 1.8 It will be administratively supported by the department and report through the minister to Cabinet.
- 1.9 The planning commission will subsume the roles of existing bodies such as the Development Policy Advisory Committee and the Development Assessment Commission and their sub-committees.

The current planning legislation places a significant responsibility in the hands of the minister, but with few statutory levers to ensure that the decisions she or he makes are given effect and their implementation effectively coordinated. This means the burden of coordinating and delivering the detail of planning decisions lies with the ministerial incumbent. As a principle, the panel believes that Cabinet and ministers should have greatest involvement in setting strategy and the overarching policy direction for the system, with the delivery of outcomes managed by those charged with responsibility for implementation. We suggest that an independent planning body such as a 'state planning commission' be established to provide policy support and advice, administer the system and oversee and monitor delivery of planning outcomes. The planning commission will provide the assistance the minister, state and local government need to coordinate decision-making across the system.

"That there should be a [state authority](#) with large powers to control the administration of municipal town planning goes without saying."<sup>13</sup>

*Thomas Adams, at the first Australian Town Planning Conference 1917*

The 'state planning commission' will work with local councils to respond to government policy priorities and local issues. By enabling operational details to be handled without the need for direct ministerial involvement, the commission will help accelerate decision-making and reduce the lag time between Cabinet direction and downstream delivery, while also fostering meaningful community engagement. As part of its role, the commission will also support whole-of-government coordination, particularly of infrastructure, to support planning outcomes.

#### What the minister does now

Functions performed by the minister under the current legislation include:

- appointing members of statutory bodies
- promulgating the Planning Strategy
- approving statements of intent
- initiating ministerial rezonings
- authorising development plan amendments
- declaring and assessing major projects
- assessing Crown development
- registering private certifiers
- appointing inspectors



## 4 ROLES, RESPONSIBILITIES AND PARTICIPATION

To undertake its task, a commission must be invested with sufficient statutory powers to carry out its responsibilities in a timely and efficient manner. This will ensure that it operates, and is seen to operate, with a degree of independence from government—helping to build trust and confidence in the system and individual planning decisions while enabling government to retain its leading role in setting policy and providing overall direction.

Several jurisdictions have independent planning commissions, boards or authorities that provide leadership and governance across planning, development and infrastructure activities. The Productivity Commission in its 2011 benchmarking report and the COAG Reform Council in its 2012 assessment of capital city planning systems endorsed the Western Australian Planning Commission as a model for system design; some submissions pointed to the independent planning panels in the Victorian system as another potential tool. Historically, South Australia has had a number of similar bodies with responsibility to coordinate delivery of planning outcomes, reporting to the ministers of various governments. The panel has also noted that the recent NSW planning review recommended that more planning decisions should be taken ‘at arm’s length’ from elected representatives.

“Planning is not just about physical environments but **social systems** with a need for democratic recognition.”<sup>14</sup>

*Adelaide City Council submission*

### The evolution of South Australia’s planning and development bodies

<b>1920–1966</b>	Government Town Planner
<b>1920–1929</b>	Central Advisory Board for Town Planning
<b>1936–present</b>	South Australian Housing Trust
<b>1962–1966</b>	Town Planning Committee
<b>1967–1982</b>	State Planning Authority
<b>1966–1993</b>	Advisory Committee on Planning
<b>1973–1982</b>	South Australian Land Commission
<b>1982–1993</b>	South Australian Planning Commission
<b>1982–1994</b>	South Australian Urban Lands Trust
<b>1993–present</b>	Development Policy Advisory Committee
	Development Assessment Commission
<b>1994–2012</b>	Land Management Corporation
<b>2012–present</b>	Urban Renewal Authority





“Metropolitan planning is intensely political... This at times can lead to a loss of **long term** strategic planning.”<sup>15</sup>

*COAG Reform Council*

The precise roles, functions and constitution of a planning commission will depend on the levels of leadership and accountability desired from what will be the state’s pre-eminent planning body, and we are keen to receive input on this. We believe a commission will be most effective if invested with powers and a degree of independence from government. There are several ways this could be achieved.

The establishment of a planning commission should not reduce ministerial accountability or the capacity of the elected government to enact its policies. There are many examples of authorities and commissions, both in South Australia and elsewhere, that strike this balance. We note, for example, that the Western Australian commission provides for ministerial control.

We believe a state planning commission will offer significant benefits in fostering whole-of-government coordination and transparent state planning decisions. It will provide a firmer administrative basis for the planning portfolio to lead and influence government policy that affects planning, development, infrastructure and urban renewal, while preserving ministerial authority and accountability. Equally, it will improve the integration of other policy priorities with planning. By subsuming existing statutory bodies, it should be able to be established on a cost-effective basis.

See also: Reform 2 ‘Create a network of regional planning boards’; Reform 4 ‘Allow for independent planning inquiries’; Reform 8 ‘Enact a consistent state-wide menu of planning rules’; Reform 22 ‘Allow for more effective provision of open space, parks and urban greenery’; Reform 24 ‘Create new tools for infrastructure funding and delivery’; Reform 25 ‘Adopt an online approach to planning’; Reform 26 ‘Adopt a rigorous performance monitoring approach’; Reform 27 ‘Pursue culture change and improved practice across the system’  
Linkages to What We Have Heard: 3.1 ‘Balancing state, regional and local interests’; 3.4 ‘Political accountability and oversight’

“Cities that achieve meaningful, long-term success typically demonstrate a consistent strategic direction across **political cycles**.”<sup>16</sup>

*Jane Frances Kelly, Grattan Institute*



## 4 ROLES, RESPONSIBILITIES AND PARTICIPATION



### Reform 2

#### Create a network of regional planning boards

- 2.1 Divide the state into regions and establish regional planning boards for each.
- 2.2 Each board will include members representing local and state government, with an independent chair appointed by the minister.
- 2.3 Boards will work with local councils to coordinate planning functions in each region and deliver government policy directions with assistance from the state planning commission.
- 2.4 Specific functions of the boards will include preparing regional strategies, approving council rezoning proposals, undertaking public hearings and other engagement, and appointing regional development assessment panels.

“Having local councils is fine as long as there is a **mechanism** to look at the whole.”<sup>17</sup>

*Charles Landry, former  
Thinker-in-Residence*

- 2.5 Opportunities to integrate boards with other bodies, particularly in country areas, should be explored to promote efficient decision-making and secure integrated policy outcomes for communities.
- 2.6 Boards will be funded through co-contributions, as agreed by participating councils and the state government.
- 2.7 In the metropolitan area, boards will be organised on a sub-regional basis. Recognising the special role of the city centre and inner city area, there will be a central metropolitan sub-region.
- 2.8 There will be flexibility in the system to establish boards for special areas or projects.

Nationally and internationally, planning systems are recognising the importance of aligning planning around regional settings and communities of interest. Planning issues do not stop at council boundaries, but our current planning system provides few mechanisms other than direct ministerial involvement to address issues at this wider scale. This results in policy gaps and avoidable costs to communities. The panel recognises that many councils and agencies routinely cooperate on planning issues at regional or sub-regional levels, but that such practice is not systemic. Our structure of regional planning boards is proposed to better meet local and regional expectations and tap into local knowledge and expertise.

#### Regional models in other planning systems

- Western Australia has a system of regional planning committees linked to its state planning commission.
- New South Wales is considering a regional planning boards system.
- Melbourne has established a metropolitan planning authority, with a similar arrangement also proposed for Sydney.
- New Zealand has regional authorities that coordinate planning and environmental issues.

“There is considerable merit in supporting local government authorities to form **regional authorities**.”<sup>18</sup>

*Planning Review 2008*

The panel believes a network of regional planning boards will provide improved alignment between state and local needs. We propose that these planning boards be implemented across the state, noting that many country areas of South Australia have already organised their areas on this basis and are likely to proceed with this more readily than metropolitan regions. Planning boards should include a mix of state and local representation and have powers to coordinate planning functions. They will capitalise on councils’ strengths in engaging with and responding to local communities about local needs and issues, and government agencies’ strengths in policy development, technical knowledge and liaison with industry, peak bodies and professional groups. Importantly, they will help move many planning decisions and devolve powers from North Terrace.



## 4 ROLES, RESPONSIBILITIES AND PARTICIPATION

“Mismatches between the [scale of planning issues](#) and the [scale of governance structures](#) which seek to address them... can include centralising decision making on the one hand and leaving broader issues to be addressed through subsidiary governance structures on the other. As the scope of issues changes (from local to regional and from regional to national) governance structures are not flexible enough to manage the scale and complexity of issues.”<sup>19</sup>

*Local Government and Planning Ministers Council*

These regional structures will improve interaction, coordination, communication and trust between government agencies and councils and help promote regional autonomy. Some decisions now made centrally could be dealt with regionally, improving administrative efficiencies and preventing costly delays and frustration for business and communities. This will be particularly beneficial in country regions where the planning system is often perceived as metropolitan-centric.

The panel notes that the Local Excellence Expert Panel, commissioned by the Local Government Association, has made similar recommendations for more regional collaboration among councils in its report, *Towards the Council of the Future*.

The panel suggests that in country areas there may be opportunities to integrate planning with regional economic development and natural resources management functions, reducing costs to the community and promoting policy integration at a regional scale. Such integration could also help determine how these regional organisations could be funded. However, this will need careful examination by government, with assurances about the appropriate balance of policy priorities.

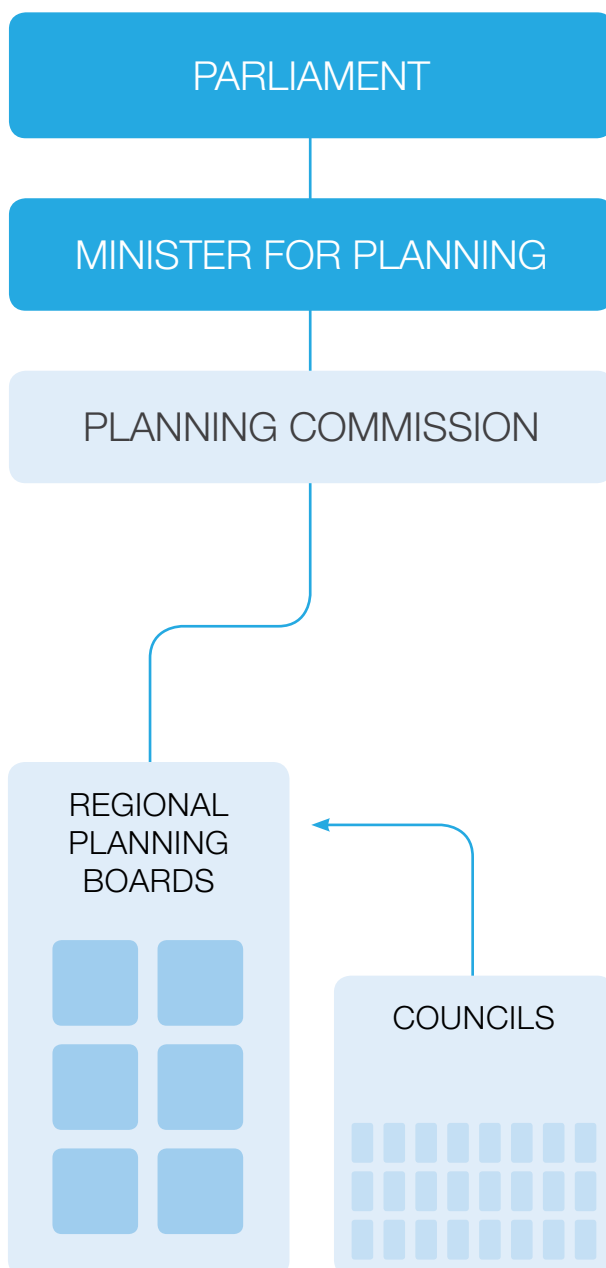
In any event, the adoption of regional boards will necessitate a funding framework to be developed; this could include co-contributions by state and local government or a pooling of resources.

While regional groupings within country areas are already well established, the panel recognises that implementing such arrangements in the metropolitan area will be more challenging. Issues such as urban renewal, cross-council infrastructure links and the coordination of services by government will pose particular challenges. The panel suggests that:

- overall metropolitan strategy should be coordinated through the planning commission
- metropolitan regions should be broadly based around northern, southern and central areas of Adelaide
- the city centre should be incorporated within this regional structure rather than separately from it
- metropolitan regions should correspond with council boundaries.

Clearly these issues will require further discussion and we welcome feedback.

# ROLES WITHIN THE PLANNING SYSTEM



In relation to the city centre, we note that the city council has pointed to models in other jurisdictions, such as the Central Sydney Planning Committee, as well as the former City of Adelaide Planning Commission, as having potential for adaptation in central Adelaide. However, we think there is merit in drawing a wider catchment area that includes more than just the city centre, to address planning issues that are integral to but extend beyond the city. The city has a significance that extends beyond the park lands, but its potential is not well served by current arrangements.

*See also: Reform 1 'Establish a state planning commission'; Reform 7 'Reshape planning documents on a regional basis'; Reform 15 'Take the next steps towards professional assessment'*

*Linkages to What We Have Heard: 3.1 'Balancing state, regional and local interests'*

“Current arrangements for regional collaboration tend to be complex, with some significant differences in the way regions are defined for different purposes and multiple organisations with **over-lapping** roles and responsibilities.”<sup>20</sup>

*Local Excellence Expert Panel*

## 4 ROLES, RESPONSIBILITIES AND PARTICIPATION



### Reform 3

#### Enact a charter of citizen participation

- 3.1 Legislate for a new statutory charter of citizen participation. The charter will replace existing prescriptive consultation requirements.
- 3.2 The charter will be based on leading engagement practices, such as IAP2 guidelines, and will set out principles, benchmarks and suggested approaches.
- 3.3 It will allow for flexible and tailored engagement and foster community debate in planning issues and outcomes.

- 3.4 The charter will encourage use of digital platforms and innovative engagement techniques. For routine matters, it will provide a suite of standard consultation practices.
- 3.5 Agencies and councils will be required to develop engagement plans, consistent with the charter, for planning processes such as a statement of intent for a development plan amendment.
- 3.6 The charter will be developed by the planning commission and subject to regular review to ensure it is up-to-date with leading engagement practices.
- 3.7 As a statutory instrument, the charter will be subject to the scrutiny that generally applies to subordinate legislation.

“Public participation is a central principle of an effective planning system.”<sup>21</sup>

*Planning Review 2008*

To be effective, planning must provide ways for the views of citizens to be heard, understood and acted upon. Too often current statutory consultation processes focus on individual developments and ask for feedback on ‘finished ideas’ at the end processes. This limits the value of consultation and frustrates citizens who want to participate in the development of policies and strategies. Prescriptive consultation requirements also tend to produce a very legalistic ‘lowest common denominator’ approach to engagement that fails to elicit feedback or prompt dialogue. These criticisms are equally true of local councils and state agencies.

As a panel, we want to elevate engagement practices within the planning system. Emphasising early engagement will help alleviate the confusion, frustration and disempowerment that we have heard many people experience when engaging with planning processes. New and emerging technologies and media should be deployed to provide methods of improved dialogue and access to information. We believe that by providing opportunities for early, upfront engagement the system will encourage citizen participation in policy debates.

It is clear that governments are already changing their approaches to citizen engagement. The state government’s ‘Better Together’ community engagement framework is a recent initiative that demonstrates this change. And the panel is aware that many councils and government agencies already take a more proactive approach to engagement than the minimum statutory requirements. This should be recognised and rewarded with appropriate incentives.

“Residents of cities must be **involved in decisions**... in an order of magnitude different from what happens in Australia today.”<sup>22</sup>

*Jane Frances Kelly, Grattan Institute*

#### **‘Better Together’ engagement principles**

- Principle 1** We know why we are engaging and we communicate this clearly.
- Principle 2** We know who to engage.
- Principle 3** We know the background and history.
- Principle 4** We begin early.
- Principle 5** We are genuine.
- Principle 6** We are creative, relevant and engaging.

*Source: [yoursay.sa.gov.au](https://yoursay.sa.gov.au)*

## 4 ROLES, RESPONSIBILITIES AND PARTICIPATION

“The current ‘minimum standards’ prescribed in the legislation are **outdated** and do not reach a broad audience.”<sup>23</sup>

*Local Government Association submission*

We propose to replace existing prescriptive statutory requirements with a charter of citizen participation that is flexible, responsive to evolving engagement practice and technology-oriented. This reform will promote the use of contemporary engagement practices that are crafted to suit specific audiences, while ensuring that routine matters can be handled using simple, standardised practices. The government’s urban renewal legislation has posed a model that could be adapted for the planning system; it requires a tailored community engagement plan to be put in place for precinct planning processes. We propose extending this approach to apply to other planning processes, with engagement plans developed using the charter as a benchmark.

“Consultation with the community occurs towards the end of the planning process, with few or no options given. Major decisions appear to have been already made and community views given at this stage are frequently ignored and appear to have **little to no impact on the final outcome**.”<sup>24</sup>

*Coalition for Planning Reform Communiqué*





The panel also believes it is important to encourage communities to recognise the limits to engagement and its influence on decision-making. It is not appropriate for people to be involved in every planning decision, particularly where the issues are technical, private and accord with settled planning rules. In addition to the charter, the planning commission should establish a range of consultative forums as a means of maintaining dialogue with key sectors, similar to those forums undertaken by many councils and other agencies.

Elevating engagement upfront in the planning system will necessitate effective resourcing by agencies and councils. This is likely to be offset by savings at other stages in the process.

*See also: Reform 1 'Establish a state planning commission'; Reform 14 'Improve consultation on assessment matters'; Reform 25 'Adopt an online approach to planning'*

*Linkages to What We Have Heard: 3.2 'Community inputs into planning decisions'; 3.3 'Inviting and enabling participation'; 4.4 'Who should be involved in strategic planning'*

“With greater clarity around community preferences, decision-makers can outline explicitly the **trade-offs** among competing viewpoints and the extent to which different preferences have been addressed as strategy and structure/ master plans are being developed.” <sup>25</sup>

*Productivity Commission*

#### **What are the IAP2 guidelines?**

The ‘IAP2 guidelines’ are the professional guidelines of the International Association for Public Participation, a leading professional organisation for community engagement practitioners. The IAP2 approach is applied as a benchmark standard by many councils and agencies in South Australia and other states and territories.

*Source: [www.iap2.org](http://www.iap2.org)*



## 4 ROLES, RESPONSIBILITIES AND PARTICIPATION



### Reform 4

#### Allow for independent planning inquiries

- 4.1 Allow for formal inquiries into complex or contentious planning matters to be initiated from time to time.
- 4.2 The minister, planning commission, regional boards, councils or agencies could initiate inquiries, subject to terms of reference and prescribed processes.
- 4.3 Inquiries will harness professional skills and know-how on a sessional basis, providing a way of cutting through deadlocks and resolving issues in an apolitical fashion.
- 4.4 Inquiry reports will be published and require decision-makers to formally respond to their recommendations and findings.

Planning decisions with significant implications for communities should be built on solid evidence and broad consensus. Many planning decisions are complex and at times arouse heated public debate. On occasions, there is need for more opportunity for differing views to be heard.

Our proposal for a state planning commission and joint regional planning boards will go some way to addressing this issue. However, we believe the effectiveness of these new bodies will be boosted by a capacity to establish independent professional inquiries for complex or contentious issues. This will provide citizens an opportunity for a fair hearing and help balance different views and evidence; it could help resolve long-standing tensions or vexing policy deadlocks. It will also allow the planning system to more effectively capitalise on a wider pool of professional skills and expertise.

“The process of deciding on what we want from our development outcomes as a society should be decided **early in the establishment of policy**, not on a project by project basis during the approval phase. This requires clear, open and transparent engagement with all interested parties up front in order to set policy.”<sup>26</sup>

*Australian Institute of Architects submission*

“Planning can be seen as the exercise of power. Planning is always conducted in the face of power, and planners **take opportunities and seize the moment**, working within and around structures of decision-making they do not control.”<sup>27</sup>

*Dr Michael Llewellyn-Smith, former city planner*

Victoria's planning panels are administered centrally by that state's planning department, but can inquire into and provide professional advice on issues for councils and the state government. They have independent hearing powers and are seen to operate at arm's length from state and local politics. They complement standing advisory forums and allow a wider range of professional skillsets to be harnessed to improve the advice on which planning decisions are based.

*See also: Reform 1 'Establish a state planning commission'; Reform 2 'Create a network of regional planning boards'*

*Linkages to What We Have Heard: 3.5 'The role and influence of professional expertise'; 3.6 'Integrity in decision-making'*

### Victoria's planning panels

Victoria's planning panels have been operating since the late 1990s. Individual panels are drawn from a pool of seven full-time members, led by a chief panel member, and a wider group of 70 accredited sessional members.

Sessional panel members provide expertise on planning, architecture, urban design, engineering, environment and social planning. Specific appointments depend on the nature and complexity of the issue being considered. Membership of the list of sessional panel members is reviewed on a regular basis.

*Source: [www.dpcd.vic.gov.au](http://www.dpcd.vic.gov.au)*



## 4 ROLES, RESPONSIBILITIES AND PARTICIPATION



### Reform 5

#### Make the role of parliament more meaningful and effective

- 5.1 Reframe the role of parliamentary scrutiny around strategic plans and state-wide planning policy instruments rather than individual rezoning changes.
- 5.2 The planning commission should align key planning processes with the parliamentary cycle, ensuring more effective scrutiny.

“One of the issues that has been pondered by the committee recently is our role in the whole process... So I suppose the threshold question is: is there a role for the parliamentary committee in the review of DPAs? If there is, we think it should be earlier in the process; *right up the front*.”<sup>28</sup>

*Presiding Member, Parliament's Environment, Resources and Development Committee*

Throughout its engagement, the panel heard that parliament should have an important role in the planning system. However, there were criticisms that current scrutiny processes are inadequate. The panel noted that since the commencement of the Development Act there has not been a single development plan amendment that has been disallowed by parliament. However, we also note that many have been changed in response to dialogue between parliament, the minister and councils.

“The reality is that a system, described as “*parliamentary scrutiny*”, where the parliament is effectively nobbled by not getting to scrutinise the changes to the planning scheme until after they have come into operation, is a joke.”<sup>29</sup>

*Hon Mark Parnell MLC*

The panel has engaged with members of the parliamentary Environment, Resources and Development Committee, who have themselves questioned the effectiveness of their current role in the system. We believe there is a case for continuing parliamentary involvement, but in a more meaningful fashion. In our view, parliamentary oversight will work best when focused on regional and state-wide issues. We propose to lift parliamentary oversight to focus on state planning policies, strategic planning and system-wide zoning rules. This will bring the right level of scrutiny to these system-wide and direction-setting documents.

### **What is the role of the Environment, Resources and Development Committee?**

Parliament's Environment, Resources and Development Committee is the main body involved in parliamentary scrutiny of planning decisions. Currently development plan amendments, once authorised by the minister, must be referred to the committee for scrutiny. The committee may seek changes from the minister and has the power to recommend disallowance to parliament. Unlike other subordinate legislation, parliament may not move for disallowance unless recommended by the committee.

### **Parliamentary committees with planning interests**

Environment, Resources and Development Committee

Economic and Finance Committee

Legislative Review Committee

Natural Resources Committee

Public Works Committee

Social Development Committee

We also propose that parliament should be consulted early and upfront in the development of these documents, rather than being left at the 'tail end' of the process. While parliament should retain its rights of disallowance through the committee, given earlier engagement the onus should be on the committee to deal with matters in set timeframes (regardless of sitting days). This will make engagement with state elected representatives more effective and efficient overall. It will also help ensure planning policies have a longevity that extends beyond political cycles.

Finally, we note that there are several parliamentary committees with overlapping interests in planning issues. We consider there may be benefit in aligning the committee structures of parliament with the work of the planning and infrastructure portfolios. However, this is a matter for parliament to address.

*See also: Reform 1 'Establish a state planning commission'; Reform 2 'Create a network of regional planning boards'; Reform 11 'Make changing plans easy, quick and transparent'*

*Linkages to What We Have Heard: 3.4 'Political accountability and oversight'*



**“THERE IS NO DOUBT  
THAT THE PLANNING  
AND DEVELOPMENT  
SYSTEM IS COMPLEX  
WITH A MAZE OF  
PLANS, PROCEDURES  
AND PROCESSES TO  
BE FOLLOWED.”<sup>30</sup>**



## PART 5

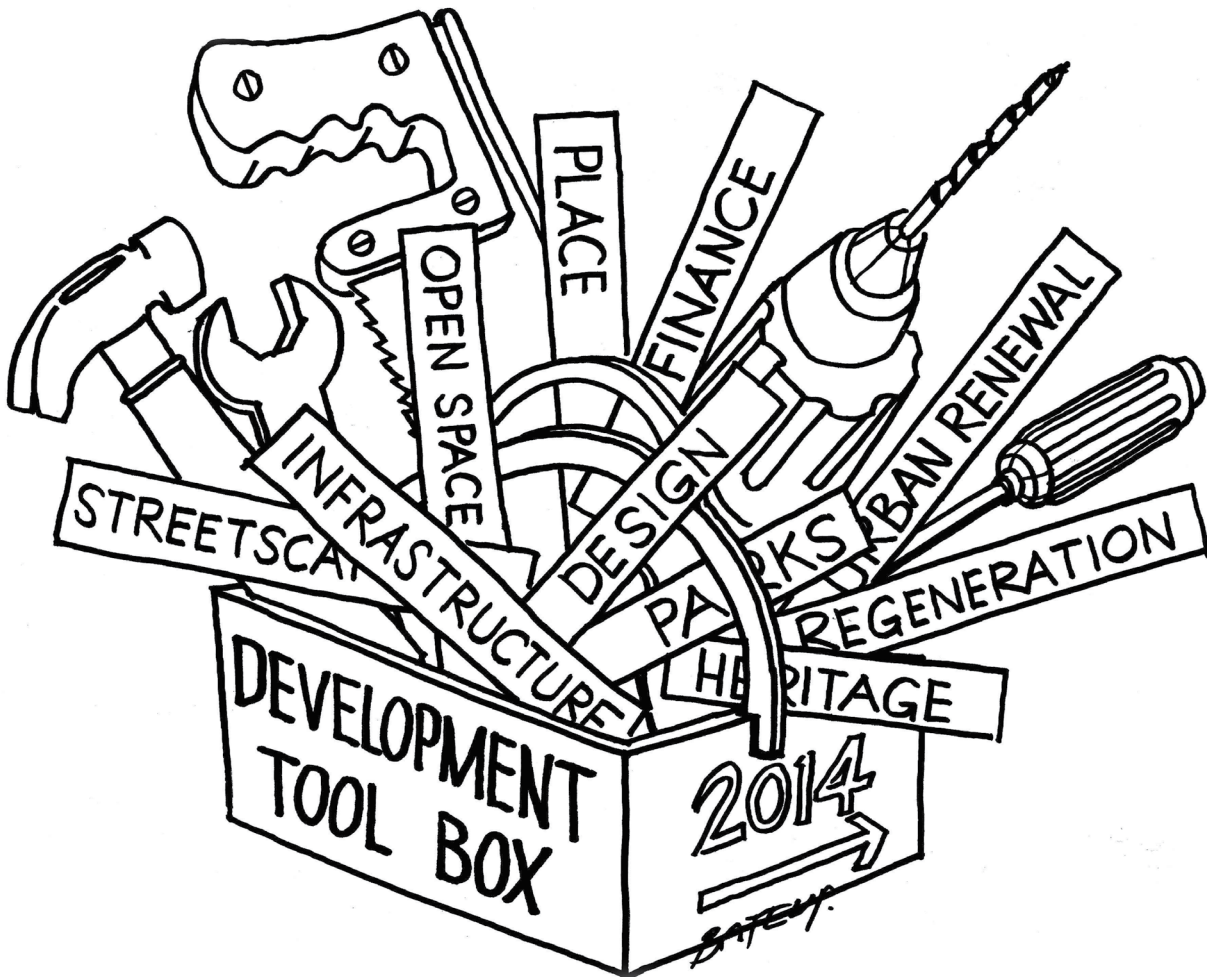
### Plans and plan-making



- **Reform 6** Establish a single framework for state directions
- **Reform 7** Reshape planning documents on a regional basis
- **Reform 8** Enact a consistent state-wide menu of planning rules
- **Reform 9** Build design into the way we plan
- **Reform 10** Place heritage on renewed foundations
- **Reform 11** Make changing plans easy, quick and transparent

## 5 PLANS AND PLAN-MAKING

The planning system provides for decisions that shape the places in which communities live and work. However, our engagement suggested many people find the system impenetrable and difficult to navigate. Users consider there to be too many planning documents and that language is confusing and directions unclear. Practitioners criticised planning documents that have become complicated, voluminous and out-of-date. It is clear that many people have lost faith in the development plan.



### Key questions for feedback

- Which ideas are most workable and suitable?
- How can specific ideas be improved or modified?
- What costs, benefits or other implications should the panel consider?
- What other reform ideas should be considered?

When it was drafted, the planning legislation aimed to provide clear links between the Planning Strategy—the system’s foundation document—and local development plans; in practice, however, it is evident there is a considerable gap. This is in part driven by the sheer complexity of the regulatory system, which now includes about 1,200 zones in 72 development plans. This situation is unsustainable. It has been exacerbated in recent years by a proliferation of statutory and non-statutory state government strategies both within and alongside the system.

In the panel’s view, this reflects inadequate direction, parochial culture and inefficient practice. Moreover, the lack of focus inhibits the capacity of the planning system to embrace and support design and place-making as core elements, and does not support the initiatives of councils and infrastructure providers in shaping the public realm. The panel believes a reformed planning system must maintain a focus on development control, but include improved involvement for design and other tools that contribute to shaping cities, towns and neighbourhoods.

In this section, we propose five reform ideas to address these issues.

### Planning terminology

Various words are used to describe documents and processes in the planning system. Many of these are technical terms that are used and interpreted differently than they are outside planning circles. The glossary clarifies the meaning of terms as used in this report.



## 5 PLANS AND PLAN-MAKING



### Reform 6

#### Establish a single framework for state directions

- 6.1 Establish a process for making new policy instruments to be known as ‘state planning directions’ to replace the policy objectives currently set out in the Planning Strategy.
- 6.2 The new state planning directions will also replace confusing links to other strategic plans or policies with a single point-of-reference for councils and planners.
- 6.3 State planning directions will be short and provide clear guidance to regional planning boards in the development of strategic plans for each region.
- 6.4 The state planning directions will include high-level targets and policies and may be supported by guidelines. In the metropolitan area, this could include a statutory urban growth boundary.
- 6.5 State planning directions will be approved by the minister with the advice of the planning commission. The minister will refer issues to Cabinet when necessary.
- 6.6 The planning commission will oversee the suite of state planning directions and be responsible for consulting about any proposed changes and keeping them up to date. This will include ensuring that the overall policy framework remains manageable.
- 6.7 Ministers and regional boards will be able to propose new state planning directions or change to existing directions through the planning commission.
- 6.8 State planning directions should normally be implemented by councils through local and regional planning documents. These would be the statutory documents against which development decisions will be made.
- 6.9 The suite of state planning directions will be regularly reviewed and subject to parliamentary scrutiny.

“Complexity drives uncertainty and means [ordinary South Australians](#) cannot easily navigate the system.”<sup>31</sup>

*Planning Review 2008*

Planning does not operate in isolation from other areas of policy-making. Effective planning is dependent on the success of links to infrastructure, housing, industry development, sustainable resource management and environmental conservation, and other future-focused areas.

Many of the concerns raised during engagement should be addressed if the state government policies that influence land use planning decisions were clearer and more readily accessible. To achieve this, we propose that the government publish new statutory documents, to be known as ‘state planning directions’.

The state planning directions will provide clear guidance to councils and agencies working in the system and could be supported by guidelines. They will place land use planning at the centre of government processes, as they will require the land use implications of whole-of-government policy proposals to be contemplated upfront. They could operate on a similar basis to Treasurer’s instructions or other types of whole-of-government directions such as Cabinet circulars. Importantly, they will not replace other government strategies or policies but rather provide a way for them to be integrated clearly into the planning system.

The panel believes state planning directions will provide a clearinghouse for connected and potentially conflicting issues to be ventilated within government; coupled with a planning commission, they will reduce confusion and promote coordination across government activity. In addition to general direction, state planning directions should be able to include targets and directions specific to particular regions that will assist regional planning boards in developing strategic plans. In the metropolitan area, this could include the ability to specify a statutory urban growth boundary.

*See also: Reform 7 ‘Reshape planning documents on a regional basis’; Reform 8 ‘Enact a consistent state-wide menu of planning rules’; Reform 11 ‘Make changing plans easy, quick and transparent’*

*Linkages to What We Have Heard: 4.1 ‘Setting clear goals and priorities’; 4.3 ‘Linking strategic policies and directions’*

“Strategic plans should be integrated across all levels of government and government agencies so that [consistent and coordinated](#) decisions are made about relevant matters.”<sup>32</sup>

*Department of Environment, Water and Natural Resources submission*



## 5 PLANS AND PLAN-MAKING



### Reform 7

#### Reshape planning documents on a regional basis

- 7.1 Establish a planning scheme for each region, to be known as a 'regional planning scheme'. Special arrangements in the metropolitan area will recognise both the region as a whole and its sub-regions.
- 7.2 Regional planning schemes will comprise two separate volumes—a regional planning strategy and a regional development plan, which will initially be the present development plan for all relevant council areas in the region.
- 7.3 Changes to regional strategic plans can also include consequential changes to the development plan, reducing the lag time in implementation of strategic priorities and directions.

“Regional development plans should be *truly regional* and not merely an aggregation of existing Council area development plans in one binder.”<sup>33</sup>

*Local Excellence Expert Panel*

- 7.4 Regional planning schemes will be developed and maintained by regional planning boards, with councils retaining the ability to initiate local changes. The minister will also be able to amend regional schemes if there is a pressing need.
- 7.5 Regional schemes will include flexibility to deal with sub-regional and cross-regional issues, through sub-documents such as structure plans.
- 7.6 Legislation should allow regional strategic plans to incorporate infrastructure, environmental, public health and other issues rationalising duplicate requirements under other types of statutory plan.

- 7.7 Regional strategies and development plans will be subject to oversight and direction through the planning commission. To ensure alignment with state policies and funding priorities, plans will require ministerial agreement based on the commission's advice.
- 7.8 Regional schemes will be regularly reviewed and subject to parliamentary scrutiny.
- 7.9 Regional schemes will be supported by a rolling implementation program developed by each regional board and linked to state and local budget processes.

The current planning system provides for state-wide issues being outlined in the 10 parts of the Planning Strategy, which are prepared and maintained by the state government, and then reflected in local development plans (which now number 72) maintained by councils. Our engagement indicated that councils are frustrated that they do not control or have influence over strategic planning in their regions. They find it difficult to translate the Planning Strategy's high-level objectives into local policies, with the current strategic directions report process widely regarded as inadequate. This is reinforced by the absence of statutory guidance related to the content, format and structure of planning documents.

We propose to replace the 10 parts of the Planning Strategy and the state's 72 development plans with a smaller number of integrated planning schemes based on regions, to be known as 'regional planning schemes'. Each scheme will consist of two separate volumes—a regional strategy and a regional development plan. Further volumes covering infrastructure and environmental issues could also be included in time. These will replace the existing Planning Strategy volumes and council development plans, with the initial regional development plan consisting of the existing council plans. We believe that these regional schemes have the potential to integrate infrastructure, environmental and planning regulation in a single framework. Such an approach could see a substantial rationalisation of region-based documents and address perceptions of a 'silo' approach to policy issues by government. Coupled with our proposed regional planning boards, these schemes will boost regional ownership of strategic directions and provide closer links between zoning rules and strategic intent. This will reduce the time lag between strategy and delivery that many regard as problematic.



## 5 PLANS AND PLAN-MAKING

“Adelaide has always been good at ideas, plans and visions, but often the rules system does not catch up with vision.”<sup>34</sup>

*Charles Landry, former Thinker-In-Residence*

“The most significant problem with a system of development control is that decision makers do not know the intention of the plan makers except by interpretation of the regulatory instrument and policies. As the regulatory instrument is fundamentally one of restriction and control, it is not a fulsome explanation of the basis of planning for a locality.”<sup>35</sup>

*Leslie Stein, Centre for Environmental Legal Studies*

Importantly, regional planning schemes will provide a forum for the resolution of state and local policy issues at an appropriate scale. For such an approach to work, local and state governments must each cede some authority to the regional boards, with a process of sign-off to ensure alignment with wider state objectives. Our proposal for state planning directions, along with oversight by the planning commission, will provide this alignment. The minister will set targets for each region with autonomy for the regional planning boards to translate them into a local context; final sign-off will remain with the minister, subject to planning commission advice and parliamentary scrutiny. The minister may refer changes to regional planning schemes with significant whole-of-government implications to Cabinet. The state government will retain a limited capacity to amend a regional planning scheme based on change to a state planning direction, as outlined above.

*See also: Reform 2 'Create a network of regional planning boards'; Reform 6 'Establish a single framework for state directions'; Reform 8 'Enact a consistent state-wide menu of planning rules'*

*Linkages to What We Have Heard: 4.4 'Who should be involved in strategic planning'; 4.5 'Implementing strategic directions'; 5.1 'Consistent rules across the state'; 5.2 'Clear rules that promote certainty'*

# REGIONAL PLANNING SCHEMES



“The most effective interaction between *local and state* government is likely to be at a regional level.”<sup>36</sup>

*Planning Review 2008*



## 5 PLANS AND PLAN-MAKING



### Reform 8

#### Enact a consistent state-wide menu of planning rules

- 8.1 Provide a statutory head power for a state-wide suite of planning rules, to be known as the 'state planning code'.
- 8.2 The state planning code will be a single state-wide repository for planning rules applying to all forms of development and will be adaptable to address local issues.
- 8.3 It will contain a comprehensive menu of zones, overlays and other spatial layers for application in local development plans across the state. Zones and overlays will include both merit-based and complying provisions and standards.
- 8.4 There will be scope for local variations to ensure that zones and overlays can be tailored to suit local and regional needs. The code will also be supported by design guidelines and standards with similar flexibility.

- 8.5 The menu of planning rules in the code will be developed and maintained by the planning commission, subject to consultation with councils, the community and business sectors.
- 8.6 Councils, regional boards and government agencies will also be able to propose changes to the code and associated documents.
- 8.7 Updates to the zones in the planning code will flow automatically across local development plans using online systems, minimising delays and costs.
- 8.8 There will be an annual update process for the code, to be undertaken by the planning commission, with final sign-off by the minister and subject to parliamentary scrutiny.

"A meeting does not pass without DAC being **concerned** about the quality of the development plan."<sup>37</sup>

*Development Assessment Commission submission*

“A **key weakness** of the South Australian planning system is the extent of local variation in zones of similar types.”<sup>38</sup>

*Aldi Supermarkets submission*

It is clear that there has been a significant loss of confidence in the development plan as the primary planning instrument. Simpler, clearer and more consistent zoning and associated rules will help address this.

The panel accepts the recommendation of the 2008 review that the number of zones must be reduced. To do this, the legislation must establish this as a goal for state and local governments. While the state government has sought to create greater consistency through the former ‘Better Development Plans’ program, it is clear that without legislative support this program will not have the desired effect; moreover, it is not seen to adequately cater for country needs. We propose replacing the ‘Better Development Plans’ policy library with a statutory state-wide planning code containing consistent zones and planning rules, similar to interstate approaches.

Responsibility for this new statutory instrument will lie primarily with the planning commission, with the ability for local councils, regional boards and government agencies to initiate changes. This will balance the need for consistency with the legitimate desire of local communities to shape and enhance local identity through planning—particularly when it comes to managing neighbourhood and landscape character in the context of urban change. The overriding imperative must be towards simplification that improves efficiencies, transparency and public confidence in the planning system.



## 5 PLANS AND PLAN-MAKING

“The lack of clarity in policy constructions means that council staff attempt to ‘interpret’ policy during the development assessment process. This is unhelpful.”<sup>39</sup>

*Property Council*

It is evident that development plans do not adequately express how planning rules should be weighted and prioritised. Too often the panel heard that planning policy is confusing, repetitious, contradictory or incomprehensible. There was criticism of the ‘on balance’ test as tending to produce outcomes based on compromise rather than best practice, and calls for planning rules to apply a performance-based approach with a mix of quantitative and technical standards and a focus on outcomes. Many issues related to the expression of planning rules cannot be resolved quickly; the proposed planning commission will have an ongoing task to address these in collaboration with councils and regional boards.

This reform will create resourcing implications that must be factored into implementation. The skills,

knowledge and expertise within local councils and government agencies are essential to support the development and delivery of this reform. Equally, the state government must provide sustained resources through the planning commission so the code can develop and be implemented over time.

To some degree, increased efficiencies will offset resourcing issues. For example, the system lacks the tools to enable timely and expeditious changes to zones on a system-wide basis. The adoption of a state-wide planning code will address this issue, releasing resources for the policy development task.

*See also: Reform 7 ‘Reshape planning documents on a regional basis’; Reform 9 ‘Build design into the way we plan’; Reform 11 ‘Make changing plans easy, quick and transparent’; Reform 25 ‘Adopt an online approach to planning’*

*Linkages to What We Have Heard: 5.1 ‘Consistent rules across the state’; 5.2 ‘Clear rules that promote certainty’; 5.3 ‘Maintaining and updating rules and frameworks’*

“Development plans are often repetitive, contradictory and can contain a number of ‘legacy’ issues.”<sup>40</sup>

*Local Government Association submission*



### **Case study: The many ways flood zones are identified in development plans**

Flood-zone mapping is very important in identifying areas at risk of inundation. In a flood-prone area, there is usually a need for special building requirements for new housing. In some flood-prone areas, residential development may not be appropriate at all.

Despite this, there are significant inconsistencies in how flood-prone areas are identified in development plans. Some are identified by reference to height measurements, some include illustrative concept maps and others include general principles that must be interpreted for each individual case. In some cases, flood-prone areas are identified differently within the same development plan.

*Source: departmental analysis of flood zone mapping*

“It is essential that the Better Development Plan project be **fast-tracked and made mandatory** to support an alignment between the new regional plan for Adelaide and the non-metropolitan regional plans.”<sup>42</sup>

*Planning Review 2008*



“There was frequent reference [among assessment staff] to **reducing the complexity** of development plans.”<sup>41</sup>

*Planning Institute of Australia, SA Branch*

## 5 PLANS AND PLAN-MAKING



### Reform 9

#### Build design into the way we plan

- 9.1 A form-based approach to zoning based on mixed-use principles should be implemented progressively through the state-wide planning code.
- 9.2 Though principally an issue of practice for the state planning commission, there should be correlating amendments to legislation to achieve this.

9.3 Specific design features should be included in the state planning code, such as protections for streetscape, townscape and landscape character.

9.4 Planning rules should be supplemented by a library of design guidelines and standards that have formal statutory recognition.

9.5 Councils should be able to use urban design approaches, such as structure plans, master plans or urban design frameworks, using visual and other means to improve text-heavy desired character statements—noting that, as part of regional planning schemes, these will remain subject to approval by the planning commission.



“To achieve a number of the strategies for enhancement of Adelaide’s character, it is essential to create a climate within which **good design** can flourish.”<sup>43</sup>

*Planning Review 1992*

#### **What is ‘character’?**

Character is an often used term in planning and design practice. Neighbourhood character has been defined as the qualitative interplay of built form and landscape characteristics, in both the private and public domains, that makes one place different from another. Character is not heritage, although the concepts are often confused with each other.

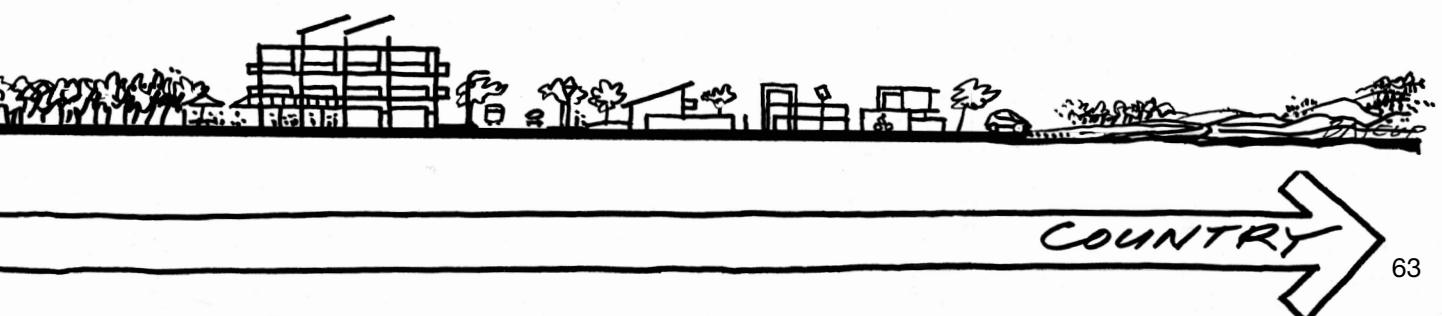
“Zone separation of uses can **inhibit diversity**... Mixed uses make for lively, safe environments.”<sup>44</sup>

*Planning Review 1992*

#### **How design can foster neighbourhood character**

Urban design practices can help identify physical attributes of character so that they can be sustained as neighbourhoods evolve. Terms such as streetscape, townscape and landscape are all aspects of well considered urban design and correspond with community perceptions of ‘character’.

There is increased recognition in many jurisdictions of the role urban design can and should play in planning. There is also a strong desire for the planning system to better acknowledge the importance of streetscape, townscape and landscape character. The panel believes design can play an important role in addressing these issues. Design should be fundamental to planning in urban areas: it offers ways to link private and public spaces; it helps maintain and enhance established character; and it helps visualise character, giving it a valuable role in promoting community engagement in planning processes. Because of this, design is particularly important in the context of urban renewal.



## 5 PLANS AND PLAN-MAKING

Recent activity in South Australia demonstrates that the benefits of design are highly valued; elsewhere the importance of design in creating attractive and healthy and safe places is already evident. The panel believes design and zoning must be linked, and that design approaches may help manage character and heritage in urban settings, particularly by promoting adaptive reuse. Indeed, effective design can remove the need for land use to be the principal basis for the assessment process, especially in urban renewal areas where a mixed-use approach is desirable. In such areas especially, design must lead planning practice.

Historically, zoning emerged to protect residents from conflicting land uses; over time this approach

has become inflexible and ignored the potential for effective design to resolve competing interests. The level of this inflexibility is illustrated by the difficulties in securing approval to open a deli or run a home business in a residential zone. We note that several submissions suggested adopting a form-based approach to zoning to address these issues. As a panel, we can see benefit in such an approach. For example, a form-based approach could help address community aspirations for high-quality design and the protection of character. It could also create the flexibility inherent in mixed-use zoning necessary to stimulate and foster investment and manage urban change, enabling, for instance, small-format supermarkets to open outside of designated activity centres.

### What is 'form-based zoning'?

As zoning has evolved, it has increasingly relied upon single land use zones as its dominant method of organisation. Examples include residential, industrial, retail and commercial zones. Under this approach, design and built-form considerations are secondary to land use. In essence, current zoning tells you what you can build in an area rather than how you might build it.

Elsewhere, planning has increased the use of mixed-use zones, with a greater focus on design and built form. In some cities, this has been systematised using 'form-based zoning'. A form-based zoning approach arranges

zones according to the desired built form and function of an area, placing emphasis on design and allowing for a mix of compatible uses. It has been experimented with in Australia and is increasingly seen as a viable way of addressing issues.

A form-based zoning approach recognises, for example, that neighbourhoods and towns comprise more than just houses; they can have shops, cafes and other services that add to the amenity and functionality of an area. Equally, suburban shopping precincts can be enhanced by apartments, town houses and civic facilities.

Source: adapted from Urban Taskforce Australia, 'Liveable centres, Regulations shape reality: Form first'.

“Subjective matters such as design and character cannot be adequately assessed without a robust set of **design based policies**.”<sup>45</sup>

*Local Government Association submission*

We recognise that South Australia has already experimented with form-based and mixed-use zoning approaches and that there are no restrictions in the current system to applying these approaches. However, there may be ways that the legislation can be adjusted to better accommodate such an approach. For example, form-based approaches could be advanced by a review of land use definitions, a rethink of the centres hierarchy and design consents. We invite further comments on this point, understanding that changes to the expression of zones and planning rules will require sustained effort over a number of years.

The planning system is unclear on how issues of neighbourhood character should be identified, defined and managed. Current desired character statements, while often relied upon to define strategic intent, are often verbose and contestable. They also have limited benefit for engaging with communities, lacking the cut-through that visualisation can bring. Urban design practices, such as structure plans, master plans and urban design frameworks, can outline character in a way that is more accessible, definitive and enforceable and could complement a form-based approach to zoning.

Coupled with these reforms, design standards and guidelines could be given statutory recognition and used to guide industry, councils and infrastructure providers. They should be complemented by a new design consent, design statements and design review processes for complex projects in urban renewal areas (discussed further below).

*See also: Reform 8 'Enact a consistent state-wide menu of planning rules'; Reform 10 'Place heritage on renewed foundations'; Reform 20 'Reinforce precinct-based urban renewal'; Reform 22 'Allow for more effective provision of open space, parks and urban greenery'*

*Linkages to What We Have Heard: 5.5 'Focussing on place and urban design'; 5.6 'Maintaining character and heritage'*

“Conventional zoning never intended to deal with physical form and many of the new provisions introduced, such as design guidelines, were nothing more than ‘**band aid**’ measures to address this deficiency.”<sup>46</sup>

*Urban Taskforce Australia*

## 5 PLANS AND PLAN-MAKING



### Reform 10

#### Place heritage on renewed foundations

- 10.1 Heritage should be recognised in the planning system as relating to place, culture and community development, and not simply physical structures.
- 10.2 Heritage laws should be consolidated into one integrated statute, either as part of the planning legislation or as a separate statute with clear linkages.
- 10.3 Introduce an integrated statutory body to replace existing multiple heritage bodies. This could be based on the existing heritage council or form a subcommittee of the planning commission.
- 10.4 Governance arrangements for heritage should embrace the capabilities and expertise of the state's key cultural institutions.

- 10.5 A new integrated heritage register should be established to include existing state and local listings and have an expanded capacity to recognise special landscapes, building fabric and setting and to place historic markers.
- 10.6 Legislation should provide for a new heritage code of practice to outline how listed properties can be maintained and adapted.
- 10.7 The legislation should allow accredited heritage professionals to undertake specified regulatory functions for private property owners, on a similar basis to private certifiers.
- 10.8 Existing heritage listings will be audited to better describe their heritage attributes.
- 10.9 Financial subsidies, such as discounts on property-related taxes, should be considered as part of the legislative framework for private owners of listed properties.



The panel's engagement with communities across the state revealed a deep and abiding awareness of and pride in the heritage of South Australia's buildings, landmarks and landscapes. Of course, heritage is more than bricks-and-mortar. Balfour's frogcakes, German place names, suffrage for women, the Fringe and the Christmas pageant are all equally part of this state's rich heritage. At its broadest, heritage is about the meanings and values we inherit from previous South Australians and which evolve with each generation.

"Practice bases conservation on architectural and historical criteria as developed and applied by the heritage experts, rather than accommodating the perceptions and reactions of everyday users... conservation is in danger of being viewed as an increasingly elite activity."<sup>47</sup>

*R. Taylor, unpublished planning masters dissertation*

In the context of planning and development, however, 'heritage' is seen in more reductive terms and has become a source of friction and polarising debates. Rather than as host of meaning, values and stories to be told, heritage has become hostage to perceptions of it as a problem.

The interaction between heritage and the development control system has become an increasingly vexed issue over the years and has often involved debates about character. It is clear that the panel's review must outline a new heritage framework that values the state's past, while also catering for future needs. Over several decades, South Australia has benefited from the significant work undertaken by the heritage community, local councils and the state government to identify those crucial heritage landmarks that should be protected and maintained; this work must be the starting point for any reform.

In South Australia, built-form heritage is split between two pieces of legislation, with two ministers, two departments, two separate statutory committees and two separate listing processes served by two separate sets of statutory criteria. There are also separate pieces of legislation governing Aboriginal heritage, historic shipwrecks and certain iconic landscapes. Moreover, in the planning system, local heritage has been increasingly confused with character issues, with the creeping use of quasi-heritage controls such as 'contributory items'. This level of fragmentation imposes costs on individual land owners and deflects attention and resources to low-value matters.





## 5 PLANS AND PLAN-MAKING

As a panel, it is concerning that our heritage system has become increasingly fragmented and unserviceable. It lacks focus and clear state coordination. With a few notable exceptions South Australia's heritage frameworks, which once led the nation, are outdated and out of step with contemporary national practice. To address this, the panel believes heritage statutes should be consolidated into one integrated legislative framework; this could sit within or outside the planning system.

The legislation should clearly link heritage with our cultural institutions—our museums, libraries, galleries and archives. This may require government to reconsider the roles and functions of these and similar organisations. Heritage policy may also benefit from new language and terminology that better articulates the links between wider heritage concerns and the development control system. One possibility is to describe listed heritage properties and areas using a term such as 'landmark'. This will reflect the need for place-related aspects of heritage to be described in ways that assist the physical frame of planning and urban design.

A common concern is that current state and local heritage listing processes are simply too vague on the one hand, and cumbersome on the other. Too often, a heritage listing merely identifies an address without describing why it has been listed and what parts of the property are

### What do we mean by 'heritage'?

In Australian practice 'heritage' usually refers to significant buildings and areas. Evolving meanings of heritage are often broader than this. By using new terms for place-based heritage, we can reframe the heritage conversation as part of a wider civic discussion about the things we value most and wish to retain. Jurisdictions overseas use terms such as landmarks, cultural properties, monuments, historic sites, national treasures and icons to describe heritage items.

important to the retention of heritage value. This causes downstream issues for applicants unsure of what forms and intensities of development can be achieved. In the panel's view, a new 'landmarks' register will identify heritage value in language that helps property owners and professionals operating in the planning system. Specific descriptions of heritage value will directly relate to the controls applied (unlike the present categories). Legislation should also allow for the identification and preservation of special landscapes. Councils should retain their ability to nominate particular places or areas.

It is important to recognise the considerable body of work that state and local governments have

"There should be a less onerous, more equitable approach to the protection of assets the community perceives to have [cultural significance](#), but which recognises the discrepancies in levels of significance and the type of management appropriate to the different levels."<sup>48</sup>

*Victorian heritage panel*

“A new legislative framework that is based on [one set of criteria](#) for both state and local heritage places under a single piece of legislation with thresholds and decision-making at the appropriate level would provide greater effectiveness and efficiencies for heritage conservation.”<sup>49</sup>

*Department of Environment, Water and Natural Resources submission*

undertaken over many years to identify heritage assets. This work needs to be augmented with greater detail and thoroughly audited before a new single state-wide heritage register is introduced. This will necessitate a program to be carefully devised and implemented and delivered in collaboration with local government.

As a panel, we have been concerned that heritage listing imposes costs on property owners. This has been exacerbated by the use of heritage-like terms in development plans in ways that were not envisaged by legislation. We are aware that it can be difficult to source information about what can and cannot be done to a heritage-listed place. We propose that accredited heritage professionals should be able to help people determine, within a wider system of case management, what can and cannot be done to or within a heritage-listed place. This could operate on a similar basis to the way private certifiers operate within the existing planning system.

The panel recognises the costs imposed in the care of heritage properties. We propose that it would be in the public interest for private owners of heritage-listed items to be provided with financial assistance (such as discounts on stamp duty or council rates) and building

#### **Cultural institutions with heritage roles**

Art Gallery of South Australia  
History Trust of South Australia  
Royal Institution Australia  
South Australian Museum  
State Library of South Australia  
State Archives  
Universities

upgrade finance. This may need to be reflected in legislation outside the planning system.

We recognise that a number of councils have provided heritage grants schemes to support conservation and restoration. The panel suggests there would be benefit in developing a state-wide approach, with the possibility of funding from special lotteries as in some other jurisdictions. However, this is a question that might be best explored separately by the government.

*See also: Reform 9 'Build design into the way we plan'*

*Linkages to What We Have Heard: 5.6 'Maintaining character and heritage'*

## 5 PLANS AND PLAN-MAKING



### Reform 11

#### Make changing plans easy, quick and transparent

- 11.1 Replace statements of intent with simple one-page initiation documents and allow for approval of a rezoning program rather than individual rezoning approvals.
- 11.2 Allow regional planning boards to initiate rezoning changes and decide on council proposals for rezoning. These will include clear plans for engagement consistent with the charter of citizen participation.
- 11.3 The planning commission will make final decisions on zoning changes without direct ministerial involvement. However, the minister will retain a call-in power within a prescribed timeframe.

11.4 The ability to update zoning will be available to government agencies, infrastructure providers and land-owners (subject to criteria) as well as councils, regional planning boards and the minister.

11.5 There will be clear timeframes on councils, the planning commission, agencies and ministers at each stage of the zoning process.

11.6 Interim operation criteria will be tightened with a focus on preventing adverse impacts.

“Despite best intent local government development plans lag many years behind state policies and inevitably result in local variations inconsistent with state objectives and policies.”<sup>50</sup>

*Housing Industry Association,  
2009 submission*



“The **set-and-forget nature** of current zoning practices leads landowners and residents to expect that their neighbourhood will remain more or less the same.”<sup>51</sup>

*Jane Frances Kelly, Grattan Institute*

The panel believes that unless they can be easily updated, development plans inevitably lose credibility. It is therefore concerning that our engagement revealed many frustrations with how zoning changes are determined. Concerns included long timeframes to make changes, insufficient consultation for complex proposals, the effectiveness of parliamentary oversight and the role of the minister, particularly relating to the use of interim operation provisions. The reforms outlined here, combined with a number of changes proposed earlier, are designed to address these issues.

Firstly, we propose that rezoning be undertaken by a wider range of parties, including government agencies, infrastructure providers, land owners,

as well as councils and the minister. We also believe that the minister’s existing powers to approve statements of intent and authorise amendments should be transferred, shared between the planning commission and regional boards. The minister will retain a call-in power from the planning commission over the final approval of development plan amendments, although with a state planning code there should be limited need to use this. This will spread the burden and help alleviate bottlenecks. Clearer planning rules, possibly as part of the planning code, could also streamline zoning changes and minimise the delays experienced by users of the planning system. Parliamentary oversight should be reformed to focus on strategic issues, in line with the reforms outlined earlier.

**Development plan amendment timeframes**

	2010–11	2011–12	2012–13
Mean time for approval (months)	31	29	37
Median time for approval (months)	25	27	37

*Source: annual report on the administration of the Development Act, 2012–13*

# 5 PLANS AND PLAN-MAKING

The use of interim operation should be tightened to focus on preventing adverse outcomes, precluding rather than enabling development. However, it is crucial that there are other avenues for speedy and efficient zoning changes to be effected. For example, we think that, subject to appropriate controls, government agencies, public and private infrastructure providers, and land owners should all be able to initiate or transparently fund zoning changes. We therefore propose to limit interim operation powers to issues where there are genuine adverse issues, but provide clear avenues for land owners to initiate a rezoning.

*See also: Reform 5 'Make the role of parliament more meaningful and effective'; Reform 7 'Reshape planning documents on a regional basis'; Reform 8 'Enact a consistent state-wide menu of planning rules'*

*Linkages to What We Have Heard: 5.3 'Maintaining and updating rules and frameworks'; 5.4 'Transparent processes for changes to planning frameworks'*



“Councils generally have been slow to take-up or respond to state [planning initiatives](#), particularly regarding infill development.”<sup>52</sup>

*Property Council*

## Use of interim operation 2005–13

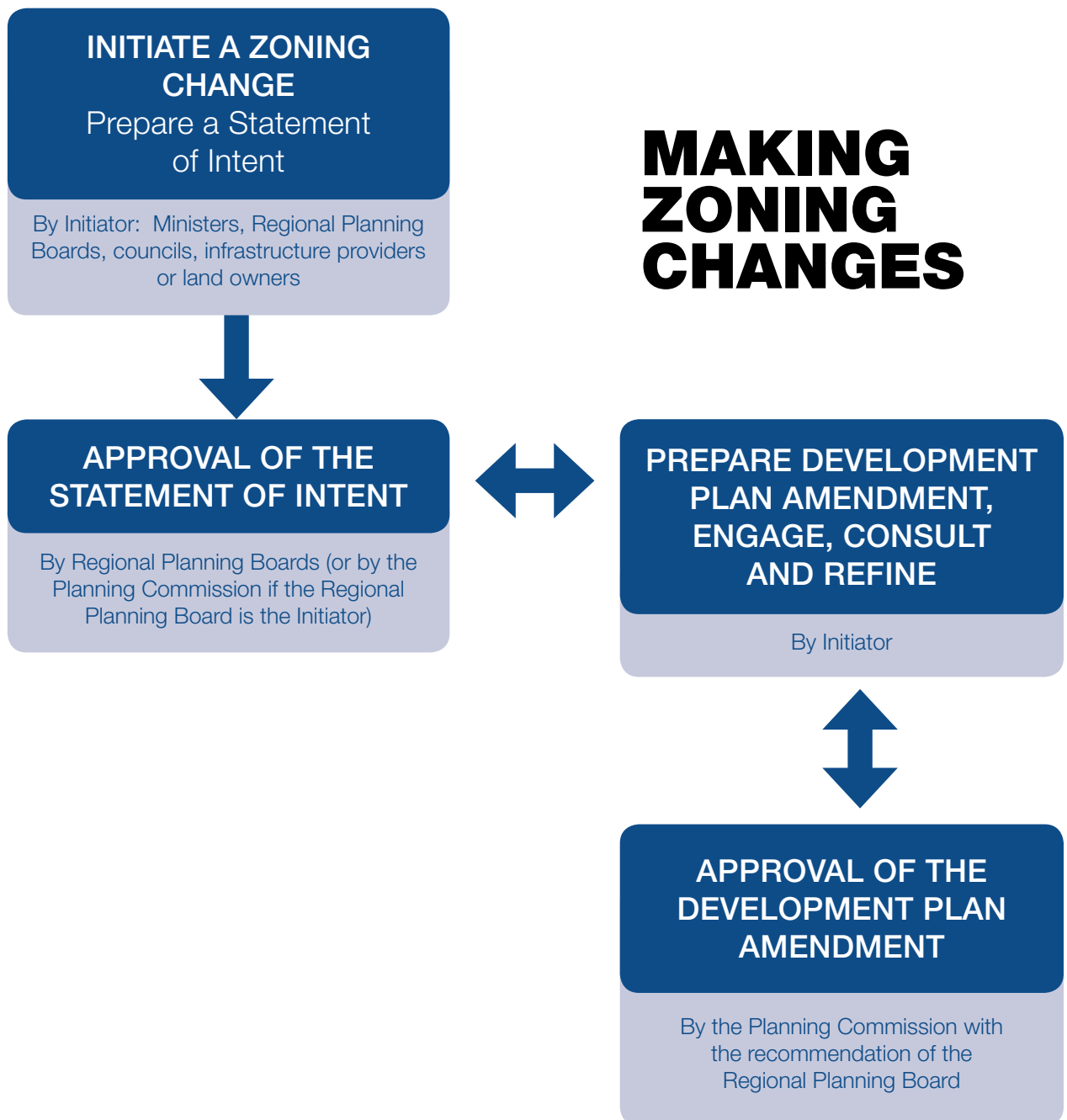
### Type of development plan amendment (DPA)

Council DPA	28	67%
Ministerial DPA	14	33%

### Reason for interim operation

State direction	45%
Heritage listing	34%
Coastal protection	14%
Response to court judgment	7%

*Source: departmental analysis*



**EFFICIENT AND  
EFFECTIVE  
ASSESSMENT  
AND APPROVAL  
PROCESSES FOR  
DEVELOPMENT IS  
IN EVERYBODY'S  
INTERESTS.<sup>53</sup>**

Australian Government, 'National Urban Policy'



## PART 6

### Development pathways and processes



- **Reform 12** Adopt clearer development pathways
- **Reform 13** Provide for staged and negotiated assessment processes
- **Reform 14** Improve consultation on assessment matters
- **Reform 15** Take the next steps towards independent professional assessment
- **Reform 16** Enhance the transparency of major project assessment
- **Reform 17** Streamline assessment for essential infrastructure
- **Reform 18** Make the appeals process more accessible
- **Reform 19** Provide more effective enforcement options



## 6 DEVELOPMENT PATHWAYS AND PROCESSES

Our engagement revealed widespread confusion about development assessment and a desire for clearer processes. It seems many small-scale, low-risk projects are routinely required to undergo full and detailed merit assessment processes, requiring resources that would be better allocated to policy-setting, community engagement and the assessment of more complex development proposals with significant impacts. It is particularly concerning that there has been no discernible shift in the data despite several reform initiatives in recent years; suggesting this is a deeply entrenched practice issue.

The fact that 90 per cent of developments are being assessed on the merit pathway is a clear sign that there is a need for substantial change; in the panel's view, merit assessment should only be necessary for no more than one-fifth of the matters coming into the system.



The panel received more comments on assessment than on any other issue. We believe this is because lodging an application for assessment is the point at which most people become involved with the planning system. While much debate on this topic focussed on the composition of development assessment panels, there were also questions about the role of state agencies, the potential for regionalised assessment approaches and the need for a more professionally driven approach.

We suggest the planning system must move away from considering assessment as an exclusive function of government; rather, the planning system should provide the right governance framework within which assessment occurs. The planning system should capitalise on existing professional expertise to provide effective customer service and minimise costs to taxpayers, as other regulatory systems do. At the same time, local input into and political oversight of decisions must be maintained. Moreover, where nuanced judgments are required, it would not be appropriate for private professionals to exercise assessment functions.

### Key questions for feedback

- Which ideas are most workable and suitable?
- How can specific ideas be improved or modified?
- What costs, benefits or other implications should the panel consider?
- What other reform ideas should be considered?

The panel also considers that major projects, infrastructure approvals and Crown development processes should change to improve their responsiveness, utility, rigour and transparency, and the nature, timing and degree of community input.

In this section, we propose eight reform ideas to address these issues.

### Indicators of assessment pathways, 2012–13

	Lodged	Approved	Refused
Complying pathway	2,296 8.2%	2,157 8.7%	2* 0.3%
Merit pathway	25,571 90.8%	22,463 90.6%	596 88%
Non-complying pathway	305 1%	170 0.7%	79 11.7%
Total	28,172	24,790	677

*\*This is an anomaly. Under the Development Act applications that are complying cannot be refused.*

*Source: annual report on the administration of the Development Act, 2012–13*

## 6 DEVELOPMENT PATHWAYS AND PROCESSES

“Efficient, fair and consistent planning and development assessment systems are essential to delivering economic growth in our communities.”<sup>54</sup>

*Property Council*



### Reform 12

#### Adopt clearer development pathways

- 12.1 Revise current development assessment pathways to provide greater clarity in the assessment process and to enable a substantial increase in the use of complying pathways.
- 12.2 Review and revise the definition of development to exclude unnecessary matters from being captured in the assessment process.
- 12.3 Revise the development definitions to minimise the need for change of land use to be assessed and focus more attention on design, particularly in mixed-use zones.

South Australia’s planning legislation provides three main pathways for development assessment and approval: complying, merit and non-complying. In addition to these, there are special pathways for major projects and Crown development (addressed below). Generally, a change in land use, land division, new buildings or other structures, renovations to existing buildings, and some other dealings with land such as excavation, trigger the requirement for assessment and approval.

The overwhelming majority of assessments are undertaken using the merit pathway, and this has grown over time to more than 90 per cent of all development applications—well over the proportion originally intended. This is unsustainable and imposes costs on ratepayers, residents, land owners and businesses that are entirely avoidable. It sends the wrong message to businesses looking to invest in jobs and new industries in this state. We endorse the recommendation of the 2008 review that complying development should account for the majority of the assessment task handled by the system—and our reforms to zoning are pivotal to achieving this. However, there are also improvements to assessment pathways that can help address this issue.

On the face of it, the three current categories cover most issues likely to arise. However, the panel has received a number of submissions that suggest these pathways may require refinement to avoid forcing some projects into a ‘square peg in a

**Figure 4: The panel's proposed new development pathways**

<b>Current category</b>	<b>New category</b>
exempt	exempt
complying assessment	complying assessment
merit assessment	merit assessment
non-complying assessment	performance-based assessment
	prohibited

round hole' scenario. Nationally, the Development Assessment Forum (DAF) has proposed an assessment model that has widespread support among industry and planning practitioners.

Many aspects of the model are similar to pathways already provided in the state's planning system; for example, South Australia's complying and merit pathways clearly equate to the 'code assess' and 'merit assess' categories proposed in the DAF model. However, it is apparent that the 'impact assess' pathway in the DAF model could have benefits for South Australia. This would increase clarity for both councils and land owners, addressing perceptions that non-complying assessment can be used to circumvent

the development plan with limited guidance. A prohibited category could also be included for use in limited cases. The panel's proposed new approach is outlined in **Figure 4**.

These adjustments will be strengthened by a review of the existing development definitions, many of which are old-fashioned and inflexible, and 'change of use' principles to remove unnecessary regulatory barriers; this will dovetail with a form-based zoning approach outlined above.

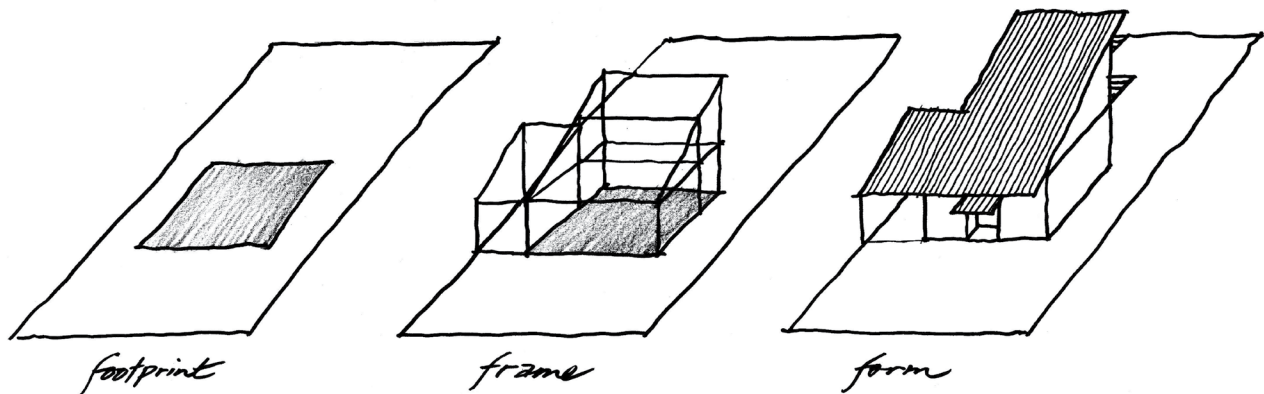
*See also: Reform 13 'Provide for staged and negotiated assessment processes'; Reform 14 'Improve consultation on assessment matters'; Reform 15 'Take the next steps towards professional assessment'; Reform 16 'Enhance the transparency of major project assessment'*

*Linkages to What We Have Heard: 6.1 'Pathways to development'; 6.2 'What needs to be assessed'; 6.3 'Elements of assessment'*

"South Australia's planning system is **compromised** because its resources are largely allocated to lower value developments."<sup>55</sup>

*Planning Review 2008*

## 6 DEVELOPMENT PATHWAYS AND PROCESSES



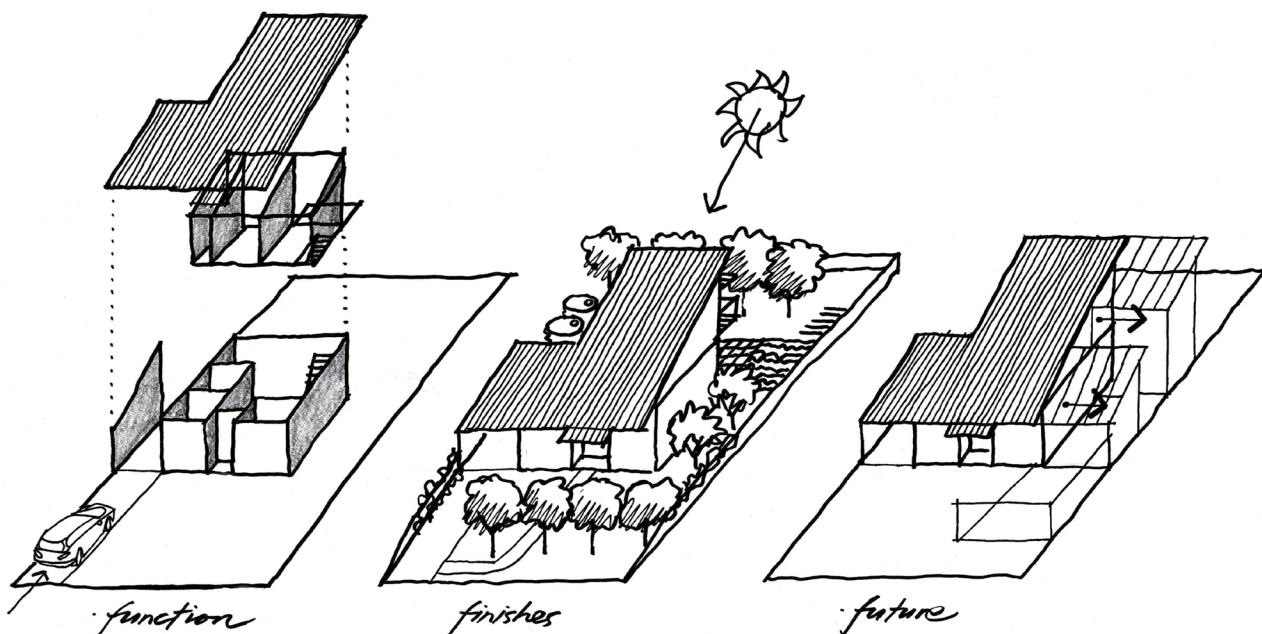
### Reform 13

#### Provide for staged and negotiated assessment processes

- 13.1 Modify planning and building consents by breaking them into smaller steps. These could cover land use, building envelope, design, structure and layout, finishes and landscaping.
- 13.2 Design consent, design statements and design review processes should be incorporated into the assessment process for complex developments.



- 13.3 Other statutory consents should also be incorporated into the consent process where possible. (This will link to referral reforms outlined further below.)
- 13.4 Define clear information requirements at each step and allow for deadlocks to be resolved quickly through a complaints-handling mechanism.
- 13.5 Allow applicants to stage the assessment process by progressively applying for consents at their discretion, including 'in principle' consents.



13.6 Provide ways to negotiate staging of assessment for larger, more complex projects by way of a formal upfront pre-lodgment agreement.

13.7 Provide a statutory indemnity for assessment officers for good faith advice, encouraging people to seek early advice.

Many users of the system told us that assessment processes are too inflexible and can be unnecessarily protracted. Current development assessment processes involve two basic steps: planning consent and building consent. Land owners may also need to secure other statutory approvals, permits or licences. These may relate

to environmental management, particular land uses or connections to network infrastructure. In some cases, these approvals could form part of the assessment process but, for various reasons, have remained outside the planning system.

Planning authorities often require proponents to submit a large amount of detail about their proposals when submitting their assessment applications. The panel has been told that this practice has escalated over the past 15 years and can result in unnecessary delays in assessment, especially for large complex projects. Evidence suggests that the system particularly struggles to accommodate large-scale complex development proposals that incorporate innovative construction methods—an issue likely to become more prevalent as planning and building codes respond to climate change and emerging technologies.



## 6 DEVELOPMENT PATHWAYS AND PROCESSES

“There seems to be a nexus between creating high quality urban environments with high standards of design, and allowing flexibility and streamlining development applications.”<sup>56</sup>

*Local Government Association,  
2009 submission*

The panel suggests that the existing process involving two steps—planning and building consent—may not suit all contemporary development proposals. For example, we learned through engagement that, for more complex projects, there is a need for flexibility to align assessment processes with users looking to secure investment finance with the ‘bankability’ that progressive decision-making provides. This approach can help minimise demands for detailed information before it is needed or even available. The same logic can be applied to minor housing and other development applications. Such an approach has been applied as part of the state government’s pre-lodgment process in the city.

A recent report by the Grattan Institute suggests there is a need for planning systems to adopt an assessment approach based on distinct elements of buildings. The panel considers the consent process can be separated into steps that can be progressed at an applicant’s discretion, rather than forcing a proponent to ‘lock in’ all aspects of a development at the beginning of the assessment process. In the panel’s view, an assessment authority should not require detailed upfront information to be able progress the assessment of a project. ‘In principle’ agreements will enable provisional consent, allowing proponents to provide more information and documentation as a development proceeds; these could be linked to established industry practices such as concept plans and master plans. Rather than a two-step assessment process, existing planning and building consents could be divided into smaller steps covering issues such as land use, building envelope, design, earthworks, structure, layout, finishes and landscaping. This should include the ability to require design review for complex projects.

“[There is a need for] a quantum leap in the quality of applications being received, which may entail a complete re-engineering of the lodgment process, including the greater use of pre-application discussions.”<sup>57</sup>

*Planning Institute of Australia, SA Branch*

The panel believes this approach would also ‘scale’ information flow to each step of the consent process. The panel heard that assessment processes are often frustrating for users and become extended as a result of repeated requests for information; conversely, it is clear that applicants often do not provide sufficient information for planning or building consent to be granted.

Assessment officers often feel constrained in providing advice to applicants for fear of being seen to be improperly influencing the assessment process. Separating the consent process into smaller ‘bite size’ steps will help address this.

However, we think there is a need to provide some form of protection to officers acting in good faith when they provide applicants with advice. Such an approach could dovetail with pre-lodgment processes and also enable design review for more complex proposals. The incremental staging of approvals could also improve the quality of building decisions, helping to ensure structural longevity and safety.

*See also: Reform 12 ‘Adopt clearer development pathways’; Reform 14 ‘Improve consultation on assessment matters’; Reform 15 ‘Take the next steps towards professional assessment’*

*Linkages to What We Have Heard: 6.4 ‘Timeframes, information and advice’; 6.5 ‘Notification, consultation and representation’; 6.7 ‘Facilitating development outcomes’*

“Prior to lodging rezoning and development applications, many businesses encounter problems accessing and understanding the **relevant information** necessary to determine if their proposal is allowed or feasible.”<sup>58</sup>

*Productivity Commission*



## 6 DEVELOPMENT PATHWAYS AND PROCESSES



### Reform 14

#### Improve consultation on assessment matters

- 14.1 The legislation should require notices about development to be attached to properties as part of assessment consultation processes.
- 14.2 Information about development should be published on a searchable state-wide online portal, with citizens able to subscribe for updates.
- 14.3 Link notification, consultation and appeal rights directly to the proposed development pathways rather than as separate issues.
- 14.4 There should be an abbreviated process for applicants who engage with neighbours before lodging a development proposal that requires consultation.

“Residents, denied a real say in how their neighbourhood develops, often feel they have **little choice** but to oppose all planning applications and all change.”<sup>59</sup>

*Jane Frances Kelly, Grattan Institute*

- 14.5 Third-party merit review rights should be limited to merit and performance-based assessment and based on the level at which a project is assessed. Similar limitations should apply for infrastructure that has been identified as part of a strategic plan.
- 14.6 Rights of judicial review for these pathways should be retained, particularly for public interest litigants.
- 14.7 Provide for councils to seek to resolve issues raised as part of consultation through mediation processes, backed up by good faith indemnities.



The assessment of development proposals must be transparent and provide reasonable opportunities for input from interested members of the public. Engagement revealed dissatisfaction about the amount, timing and accessibility of information about development proposals. Development projects can often become ‘lightning rods’ for community concerns about planning, partly because many people regard the notification aspect as an invitation to give feedback when it is often merely providing information. While citizens seek more information about and input into development proposals, land owners become frustrated if consultation prevents them developing their properties according to established planning rules. Issues such as privacy and transparency must be carefully balanced and expectations managed.

“A number of councils and state and territory agencies regard consultation primarily as a way to inform communities... rather than **engaging residents** with a view to building plans around well-informed community opinions and preferences.”<sup>60</sup>

*Productivity Commission*

The charter of citizen participation we have proposed above will be a significant step towards a more open and transparent approach to consultation and engagement, especially at the plan-making stage. Alongside the charter, the planning system should provide simple, accessible ways for residents to discover what is happening in their neighbourhoods. For example, a simple sign on a property could easily inform residents about a development, as occurs interstate and for liquor licensing in this state. Online information should also outline development activity in an area.

## 6 DEVELOPMENT PATHWAYS AND PROCESSES



Under the current system, rights of notification, to be heard and of appeal are linked to four statutory categories that do not match the current development pathway categories. This means that for each development application assessment officers have to separately determine the pathway and the notification category. This causes unnecessary conflict and confusion. The panel considers a single decision covering both issues to be more appropriate; this could be achieved by linking notification and associated rights directly to the development pathways.

Such an approach will also improve the fairness of rights of review. Generally, an appeal should be permitted if the appellant has a clear interest in the matter; presently this is determined by reference to the statutory notification categories. The panel suggests that appeal rights should be widest for merit and performance-based assessment, and linked to the level at which a matter is assessed. For example, third-party appeal rights for a major project should be limited to those living in or owning land in the same region (with, perhaps, some exceptions for public interest litigants). Another way to effectively regulate appeal rights will be to enable costs to be awarded; this issue is dealt with below.

Issues raised during development assessment processes may be amenable to resolution through mediation-like approaches. Council staff reported that many development-related issues may be better thought of as neighbourhood disputes and handled accordingly; however, the existing system treats these more formally, requiring residents to make written submissions and present to formal hearings of assessment panels. This process can be daunting and does not assure people that the issues they have raised will be resolved.

We think assessment officers could seek to resolve disputes informally, perhaps by convening a mediation conference (similar to the compulsory conference proceedings undertaken by the court). This will promote a more constructive, collaborative and facilitative approach to an assessment process often seen as risk-averse and adversarial. To protect assessment personnel, indemnities for acting in good faith should be included in the legislation with safeguards against malpractice.



“The committee recommends that the government considers the use of **development notices** on sites to inform local residents of forthcoming changes.”<sup>61</sup>

*Parliament's Environment, Resources and Development Committee*

Finally, pressure from the assessment process itself would be reduced by placing more onus on proponents to consult neighbours and other interested parties before lodging prescribed applications. Such an approach will require clear criteria to guard against inappropriate use, but could offer significant advantages for applicants and communities.

*See also: Reform 12 'Adopt clearer development pathways'; Reform 13 'Provide for staged and negotiated assessment processes'*

*Linkages to What We Have Heard: 6.5 'Notification, consultation and representation'*



## 6 DEVELOPMENT PATHWAYS AND PROCESSES

### Reform 15

#### Take the next steps towards independent professional assessment



- 15.1 Regional-level assessment panels should become the primary forum for development assessment, replacing existing assessment bodies.
- 15.2 Regional panels will undertake various assessments now handled centrally by the Development Assessment Commission and locally by council development assessment panels.
- 15.3 Council assessment managers will present recommendations to regional panels on development proposals from their councils, with overall coordination of panel business to be managed collaboratively.
- 15.4 Assessment panels will consist of accredited professionals and be convened by a coordinator.
- 15.5 Higher-level matters will be handled at a state level, with the planning commission taking on the assessment function directly.

- 15.6 A joint state-council committee, operating as a subcommittee of the planning commission, will register and accredit professionals. Accreditation will be managed through professional organisations.
- 15.7 Panel members and other professionals will undergo periodic training as part of the accreditation process.
- 15.8 Panels will be able to co-opt specialist professional members and local expertise for particular matters. They may call on local council members to participate in panel discussions for development relating to their council area, but not in decision-making.
- 15.9 There will be some flexibility for regions to determine the arrangements that suit them best, but it is envisaged that regional panels will only need to consider contestable matters that are subject to merit and performance-based assessment.

“Councils consistently expressed concern about the apparent endorsement of planning as a **political process**.”<sup>62</sup>

*Local Government Association, 2009 submission*

- 15.10 All applications will continue to be lodged with and processed by council staff, including preparation of assessment recommendations for the regional panel.
- 15.11 It is envisaged that there will be delegations provided to council staff to enable this to occur.
- 15.12 Low-risk matters will be handled by accredited professionals, who may be council staff or private consultants contracted as certifiers by applicants. The role of private certifiers will therefore expand.
- 15.13 The planning commission will audit accredited professionals and assessment bodies and receive and act on complaints.

As a panel, we have heard many views about aspects of the assessment process, and particularly the role of development assessment panels. Views have spanned the spectrum, from support for panels as currently constituted to calls for their abolition and replacement with state assessment bodies or private certifiers. As a panel, we have examined the evidence in South Australia and approaches in other jurisdictions, and as a result have developed a set of principles to inform our proposals.

Based on our engagement and research, we suggest assessment must:

- be focussed on high-quality outcomes and professionally executed
- consider and balance present and future community concerns and interests
- limit political involvement where the planning rules are already settled.



## 6 DEVELOPMENT PATHWAYS AND PROCESSES



We believe that the introduction of development assessment panels has been a major improvement to the South Australian planning system and note that other systems have followed our lead. However, we cannot ignore the evidence of problems that have arisen since. There are real concerns that the influence of local elected representatives on panels may lead to decisions that do not reflect the intent of a development plan. The panel has heard of instances where individual councils have sought to refuse to support or even reverse the decision of an independent development assessment panel.

In our view accredited professionals should be able to assess uncontested issues. Contested issues should be considered by panels on the basis of development plan provisions, including their impact on communities. To ensure integrity in the assessment process, political considerations should have limited influence over individual decisions. Instead, elected representatives should focus on strategic policy decisions rather than the operational details of assessment.

There is a clear desire to promote regional (as opposed to local) development assessment panels while ensuring local planning objectives are appropriately considered. Requiring panel members to be suitably qualified and experienced will improve the system and its reliability. Legislating for regionally based development assessment panels will support transparency.

“Many development assessment teams in local government across South Australia are facing significant challenges in **attracting and retaining staff** to deal with often overwhelming volumes of...development applications.”<sup>63</sup>

*Planning Institute of Australia, SA Branch*

“There has been a **lack of progress** with private planning involvement or the introduction of a discretionary role for certifiers.”<sup>64</sup>

*Property Council*

The panel notes that jurisdictions are increasingly having suitably qualified and experienced professionals assess and determine complying development applications. The panel suggests that a certification or registration process for technical and professional advisers be established; this will complement recent legislative changes that have expanded the potential use of private certification. However, implementation of the auditing, registration, training and accreditation procedures recommended by the parliament’s select committee on private certification should be completed before scope is expanded.

*See also: Reform 2 ‘Create a network of regional planning boards’; Reform 3 Reform 12 ‘Adopt clearer development pathways’; Reform 16 ‘Enhance the transparency of major project assessment’*

*Linkages to What We Have Heard: 6.6 ‘Who should make assessment decisions’*



“There is support for more **regional development assessment** for a variety of reasons, including an improved approach to economic development, a consistent approach to development assessment across the region and the improved management of natural resources and ecosystems.”<sup>65</sup>

*Local Excellence Expert Panel*



## 6 DEVELOPMENT PATHWAYS AND PROCESSES



### Reform 16

#### Enhance the transparency of major project assessment

- 16.1 Provide for major projects of regional significance to be assessed by a regional assessment panel using the performance-based assessment pathway.
- 16.2 Convert the existing major project declaration power into a 'call-in' power, with tighter criteria primarily based on the need for fair and appropriate assessment.
- 16.3 The minister should only exercised this 'call-in' power following advice from the planning commission based on the commission's assessment against the statutory criteria.
- 16.4 Require either ministerial-regional concurrence or a full Cabinet decision with approval by the Governor for each major project.
- 16.5 Reinstate judicial review rights for major projects and associated Crown development and infrastructure approvals.
- 16.6 Ensure alignment of environmental impact assessment processes with federal laws, with graduated steps for lower impact proposals and more streamlined paperwork.
- 16.7 Bring mining approvals into the planning system as part of the major projects process, providing a single integrated approval for mine and associated infrastructure development.

The engagement emphasised that projects with the potential for significant community, economic or environmental impact require special handling. The panel also noted that this is a national concern, with the Productivity Commission recently offering recommendations.

The planning legislation allows the minister to declare a development a 'major project', which escalates the assessment to the state government, subject to environmental impact assessment processes. There is no other mechanism to require an environmental impact assessment in the planning system. However, this power also operates as a ministerial 'call-in'. It was clear to us that there is some disquiet about the combination of these two roles potentially leading to misuse, and a desire for tighter statutory criteria.

Regional development assessment panels will deal with many 'major projects' using the performance-based assessment approach outlined above, with state assistance for more complex matters. For projects of state-wide significance, the minister should retain an ability to call-in a project for assessment by the state planning commission.

"Regardless of the architecture of the planning system, there will always be a need to provide a 'release valve' that allows deserving proposals to be separately assessed."<sup>66</sup>

*Aldi Supermarkets submission*



## 6 DEVELOPMENT PATHWAYS AND PROCESSES

The panel understands that South Australia is better aligned to federal environmental assessment processes than other jurisdictions. This alignment should be maintained; however, appeal processes and penalty provisions for non-compliance must change to secure continuing Commonwealth accreditation for environmental approvals. An important requirement of federal

accreditation is the ability to challenge decisions before a court; current South Australian law prevents this. We think these judicial review rights should be restored, in the interests of due process and transparency and to enable the state to maintain its federal accreditation for environmental assessment.

### Productivity Commission inquiry into major projects

Reforms for major project assessment processes identified by the Productivity Commission include:

- move towards a 'one project, one assessment, one decision' framework for environmental approvals
- limit the use of 'stop the clock' provisions
- improve coordination between state regulatory agencies
- provide institutional separation of environmental policy development from regulatory and enforcement functions
- enshrine the principle that ministerial approvals should only be reviewable on judicial review grounds
- establish statutory timeframes for key decision points in the assessment process
- expand the use of strategic assessments where practical
- require approval authorities to publish reasons for their decisions
- improve third-party opportunity for compliance actions.

*Source: Productivity Commission, Major Project Development Assessment Processes*



“Developments or other projects that are of major environmental, social or economic importance are the developments that will shape the State’s future; they are a **legacy of this generation** to the next. They can bring far-reaching and positive changes or be costly, disappointing burdens.”<sup>67</sup>

*Environment Protection Authority submission*

Our engagement revealed some disquiet about how mining projects are approved and link to infrastructure and other planning processes. Moreover, we have heard from the mining industry concerns about links between the planning and mining frameworks. It is apparent that the coordination of infrastructure for major mines, tensions between planning and mining regulation, and the need to ensure the integrity of the environmental impact assessment process all warrant a rethink of the relationship. The panel suggests that the development assessment aspects of mining will be best served through a special coordinated approval process under the one system. One way to achieve this will be through the establishment of a special assessment process for mining projects within the planning commission structure.

Too often, the major project process defaults to an unnecessarily paperwork-heavy process. Assessment of significant investments that attract major project or similar status should be based on risk, within a more graduated assessment framework. Moreover, it is important that the process provides an initial indication to investors of insurmountable barriers—essentially an early ‘no’. This could be coupled with a strategic impact assessment process that emphasises proactive assessment of impacts on a strategic scale rather than the reactive assessment of individual projects. Effective strategic impact assessment will abbreviate downstream assessment processes for infrastructure and major projects, and align with the government’s *Regional Mining and Infrastructure Plan* recommendations.

*See also: Reform 12 ‘Adopt clearer development pathways’; Reform 15 ‘Take the next steps towards professional assessment’; Reform 17 ‘Streamline assessment for essential infrastructure’; Reform 24 ‘Aim for seamless legislative interfaces’*

*Linkages to What We Have Heard: 6.9 ‘State significant developments and infrastructure’; 6.10 ‘Assessing significant impacts’*

## 6 DEVELOPMENT PATHWAYS AND PROCESSES

### Reform 17

#### Streamline assessment for essential infrastructure

- 17.1 Establish a separate assessment pathway that will cater for identified essential infrastructure. Categories of essential infrastructure will be determined by the planning commission.
- 17.2 Approval of essential infrastructure should be linked to strategic impact assessment and identified infrastructure corridors and sites.
- 17.3 Detailed assessment of essential infrastructure should be confined to design guidelines for large projects. This could include registration of replicable infrastructure designs.
- 17.4 Continue the position of infrastructure coordinator-general, placing it within the planning commission, providing sign-off for streamlined approvals of essential infrastructure.
- 17.5 Exemption classes for infrastructure should be reviewed as part of the planning code.



“It should be clearly articulated that in terms of land use, the corridor and/or site approved, is preserved for **long term infrastructure** development with only acceptable interim uses allowed.”<sup>68</sup>

*Electranet submission*

Changes to infrastructure ownership and operating models across the private and public sectors, together with the lack of an infrastructure-specific assessment pathway, have led to a situation where government agencies must sponsor private infrastructure projects before they can proceed to a planning assessment stage. We note that other jurisdictions have separate assessment pathways for significant infrastructure, but that existing mechanisms for assessing infrastructure development in South Australia do not provide for the prioritisation of essential infrastructure.

The panel sees merit in clearly separating infrastructure assessment from the Crown development process. We propose a separate infrastructure approval pathway, with the potential for abbreviated steps and with a focus on design, based on strategic impact assessment processes or perhaps incorporating a continuing role for the coordinator-general. This two-tiered approach will recognise contemporary infrastructure ownership and operational arrangements. It will reduce the costs of infrastructure assessment processes—costs ultimately borne by customers—while improving the integrity of the Crown development process. The planning commission should be given responsibility for determining and maintaining the categories of infrastructure that will benefit from this streamlined approach.

### What is the coordinator-general?

The role of ‘coordinator-general’ was established on a temporary basis as part of the school building economic stimulus program; the role has since been extended. It enabled stimulus projects to be built more quickly by substituting the coordinator-general’s sign-off in lieu of a more conventional planning consent. The concept of sign-off by an authorised person to direct public resources to development outcomes (rather than spending it on inefficient processes) could be applied to the ‘essential infrastructure’ category to streamline infrastructure assessment processes.

### What is essential infrastructure?

An effective infrastructure assessment pathway should provide clearly defined infrastructure categories. Different categories may attract different levels of assessment based on their scale, function and frequency of use—determining these categories should be a responsibility for the planning commission. The panel considers that the following infrastructure and services should be considered ‘essential infrastructure’:

- major utilities facilities such as waste disposal, wastewater treatment plants, reservoirs and electricity generators
- major transport infrastructure, including roads, public transport, ports and freight logistics facilities
- distributional infrastructure such as pipelines, pumping stations, electricity wires and substations
- facilities that support the delivery of community services, such as hospitals, schools, libraries and community centres.

*See also: Reform 12 ‘Adopt clearer development pathways’; Reform 16 ‘Enhance the transparency of major project assessment’; Reform 24 ‘Enact new tools for infrastructure funding and delivery’*

*Linkages to What We Have Heard: 4.2 ‘Triple bottom line thinking’; 4.6 ‘Planning and delivering infrastructure’; 6.9 ‘State significant developments and infrastructure’; 6.10 ‘Assessing significant impacts’*

## 6 DEVELOPMENT PATHWAYS AND PROCESSES



### Reform 18

#### Make the appeals process more accessible

- 18.1 Work with the court to establish a regional merit review process, such as re-hearings by regional assessment panels.
- 18.2 Enable an official in the department or court to deal with procedural disputes rapidly with a further appeal to the full court.
- 18.3 Empower commissioners of the court to make binding arbitral directions at compulsory conference hearings, rather than relying on agreement by the parties.
- 18.4 Consider allowing the court to impose costs in limited cases, on similar grounds to the tribunal's legislation.
- 18.5 Enable the court to register public interest litigants as a procedural reform.

“The system has become overly **legalistic** and unfortunately case law often prevails over common sense.”<sup>69</sup>

*Local Government Association submission*

Currently, appeals and enforcement matters are dealt with by the specialist Environment, Resources and Development (ERD) Court. It is a court of record in which a mix of judicial and non-judicial officers exercise both criminal and civil jurisdiction. Several officers also hold positions outside their ERD Court roles. As a merit review tribunal, it is a no-costs jurisdiction focusing on dispute mediation. The court combines both administrative review and criminal enforcement functions in the same forum. However, most of its work relates to merit review matters.

The court was established in 1993 to provide a single dispute resolution forum to cover all aspects of environment, resources and development, instead of having different entities deal with these matters. However, the vast majority of its business has always related to appeals of development decisions.

The court has functioned well for some time but over the years it has come to be perceived by some sections of the community as little different from any other court of record. The panel's engagement suggests that the appeals process is often seen as remote, legalistic and inaccessible. The court itself has put in place practices to overcome some of these issues and it is fair to say that many of these attempts, such as the ability to have matters determined by written submissions rather than formal hearings, have not been taken up by litigants.



“The gaming of the planning system through vexatious, frivolous and anti-competitive appeals may result in sub-optimal land use from a community perspective.”<sup>70</sup>

*Productivity Commission*



## 6 DEVELOPMENT PATHWAYS AND PROCESSES

### Appeals to the Environment, Resources and Development Court, 2012–13

	Applicant	Third parties
Resolved	116	22
Confirmation of a decision	18	3
Variation of a decision	2	5
Reversal of a decision	8	7
Total	166	30

Source: annual report on the administration of the Development Act, 2012–13. Totals do not match actual numbers as appeals are lodged or completed in different financial years.

We note that while these issues exist in relation to those matters before the court, the court does hear fewer matters now, as most issues are resolved without the need for a full hearing. This suggests the court’s approach to dispute resolution may be succeeding, consistent with the intent behind its establishment. This has been a long-term trend, with a steady decline in the number of these matters filed over the years. This decline is likely to continue.



When the court was established, South Australia did not have a specialised whole-of-government merit review tribunal. Recently, however, the government has established the South Australian Civil and Administrative Tribunal, which has a structure and remit not dissimilar to the court.

On the face of it, there could be benefits in transferring the functions of the court into the new tribunal, with existing commissioners continuing their roles in a specialist division of the tribunal along similar lines to the Victorian system. However, our analysis has not identified any tangible cost savings from such a merger, particularly given that these bodies already share backroom operations. We will continue to examine this issue and welcome feedback on benefits that the tribunal approach could bring.

# “The planning system is not the vehicle to resolve neighbourhood conflicts.”<sup>71</sup>

*Planning Review 2008*

Notwithstanding this, there are opportunities to improve the processes within the court, such as allowing commissioners to have greater powers to resolve matters at a conference stage through direction reviewable by a judge. This will increase the pressure on parties to be prepared to resolve matters at first hearing, limiting delays that have become more routine in recent years.

Feedback from the engagement process suggested a need for a simple review process to be available at a regional level for minor planning issues that do not warrant judicial determination but merely decision reviews by an independent expert. We believe regional assessment panels would best handle this kind of administrative review, subject to clear statutory procedures. For example, an applicant looking for a decision to be reviewed could request that the regional panel seek a review of the original decision by an independent accredited professional.

We consider an officer authorised by the planning commission could take a leading role in attempting to break deadlocks on specified procedural issues in ways that are efficient and timely. These measures could include reviews of development categories presently handled by the court. This reform will respond to a concern that minor procedural errors are often not addressed as they arise, but, if they are dealt with at all, typically await a court hearing on a more significant aspect of a development.

*See also: Reform 19 'Provide more effective enforcement options'; Reform 26 'Adopt a rigorous performance monitoring approach'; Reform 27 'Pursue culture change and improved practice across the system'*

*Linkages to What We Have Heard: 6.8 'Managing development outcomes'; 6.11 'Appeals and reviews'*



## 6 DEVELOPMENT PATHWAYS AND PROCESSES



### Reform 19

#### Provide more effective enforcement options

- 19.1 Create more administrative sanctions to simplify enforcement of minor or simple matters such as expiations, enforcement notices and enforceable undertakings.
- 19.2 In addition to monetary penalties, allow courts to impose sanctions such as adverse publicity orders, compensation/offset orders and business improvement orders.
- 19.3 Create more monetary penalties, including a multiplier penalty for companies and a commercial benefits penalty potentially linked to land value.
- 19.4 Allow for civil penalties or damages as an alternative and in addition to criminal sanctions.

“Local government supports the introduction of innovative compliance sanctions which would create more of a **deterrent effect**, such as more ‘on the spot’ financial penalties.”<sup>72</sup>

*Local Government Association submission*

- 19.5 Impose shared liability for non-compliance on specified professionals responsible for development, subject to reasonable care defences.
- 19.6 Improve links with other regulatory areas, such as consumer affairs.
- 19.7 Require assessment conditions to be aligned with enforcement and more accessible through an online planning portal.
- 19.8 Allow for the planning commission to issue enforcement guidelines to help coordinate enforcement activities more effectively.



“An agency that spawns a host of good ideas but fails to manage the regulatory craft shop will appear to outsiders as **innovative but hopelessly confused** and disorganised; stylistically diverse but not sure of its identity; inventive but not integrated.”<sup>73</sup>

*Professor Malcolm Sparrow, John F Kennedy School of Government*

Many council staff and practitioners reported concerns about the effectiveness of existing enforcement options. There was a sense that enforcement action rarely serves as a deterrent. For example, we heard that penalties for non-compliance are viewed as ‘the price of doing business’. Moreover, it is clear that conventional enforcement can be costly, time-consuming and compete with other priorities for resources. Equally, it is incumbent on councils to make better use of existing tools such as stop-work orders.

The panel considers effective enforcement crucial to the overall integrity of the planning system and the confidence people have in it. We are aware of innovative compliance and enforcement options in other legislative arenas that may be adapted to the planning system, including civil damages, non-monetary penalties and additional administrative sanctions. A complicating factor is that the commercial benefit from unlawful development may be many times in excess of the value of any fine; one way of addressing particularly egregious cases would be to create the ability to recover a proportion of the eventual sale price of land through some form of commercial benefits penalty linked to land value. This would act as a significant deterrent to unlawful behaviour.

The state should take a stronger role in providing guidance on compliance and enforcement. While enforcement should largely remain in council hands, overarching guidelines issued by the planning commission will help councils undertake coordinated and targeted enforcement and compliance-enhancing activities. The planning commission will also audit and monitor accredited professionals, and receive and investigate complaints.

Compliance monitoring should also consider the ongoing management of properties in accordance with assessment conditions, perhaps with simpler administrative means of enforcement such as improvement notices. Equally, legislation must require conditions to be enforceable, appropriate and accessible. Anecdotal evidence suggests that many conditions go beyond the intent of the legislation but are accepted by applicants so they may secure development approvals.

*See also: Reform 18 ‘Make the appeals process more accessible’; Reform 26 ‘Adopt a rigorous performance monitoring approach’; Reform 27 ‘Pursue culture change and improved practice across the system’*

*Linkages to What We Have Heard: 6.8 ‘Managing development outcomes’; 6.12 ‘Monitoring, compliance and enforcement’*

**“THE ULTIMATE OUTCOME  
OF PLANNING PROCEDURES  
MUST BE STREETS, TOWNS  
AND CITIES THAT THE  
PUBLIC POSITIVELY LOVE  
AND FIND BEAUTIFUL.” 74**

Maritz Vandenberg

## PART 7

# Place-making, urban renewal and infrastructure



- **Reform 20** Reinforce precinct-based urban renewal
- **Reform 21** Allow for more effective provision of open space, parks and urban greenery
- **Reform 22** Provide incentives for urban renewal
- **Reform 23** Create new tools for infrastructure funding and delivery

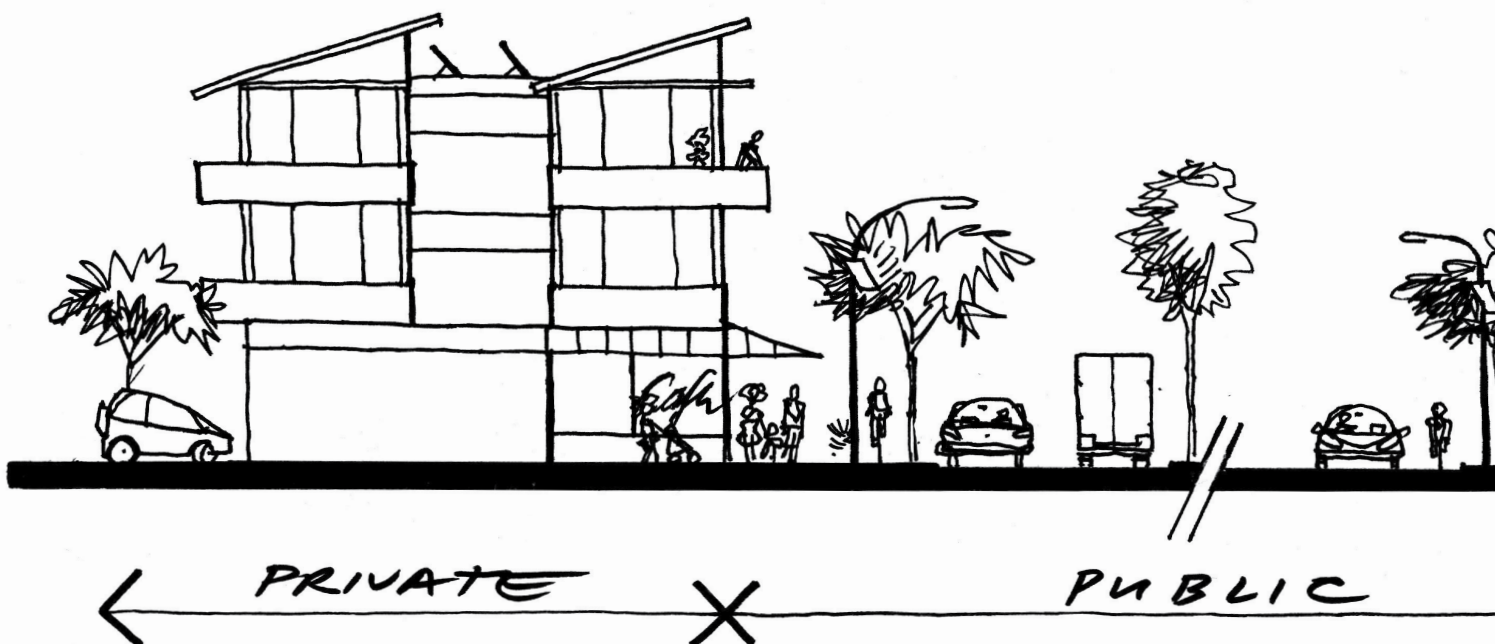


## 7 PLACE-MAKING, URBAN RENEWAL AND INFRASTRUCTURE



“Life in buildings and between buildings seems in nearly all situations to rank as more essential and more relevant than the spaces and buildings themselves.”<sup>75</sup>

*Jan Gehl, urban designer*



Managing complex urban change is an essential part of the planning task. However, the current planning system offers limited mechanisms to support the roll-out of new suburbs or the renewal of established urban areas in ways that coordinate infrastructure, the public realm and the delivery of other essential services.

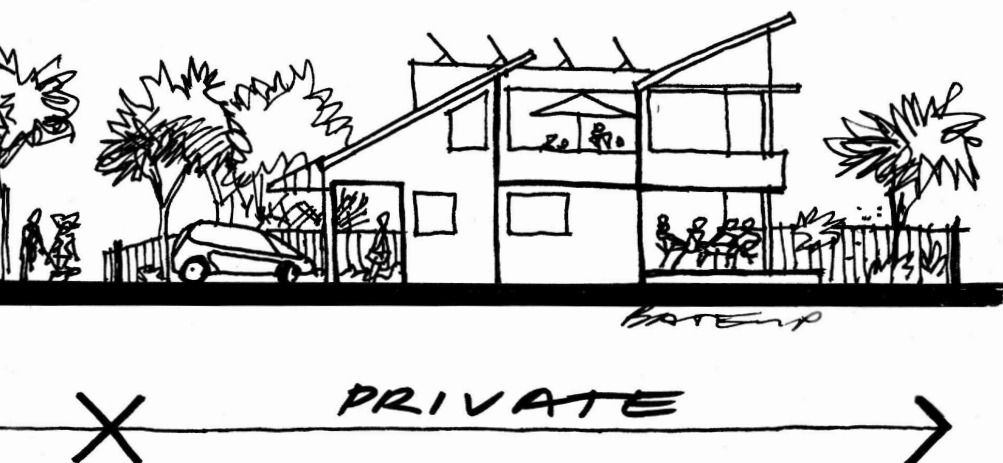
Planning for transport, energy and water, health and education and other services must be integrated with land use planning when a substantial development is considered – and, in fact, communities are surprised when this is not the case. The panel has sought to boost coordination through changes to the regional planning process, but new tools are required to facilitate urban change, renewal

and neighbourhood regeneration. In particular, traditional planning tools such as zoning should be supplemented with mechanisms that encourage the redevelopment of inner city and inner urban areas.

In this section, we propose four reform ideas to address these issues.

#### Key questions for feedback

- Which ideas are most workable and suitable?
- How can specific ideas be improved or modified?
- What costs, benefits or other implications should the panel consider?
- What other reform ideas should be considered?





## 7 PLACE-MAKING, URBAN RENEWAL AND INFRASTRUCTURE



### Reform 20

#### Reinforce precinct-based urban renewal

- 20.1 Deliver and support the precinct development concept that is about to be enacted.
- 20.2 Develop a precinct development process more suitable for smaller-scale neighbourhood regeneration.
- 20.3 Provide greater opportunities for private sector involvement in urban renewal.
- 20.4 Use precinct governance bodies to galvanise business and community involvement in urban renewal, similar to 'improvement districts'.
- 20.5 Incorporate streetscape design standards and guidelines as part of urban renewal projects.
- 20.6 Improve the coordination of public housing with urban renewal priorities.

"If Australia's major cities are to meet future demands for population growth without simply repeating past practices of taking over farmland on the urban fringe, a **new paradigm** needs to be found."<sup>76</sup>

*Rob Adams, City of Melbourne*



### What is urban renewal?

Urban renewal is the redevelopment of urban neighbourhoods to improve the amenity for residential and mixed-use purposes. Urban renewal generally:

- happens across a precinct, rather than just an individual site; but an individual site might be used to start the urban renewal process
- makes use of existing transport connections, services and jobs
- creates new and different types of homes in established areas.

*Source: adapted from [www.places.vic.gov.au](http://www.places.vic.gov.au)*

As more people look to live and work in urban and inner urban environments, it is becoming increasingly important to redevelop existing urban spaces as attractive and safe neighbourhoods. However, our engagement revealed widespread concerns about how redevelopment should be planned for and managed.

“An urban growth boundary would provide for and enable the **redevelopment** of lands within the current greater city footprint.”<sup>77</sup>

*Fred Hansen, former  
Thinker-in-Residence*

The South Australian parliament has already supported new legislation for a special precinct development process to support urban renewal (to be commenced in coming months). This precinct-based approach outlined in this legislation has significant potential as a planning tool. While the new legislation is principally designed for large-scale regeneration projects requiring appropriate levels of oversight and consultation, the Australian Housing and Urban Research Institute suggests there are also significant benefits in providing legislative levers to support smaller-scale urban neighbourhood regeneration. Such levers will assist the ongoing regeneration of Adelaide's suburbs and South Australia's country towns.

“Complex zoning systems with many narrow zones tend to **favour the status quo** and limit adaptability, in both new and more established areas.”<sup>78</sup>

*Jane Frances Kelly, Grattan Institute*

## 7 PLACE-MAKING, URBAN RENEWAL AND INFRASTRUCTURE



“The shift to greater densification of our urban environment will **face hurdles** such as market acceptance, local resistance, and difficulties of the development industry to respond.”<sup>79</sup>

*Lanser Communities, 2009 submission*

The panel proposes reinforcing the current legislated precinct process with a simpler, leaner process suitable for small-scale regeneration. This will entail the planning commission declaring a precinct (with the minister having a similar power). The planning commission could declare a precinct on its own initiative or in response to a proposal from a regional board, council or land owner. The precinct proponent would then engage with the community in preparing a precinct plan which, once approved, will guide the future development of that precinct. The declaration of a precinct will be based on clear and transparent criteria aligned to the relevant regional strategic plan, while the precinct plan will establish the mechanism through which individual development proposals within the precinct may be approved. This approach to neighbourhood regeneration will open the door to small-scale private sector investment in urban renewal.

### What is place-making?

Place-making is a term that describes a holistic approach to the shaping of urban locations. It particularly focuses on the linkages between private properties and public spaces, such as streets and parks. In this report, the panel uses ‘place-making’ in this sense: to articulate the way in which the public realm and private development together create a unified sense of ‘place’.

“Golden Grove has been an exemplary model of partnership between the private and public sectors in... demonstrating the effectiveness of a planning control system **tailored for a large scale project** for which the conventional system is inappropriate and largely irrelevant.”<sup>80</sup>

*Ken Taeuber, former estate development manager*

“Improving our approach to the design process will be of critical importance in encouraging community support for infill development and in ensuring that future TODs are accepted and accessible to a range of socio-economic groups.”<sup>81</sup>

*Planning Institute of Australia, SA Branch, 2009 submission*

In facilitating and delivering urban renewal, the relationship between private development and surrounding public spaces will become increasingly important. Historically, the planning system in South Australia has not adequately addressed this relationship or the impacts of private development on the surrounding public realm. This gap could be addressed by incorporating streetscape design as part of urban renewal projects using a ‘link and place’ approach such as that recommended in the Active Living Coalition’s *Streets for People Compendium* and already applied by some councils. Such an approach could link with form-based zoning.

It is also important that urban renewal involves business and community engagement consistent with the principles in our proposed charter of citizen participation. Effective place-management frameworks, such as improvement districts and neighbourhood development corporations, can galvanise communities and business in and around these regeneration areas. The urban renewal legislation already takes steps in this direction.

*See also: Reform 9 ‘Build design into the way we plan’; Reform 22 ‘Allow for more effective provision of open space, parks and urban greenery’; Reform 23 ‘Provide incentives for urban renewal’*

*Linkages to What We Have Heard: 5.5 ‘Focussing on place and urban design’; 5.8 ‘Urban renewal and regeneration’*

“Given the apparently large opposition to infill, it is particularly important to engage the community in determining an appropriate balance between greenfield and infill development and about the pattern or nature of infill.”<sup>82</sup>

*Productivity Commission*

#### **What is an ‘improvement district’?**

‘Improvement districts’ are urban precincts in which businesses or property owners choose to boost their business and visibility through collective contributions to the costs of maintenance, development and promotion of that area. They are used extensively in North America and in Britain. Times Square and Bryant Park are examples of high-profile improvement districts in New York and there are over 160 in Britain.

*Source: Business Improvement Districts, Cornell University*

## 7 PLACE-MAKING, URBAN RENEWAL AND INFRASTRUCTURE



### Reform 21

#### Allow for more effective provision of open space, parks and urban greenery

- 21.1 Integrate and consolidate funding mechanisms for open space, parks and other public assets, including the existing Planning and Development Fund.
- 21.2 Recalibrate the open space scheme to provide greater opportunities for regional collaboration and funding.
- 21.3 Align and coordinate legislation affecting open space and other public assets.
- 21.4 Review infrastructure legislation to ensure alignment with improved management of the public realm.

“The measure of any great civilisation is in its cities, and a measure of a city’s greatness is to be found in the quality of its **public spaces**, its parks and its squares.”<sup>83</sup>

*John Ruskin, 19th century thinker*

“Street trees and other vegetation substantially **enhance** the quality of public spaces and the pedestrian experience.”<sup>84</sup>

*Public Life, Public Spaces Report 2011*

The provision of open space has long been recognised as an important part of urban planning and design. In South Australia the planning system has provided for open space since the 1920s and many of Adelaide’s metropolitan park lands were acquired as a result of a long-term strategic program funded by the open space contribution scheme.

However, it is evident that the historic 12.5 per cent contribution rate, primarily designed for a greenfields model of urban expansion, is now out-of-step with contemporary needs and expectations. In the context of a city that is undergoing urban renewal and densification, provision of high-quality public assets, including open space, is even more essential. Our engagement revealed a common desire in metropolitan and country areas for public spaces to be recognised and valued in the planning system, and for the funding, planning and design of a particular space to be negotiated between the authority and the proponent. As part of this approach, there should be clear ability to support innovative alternatives to traditional open space, such as publicly accessible roof gardens.

Public open space and the public realm more generally must be considered in the context of a clear strategic framework or plan for its development and ongoing maintenance. Public

authorities with responsibility for managing the public realm must be able to determine where and how public assets like open space are best provided and to set the rate of contribution more flexibly perhaps by way of a sliding scale that directly links to local public realm improvements.

The panel recognises that many councils invest considerable time and resources into strategic planning for their open space assets. However, this is poorly recognised in the current funding regime. If the open space scheme is not altered, councils will increasingly depend on grants from the state government to acquire new parks and enhance existing public realm assets. This is not sustainable or desirable. The panel believes that regional council collaboration could provide an opportunity to revisit the funding model that underpins the current open space scheme with funds linked to open space plans and directly allocated to regional planning boards.

At the same time, urban renewal will continue to cause tensions in the management of existing vegetation, particularly large trees. While the panel agrees that tree controls are important in maintaining the vegetated canopy and alleviating the 'heat island' effect, more emphasis is needed on placing large trees on public land, rather than smaller private land holdings. The 'green infrastructure' approach being explored within the environment portfolio is an attractive concept and may provide an alternative to existing blanket tree controls.

*See also: Reform 20 'Reinforce precinct-based urban renewal'*

*Linkages to What We Have Heard: 5.7 'Parks, streetscapes and urban greenery'*

"Open spaces should be classified, so that the authorities concerned with the provision of open space can appreciate and **accept the limits** of their responsibilities."<sup>85</sup>

*Town Planning Committee*

### How the open space scheme operates

The Development Act provides for an 'open space contribution scheme'. Under the scheme land owners seeking to create 20 or more allotments by subdivision must set aside up to 12.5 per cent of the land as open space, by agreement with the local council; a council may require the land owners to pay a levy in lieu of providing this.

For the creation of fewer than 20 allotments or the creation of strata titled units, a fee is payable to the state government's Planning and Development Fund. The revenue from this fund is used to provide grants to councils and government agencies to acquire open space assets or to make improvements to the public realm. From 1962 to 1982 the fund purchased 4,700 hectares on 28 reserves in the metropolitan area (close to the 5,000 hectares proposed in the 1962 metropolitan plan) and 1,775 hectares in country regions. Major purchases have included Cobbler Creek, Munyaroo Conservation Park, parts of Coast Park and Onkaparinga Gorge.

## 7 PLACE-MAKING, URBAN RENEWAL AND INFRASTRUCTURE



### Reform 22

#### Provide incentives for urban renewal

- 22.1 Develop incentive frameworks in the planning legislation to leverage public benefits such as urban renewal, affordable housing and other desirable development outcomes.
- 22.2 Use existing incentive schemes such as development bonuses and building upgrade finance to encourage urban renewal.
- 22.3 Consider offsetting land division contributions with the potential for improvement levies.
- 22.4 Allow for discounts to property taxes and rates, to stimulate desirable development.

There is widespread recognition of the need to find ways to secure public benefits from private investment, especially in times of tight budgetary conditions. It is also clear that there is a role for government to provide support where market failures operate against desirable development outcomes.



“As cities become more developed, and more intensified, people demand more from their public spaces... the time has come to embrace **unique projects** and ways of providing public spaces such as rooftop gardens, bars, restaurants and cinemas.”<sup>86</sup>

*Parliament's Environment, Resources and Development Committee*

“Mechanisms for investment in green and community infrastructure (such as parks, open space and recreational facilities) tied to any type of subdivision is critical and need to be addressed in any new planning system.”<sup>87</sup>

*Parks and Leisure Australia submission*

The panel suggests that various innovative financing options and incentives schemes be explored in terms of their potential to maximise desired urban renewal, public realm and affordable housing outcomes.

Upfront land division contributions (currently for open space) create costs for new development that can be inequitable and work against urban renewal objectives. However, lowering land division contributions will require alternative revenue sources, such as improvement levies that could be charged over time and linked to land value. Discounts to rates and property taxes could stimulate desired market outcomes.

*See also: Reform 10 'Place heritage on renewed foundations'; Reform 20 'Reinforce precinct-based urban renewal'; Reform 21 'Allow for more effective provision of open space, parks and urban greenery'*

*Linkages to What We Have Heard: 5.8 'Urban renewal and regeneration'*





## 7 PLACE-MAKING, URBAN RENEWAL AND INFRASTRUCTURE



### Reform 23

#### Create new tools for infrastructure funding and delivery

- 23.1 A comprehensive framework should be developed to govern the planning, integration, funding and delivery of infrastructure for urban development.
- 23.2 This framework will include legislation to provide mechanisms to identify infrastructure needs and triggers. These should be identified as part of regional planning schemes, with funding and financing issues dealt with separately.
- 23.3 The legislation should include strong government oversight and coordination to support infrastructure delivery. Tools such as infrastructure levies, bond products, or metropolitan-wide improvement levies should be considered.

“The lack of clear and consistent infrastructure planning and funding processes has emerged as a **consistent barrier** to achieving land supply and urban redevelopment.”<sup>88</sup>

*Raymond Spencer, chair, Economic Development Board*

- 23.4 Oversight of any levies will be, and will be seen to be, independent and directly linked to the infrastructure required. This could operate in a similar way to existing price-setting regimes involving the Essential Services Commission.
- 23.5 Statutory augmentation charges for infrastructure should be standardised with clear criteria for their use.
- 23.6 Clear infrastructure design standards should be specified to prevent gold-plating and enable alignment with planning and urban design outcomes through practices such as common trenching that minimise disruption.

“South Australia currently lacks a framework within which councils can efficiently and **confidently negotiate equitable infrastructure contributions** with a developer. This lack of direction has resulted in protracted negotiations, inconsistent decision making and leaves all parties exposed to a considerable amount of risk.”<sup>89</sup>

*Local Excellence Expert Panel*

Infrastructure provision is a complex issue and is divided among a number of government portfolios, spheres of government and private sector providers. We note that there have been many reviews and reports on this topic and that it is an issue that must be resolved.

A lot of infrastructure is now delivered directly by the private sector, particularly as governments have privatised assets and opened traditional infrastructure monopolies to market contestability. A consequence has been less alignment between urban policy objectives and infrastructure regulation and provision. The panel's engagement revealed a particular frustration at the non-alignment of government's planning and infrastructure goals and outcomes. At a strategic level, infrastructure planning must occur alongside and as part of wider strategic land use planning. Our proposal for regional planning schemes will include infrastructure planning with links to state and local budget processes.

At a project scale, existing tools to support ongoing infrastructure coordination are poor. There are few legislative tools that councils or the state government can use to lock in infrastructure commitments or ensure they are funded in a timely manner. Historically, governments provided infrastructure for new developments through joint venture arrangements, using the long-term increase in land value to finance necessary upfront costs. This approach is largely unavailable today and can only be changed through appropriate legislation.

Clearly, the regulatory relationship between land use planning and infrastructure planning and delivery must be strengthened. Governance structures must require that development proposals outline the infrastructure necessary to support planning outcomes and how it will be delivered. The existing ad hoc (and often frustrating) negotiations for key community infrastructure must be replaced by a more convenient and consistent process if land use planning priorities are to be implemented effectively and efficiently.

The panel is aware of the Economic Development Board's work in this area and has had regard to the board's insights. We are also aware of the recent report of the Productivity Commission into public infrastructure that is likely to influence government policy directions.

An integrated approach to infrastructure planning and delivery—including transport, utilities, open space, health, education and other community services—at state, regional and local levels is needed and could come through the regional planning process. Implementing formal infrastructure funding mechanisms, such as levies or other mechanisms that recognise the increase in land value resulting from a development (eg tax increment financing), will reduce the budgetary burden on governments; this is an issue which must have Treasury involvement.

*See also: Reform 1 'Establish a state planning commission'; Reform 17 'Streamline assessment for essential infrastructure'; Reform 24 'Aim for seamless legislative interfaces'*

*Linkages to What We Have Heard: 4.6 'Planning and delivering infrastructure'*

"The state should seek to capture the betterment in **land value** that is achievable through joint venturing and use this funding to provide infrastructure or other community services in new developments."<sup>90</sup>

*Planning Review 1992*

**“GOVERNMENTS NEED  
TO TAKE STOCK OF  
THEIR LEVERS FOR  
CHANGE...SOME  
OF THESE WILL BE  
WITHIN THE PLANNING  
FRAMEWORK, BUT  
MANY WILL NOT.”<sup>91</sup>**

Gary White, former Queensland government planner



## PART 8

### Alignment, delivery and culture



- **Reform 24** Aim for seamless legislative interfaces
  - **Reform 25** Adopt an online approach to planning
  - **Reform 26** Adopt a rigorous performance monitoring approach
  - **Reform 27** Pursue culture change and improved practice across the system
- 



## 8 ALIGNMENT, DELIVERY AND CULTURE

South Australia has two spheres of government—local and state. Within each, there is a range of agencies that perform various functions. While some overlap is inevitable, the panel is aware of frustration related to unnecessary duplication of efforts, ambiguity over hierarchy and gaps in communication between and within the spheres and agencies. In addition, there can be overlaps with federal policy issues.

### Key questions for feedback


- Which ideas are most workable and suitable?
- How can specific ideas be improved or modified?
- What costs, benefits or other implications should the panel consider?
- What other reform ideas should be considered?

The ‘one-stop-shop’ assessment process has been a core concept underpinning the Development Act since it came into force—and it is a concept that the panel supports. Designed to streamline development processes for major investors, it replaced several approval processes. However, links between the planning system and other areas of government policy have not kept pace as the statute book has grown and evolved. This has resulted in inefficiencies and gaps that should be addressed in fields such as resource management, climate change, housing affordability, water security and public health. While the ‘one-stop-shop’ concept continues to be an attractive promotion for the state’s business environment, the panel suggests that it be refreshed.

Similarly, the system has not capitalised on the wealth of opportunities presented by emerging online technologies. The panel sees increased use of online capabilities as important in influencing culture and practices and providing a better user experience.

The panel strongly believes the culture of the system should be more facilitative, enabling and user-focused. Practices should follow, not frustrate, legislative intent—but it is clear from our engagement that this is not always the case. Changing the culture across the system will require sustained effort and commitment; a number of our proposed reforms will contribute to a framework within which this can occur.

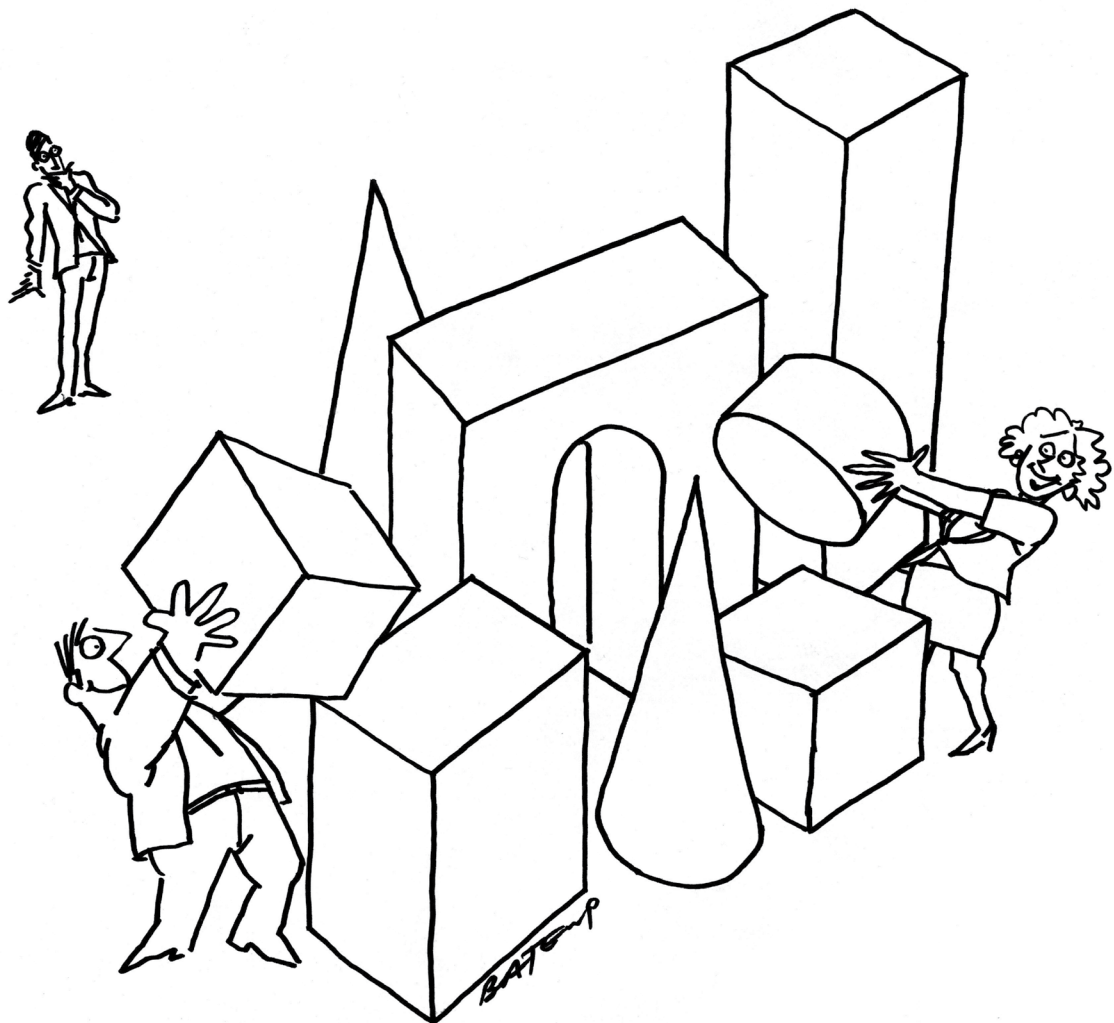
In this section, we propose four reform ideas to address these issues.



### What the panel means by the 'one-stop-shop'

The term 'one-stop-shop' is a colloquialism that is often used to describe a core concept underpinning South Australia's planning system. It refers to an assessment process that provides a single user-oriented pathway for all approvals related to development.

As part of the 'one-stop-shop' concept, the panel believes that matters that could be dealt with contemporaneously or that will fundamentally affect a decision relating to a development proposal should be integrated into the one approval process. In short, one application, one authority, one assessment process.



## 8 ALIGNMENT, DELIVERY AND CULTURE

### Reform 24

#### Aim for seamless legislative interfaces

- 24.1 Audit the statute books to identify duplication and inconsistencies with planning laws.
- 24.2 Licenses and permits that duplicate planning processes should be repealed or transferred to the planning system.
- 24.3 Assessment panels should be empowered to issue minor statutory approvals or permits, as delegates of a home agency—reversing the traditional referral relationship.
- 24.4 The use of referrals should be limited to where there are other statutory approvals or permits required. The planning commission will regularly review referrals to ensure their currency.
- 24.5 Referral agencies should be required to have policies that detail the criteria on which a referral advice is given and the type of conditions that may be imposed. These will be agreed when a referral is provided, and regularly reviewed by the planning commission.



“Local government supports a review of how planning legislation interacts with other legislation, including the Local Government Act. Where possible, the panel should seek to **restore the original ‘one stop shop’** intent of the Development Act.”<sup>92</sup>

*Local Government Association submission*

- 24.6 Referral timeframes should be rigorously enforced. Agencies will indicate whether they intend to comment on a referral within prescribed number of business days of receipt. The absence of a response will be deemed as agreement.
- 24.7 Agencies should be able to provide advice to planning authorities, but through a separate stream from referrals and only on matters relating to their portfolio responsibilities.
- 24.8 Fragmented environmental and infrastructure laws should be reviewed and consolidated, and statutory boards rationalised, to improve interactions with the planning system.

There have been many changes to legislation in the 20 years since the Development Act was enacted. There are now 637 Acts on the statute books, 262 of which were enacted after the planning legislation came into force. Moreover, as the panel noted in its first report, the Development Act has itself been amended 629 times by 48 separate amending bills.

While it is not unusual for legislation to have multiple links across the statute book, planning is particularly challenged in this respect. There are 79 other state and federal statutes that directly link to the Development Act and regulations. These include interactions at a number of levels within the planning system. This was an issue when the legislation first came into force and a number of provisions were designed to provide the flexibility to support the development of links across the statute book over time. The most important of these was the concept of the ‘one-stop-shop’ assessment process, which replaced separate approval processes under several laws. Referrals are used when links to other laws are required. However, the panel suggests that the one-stop-shop concept should be updated.

Our engagement made it clear that councils have responsibilities that may often warrant incorporation into the development assessment process. Links with other statutory schemes have not been pursued consistently over the years. For example, liquor licensing laws duplicate several aspects of development legislation and many of these have been long-standing issues. This suggests a need for a wide-ranging audit of the statute books to remove duplication and provide clearer coordination.

“The **intention is to integrate** the various Acts that affect development control as far as practicable. Its attainment will be limited by the degree to which it is practicable to excise development control provisions from legislation covering topics that extend beyond it.”<sup>93</sup>

*Planning Review 1992*

**Land use development application referrals**

	2011–12	2012–13
Non-statutory referrals	914 27%	964 30%
Statutory referrals	2,501 73%	2,275 70%
Total	3,415	3,239

Source: annual report on the administration of the Development Act, 2012–13



## 8 ALIGNMENT, DELIVERY AND CULTURE

### Legislation directly linked to the Development Act

A New Tax System (Goods and Services Tax) Act 1999 (Cth)  
Acts Interpretation Act 1915  
Adelaide Dolphin Sanctuary Act 2005  
Adelaide Oval Redevelopment and Management Act 2011  
Adelaide Park Lands Act 2005  
Aquaculture Act 2001  
Arkaroola Protection Act 2012  
Banking Act 1959 (Cth)  
Building Work Contractors Act 1995  
Coast Protection Act 1972  
Coastal Waters (State Powers) Act 1980 (Cth)  
Commercial Arbitration Act 1986  
Community Titles Act 1996  
Construction Industry Training Fund Act 1993  
Crown Lands Management Act 2009  
Dangerous Substances Act 1979  
Discharged Soldiers Settlement Act 1934  
Drugs Act 1908  
Electricity Act 1996  
Electricity Corporations (Restructuring and Disposal) Act 1999  
Encroachments Act 1944  
Environment Protection Act 1993  
Environment Protection and Biodiversity Conservation Act 1999 (Cth)

Environment, Resources and Development Court Act 1993  
Evidence Act 1929  
Fair Trading Act 1987  
Family Relationships Act 1975  
Fisheries Management Act 2007  
Forestry Act 1950  
Gaming Machines Act 1992  
Gas Act 1997  
Geographical Names Act 1991  
Golden Grove (Indenture Ratification) Act 1984  
Harbors and Navigation Act 1993  
Heritage Places Act 1993  
Highways Act 1926  
Historic Shipwrecks Act 1976 (Cth)  
Historic Shipwrecks Act 1981  
Housing and Urban Development (Administrative Arrangements) Act 1995  
Irrigation (Land Tenure) Act 1930  
Irrigation Act 1930  
Legislation Revision and Publication Act 2002  
Liquor Licensing Act 1985  
Local Government Act 1934  
Local Government Act 1999  
Marginal Lands Act 1940  
Marine Parks Act 2007  
Metropolitan Adelaide Road Widening Plan Act 1972  
Mining Act 1971  
Murray-Darling Basin Act 1993  
National Parks and Wildlife Act 1972  
Native Vegetation Act 1991  
Natural Resource Management Act 2004

Offshore Minerals Act 2000  
Ombudsman Act 1972  
Opal Mining Act 1995  
Pastoral Land Management and Conservation Act 1989  
Petroleum (Submerged Lands) Act 1982  
Petroleum Act 1940  
Petroleum Act 2000  
Petroleum and Geothermal Energy Act 2000  
Public and Environmental Health Act 1987  
Radiocommunications Act 1992 (Cth)  
Real Property Act 1886  
Retirement Villages Act 1987  
River Murray Act 2003  
Road Traffic Act 1961  
Roads (Opening and Closing) Act 1991  
Roxby Downs (Indenture Ratification) Act 1982  
South Australian Housing Trust Act 1995  
Statutes Repeal and Amendment (Development) Act 1993  
Strata Titles Act 1988  
Summary Offences Act 1953  
Telecommunications Act 1997 (Cth)  
Trade Practices Act 1974 (Cth)  
War Service Land Settlement Agreement Act 1945  
Water Industry Act 2013  
Water Resources Act 1997  
West Beach Recreation Reserve Act 1987  
Work Health and Safety Act 2012

Recent amendments to the Liquor Licensing Act to allow for small bars in the city centre have provided opportunities to streamline liquor licensing processes by relying more heavily on zoning and building rules.

The referral process is a central component of South Australia's 'one-stop-shop' assessment system, but relies on agency resources and capacity to focus on the planning issues. While many referrals are addressed within the statutory timeframe, councils have reported that agencies often request additional and sometimes unnecessary information that extends timeframes, or provide advice or raise issues beyond their roles or expertise, delaying the assessment process.

Additionally, there is concern that referrals cause delays, do not add value to decision-making and can result in disproportionately burdensome conditions being imposed on land owners. Too often, we heard, agencies simply provide 'cookie cutter' responses and seek to impose template conditions that may be inappropriate or unenforceable. We believe there is an imperative to substantially reform the referral system. The panel believes that increased and early coordination and integration of government's roles across policy areas must be a fundamental element of any reform—and some of our earlier reforms will support this. For example, the use of overlays in the planning code will help agencies identify key policy considerations for inclusion in zoning, while strategic impact assessment will ensure issues relating to major projects may be identified upfront.

The two most notable areas for action are environment and infrastructure laws. The fragmentation of legislation, policy and standards in these two portfolio arenas contributes to poor policy integration. This can cause confusion for councils and practitioners seeking to apply and reconcile the policies of different portfolios. The precautionary principle underpinning many environmental laws may need to be adapted to enable effective interaction with the planning system. We believe that both areas of law will benefit from consolidation and modernisation and this will improve links with the planning system.

*See also: Reform 12 'Adopt clearer development pathways'; Reform 16 'Enhance the transparency of major project assessment'; Reform 17 'Streamline assessment for essential infrastructure'; Reform 25 'Adopt an online approach to planning'*

*Linkages to What We Have Heard: 7.1 'The role of state agencies'; 7.2 'Regulatory overlaps and referrals'*



## 8 ALIGNMENT, DELIVERY AND CULTURE



### Reform 25

#### Adopt an online approach to planning

- 25.1 Establish a central online portal to access planning information, with links to council and government agency websites.
- 25.2 Use e-planning to drive rapid changes to planning rules through automatic updates to regional planning schemes.
- 25.3 Enable transactions such as development applications, referrals and consultation to be conducted through the online portal.

“One opportunity to make the system more user friendly may be to take a **quantum leap** with the use of technology and information systems.”<sup>94</sup>

*Building Advisory Committee submission*

- 25.4 Create a joint local-state governance body for e-planning through the planning commission.
- 25.5 Provide a sustainable revenue stream through a co-contributions regime from government agencies and councils, based on a detailed costing analysis.
- 25.6 Establish a common data standard for government agencies and councils to provide input into the portal.
- 25.7 Legislate to provide a basis to rely on e-planning online data to an evidentiary standard.
- 25.8 Adopt a phased-in approach to the roll-out of e-planning.



The planning system must be able to effectively serve its users. However, the current system is not seen as navigable, user-friendly or easy to access. The development plan, in particular, is hard for many people to easily understand. It is also often seen as out of step with many state policies.

Our engagement and research highlighted the enormous potential for technology to address these issues. It was clear that many people will appreciate a planning system that capitalises on new and emerging technology, and will find engaging with the system more satisfactory as a result. This is not just a trendy issue; it goes fundamentally to the heart of our reform ideas. Currently, the state's 72 development plans comprise more than 20,000 pages of planning rules, policies, diagrams and maps—all of which could be streamlined through the use of digital platforms. For example, e-planning could enable changes to planning rules adopted by the planning commission to be rolled out automatically across the state with the 'push of a button'. The increased simplicity, accessibility and ease-of-reading such a change will bring, and the forward thinking it represents, exemplify everything we aim to achieve through this review.

"E-planning is broadly supported by local government, but its implementation would need to be supported by a **significant financial investment** in establishing and maintaining a workable system across the state."<sup>95</sup>

*Local Government Association submission*

At present, online information can be hard to find and is of variable quality, while the ability to undertake transactions online is limited. Many councils operate online services that include planning functions. The planning system tends to rely on these council-provided services, rather than providing services on a system-wide basis that may be more cost-effective. In addition, the exchange of information between agencies, councils and the planning department in many cases still relies on burdensome paper-based practices. This contrasts with those interstate jurisdictions where e-planning has become an embedded aspect of customer service.



## 8 ALIGNMENT, DELIVERY AND CULTURE



“ePlanning will reshape the planning system by transforming **paper-based development** application processes and traditional methods of consultation into an online environment.”<sup>96</sup>

*NSW Planning Reform White Paper*

### Examples of e-planning around Australia

- Victoria ([planningschemes.dpcd.vic.gov.au](http://planningschemes.dpcd.vic.gov.au))—provides planning provisions, standard planning scheme provisions, comprehensive zone and overlay mapping. Online is the main delivery arm.
- Queensland’s SmartEDA ([eda.dsdip.qld.gov.au](http://eda.dsdip.qld.gov.au))—a whole-of-government spatial and information model, referral information and state government interests are aligned and available in one location integrated with online application lodgement.
- New South Wales—the review of the planning system suggested a Spatial Information Act and e-planning roadmap to focus on providing legal certainty for electronic certification of planning spatial datasets, creation of computerised code assessable development, and the development of the standard forms of policy expression.

Many of the reforms we have proposed rely on or will benefit from online services. For example, improving engagement, streamlining zoning and adopting a form-based approach will work best if developed using a digital or 'e-planning' approach. An e-planning approach could also ensure that council rezonings and individual development applications can be tracked in real time. It will also be able to act as an online archive, enabling easy reference to historic planning documents. However, this will require a level of system-wide coordination that has not existed before. It will need commitment from government, agencies and councils; and it will need to be resourced.

To be effective, e-planning will require whole-of-system coordination and a fair and sustainable funding model. It must integrate with existing business systems to minimise the costs of roll-out; the experience with the state government's 'EDALA' land division system illustrates that South Australia can lead the nation in achieving this kind of reform at low cost. The panel proposes that a joint body be established to coordinate e-planning through a form of legislated co-contribution by agencies and councils. The efficiencies gained will reduce costs and eventually compensate for establishment expenses.

### Case study: The story of EDALA

EDALA is the state government's electronic land division processing system. It was developed and implemented in 2002, some years ahead of national initiatives in e-planning, and helped shape national e-planning standards. It handles more than 4,000 land divisions annually and interacts with a wide number of councils and referral agencies. It includes a searchable online register and detail spatial data available through a Creative Commons licence at [www.data.sa.gov.au](http://www.data.sa.gov.au).

E-planning may also require amendments to other legislation, such as the Electronic Transactions Act. Indeed, there may be potential to address all planning's online needs through a whole-of-government solution such as a single spatial data portal or e-government legislation. For example, in Western Australia many land-related transactions and information are consolidated in a single online portal. Successful roll-out of an e-planning approach could enable consideration of links with other land-related services such as titling, valuation and surveying.

*See also: Reform 3 'Enact a charter of citizen participation'; Reform 14 'Improve consultation on assessment matters'; Reform 26 'Adopt a rigorous performance monitoring approach'*

*Linkages to What We Have Heard: 7.4 'Using and providing for technology'*

## 8 ALIGNMENT, DELIVERY AND CULTURE



### Reform 26

#### Adopt a rigorous performance monitoring approach

- 26.1 The planning commission will be responsible for monitoring overall system performance. This will include monitoring system operations and the achievement of policy priorities and regional targets.
- 26.2 Regular public reporting by the planning commission will identify areas for improvement.
- 26.3 The planning commission will have powers to intervene in cases of non-performance by agencies, regional boards or councils.



“Despite recent reforms, Australia is still **not delivering** efficient, fair and consistent planning and development assessment systems.”<sup>97</sup>

*Property Council 2012*

- 26.4 Targets will be established to review regional planning schemes and monitor the performance of regional planning boards.
- 26.5 The planning commission will be responsible for a report card on the performance of the system and achievement of strategic priorities and will report to Cabinet annually prior to tabling of this report in parliament.
- 26.6 Funding incentives linked to this performance-monitoring regime may be explored by the government.

Engagement indicated that information about prevailing science, trends and data—including benchmarks and projections relating to population, environmental considerations and emerging technologies—should be more available to support planning and development policy and individual developments. It also demonstrated a desire for the system to be subject to rigorous, open and transparent monitoring.

The establishment of measurement tools and performance benchmarks will improve system integrity while highlighting circumstances that might require short or long-term action or even policy change. To be effective, performance monitoring should combine elements of a ‘carrot and stick’ approach. The planning commission could drive this, reporting performance to Cabinet, advising on incentives for high performance, and intervening when warranted through clear statutory triggers and processes. The government should also explore the potential for funding or similar incentives to reward good performance and help smaller councils address their particular challenges.

Alongside this, the planning commission should be charged with regular monitoring of data and evidence, with clear feedback loops into policy and direction. Issues such as development activity, land supply, housing affordability, population change and travel patterns could all form part of a regular research and reporting program managed by the planning commission. To make feedback loops effective, the role of the annual report card should be strengthened. One way to achieve this would be to place the responsibility for producing the report card directly on the planning commission rather than the minister (perhaps with the involvement of the audit board for the state strategic plan). Each year, prior to being tabled in parliament, Cabinet will have the opportunity to consider the report card and determine its response.

*See also: Reform 3 ‘Enact a charter of citizen participation’; Reform 14 ‘Improve consultation on assessment matters’; Reform 26 ‘Adopt a rigorous performance monitoring approach’*

*Linkages to What We Have Heard: 7.4 ‘Using and providing for technology’*

“Nationally we are pre-occupied with development assessment as constituting the planning system and a **never-ending fascination** around quantitative performance measures associated with timeliness. Whilst important, this relegates the role of spatial and strategic land use policy to a point where it is **under-invested** and cannot deliver the qualitative outcomes that society expects and needs from the planning system.”<sup>98</sup>

*Neil Savery, former national president, Planning Institute of Australia*



## 8 ALIGNMENT, DELIVERY AND CULTURE



“There are very high levels of both **churn** among planners and **cannibalisation** of planning staff between councils.”<sup>99</sup>

*Planning Institute of Australia, SA Branch*



### Reform 27

#### Pursue culture change and improved practice across the system

- 27.1 The state planning commission would take a leading role in shaping system culture. It will have a coordinator of planning excellence to lead this work.
- 27.2 The planning commission would be responsible for a code of planning excellence that forms a charter for customer service and facilitation across the system.
- 27.3 The planning commission would work with local government, the public service and professional organisations to pursue culture change that will contribute to planning excellence.

27.4 The planning commission will have the responsibility to issue practice notes and guidelines, providing direction across the system.

27.5 It will also have powers to require professional accreditation and undertake regular training and professional development.

27.6 A complaints handling capacity should be established within the statutory framework under the planning commission.

“The culture of **development assessment** at the local level requires immediate attention. Approaches are disparate and impact on the effectiveness of reform initiatives.”<sup>100</sup>

*Property Council*

As has been indicated, legislative change can only go so far in improving citizens' experience with a planning system and the outcomes it delivers. An enabling system must be supported by enabling practices and an enabling culture. Regrettably, the engagement process provided evidence that the planning system has significant work to do to achieve this. It is clear that poor practices and a risk-averse decision-making culture have become entrenched in many quarters of the planning system and have worked against the intent of many features of the current legislation. It is imperative that this be addressed; many of our proposals will contribute to this.

However, we believe additional measures can address these issues specifically. It is our view that the state government must take leadership; the planning commission we have proposed and the planning department should have acknowledged roles in developing the culture and values of the planning system. They should work with education providers, professional groups and local government to build and maintain a high-performance professional environment that promotes best practice and attracts talented staff. The focus of this work should be a 'code of planning excellence' that sets a standard for customer service, facilitation and quality processes across the planning system. This code should replace existing codes of practice with a more facilitative and positive approach.

To help the planning commission and department in this work, we propose that the legislation include enabling tools, such as the ability to make practice notes and guidelines that can assist understanding and applying planning processes

and rules, measures for professional accreditation and training, and a responsive complaint-handling process. This should be backed by committed administrative support across the system.

The complaints-handling process should be based on existing legislation and enable the planning commission to respond to complaints in an apolitical environment. It will include strong linkages to professional conduct bodies, the consumer affairs portfolio and other complaints-handling agencies such as the Ombudsman and the Office of Public Integrity.

*See also: Reform 1 'Establish a state planning commission'; Reform 24 'Aim for seamless legislative interfaces'; Reform 25 'Adopt an online approach to planning'; Reform 27 'Pursue culture change and improved practice across the system'*

*Linkages to What We Have Heard: 4.2 'Triple bottom line thinking'; 4.7 'Understanding trends and monitoring performance'; 6.12 'Monitoring, compliance and enforcement'*

“A complaints system that **enables concerns** regarding the actions of a relevant authority, particularly those that may have life safety implications, to be raised and acted on in a manner that is **less onerous** than the current ministerial complaint mechanisms is required.”<sup>101</sup>

*Building Advisory Committee, submission*





## **PART 9**

# Snapshot of reform benefits



- Roles, responsibilities and participation
- Plans and plan-making
- Development pathways and processes
- Place-making, urban renewal and infrastructure
- Alignment, delivery and culture

## 9 SNAPSHOT OF REFORM BENEFITS

In this section, we assess the benefits of each of the reforms. The following table outlines the benefits of each reform and how it contributes to the guiding principles.

Roles, responsibilities and participation	
 <b>PARTNERSHIPS AND PARTICIPATION</b>	<ul style="list-style-type: none"><li>• The reforms combine to create the right balance between state, regional and local authorities and interests.</li><li>• The charter will foster meaningful citizen input into decisions.</li></ul>
 <b>INTEGRATION AND COORDINATION</b>	<ul style="list-style-type: none"><li>• Integration of planning, infrastructure and environmental issues can be coordinated at a regional scale.</li><li>• The planning commission will help integrate and coordinate whole-of-government policies.</li></ul>
 <b>DESIGN AND PLACE</b>	<ul style="list-style-type: none"><li>• The planning commission will have a key role in integrating planning, design and development issues.</li></ul>
 <b>RENEWAL AND RESILIENCE</b>	<ul style="list-style-type: none"><li>• Better engagement will help make managing urban and environment change easier.</li></ul>
 <b>PERFORMANCE AND PROFESSIONALISM</b>	<ul style="list-style-type: none"><li>• Professional planning inquiries capitalise on the expertise of professionals to deliver outcomes.</li><li>• More effective parliamentary oversight will improve outcomes.</li></ul>

## Plans and plan-making

- Regions will have more control over their local plans.
- There will be more capacity for government agencies and land owners to update changes to plans.

- There will be improved alignment between strategic plans and development control by integrating both as part of an integrated regional planning scheme.
- A single state planning policy framework will help identify and resolve policy tensions.

- Planning documents will be refreshed and renewed with an emphasis on design.
- Form-based zoning approaches will improve articulation of neighbourhood character.

- More consistent planning rules will help address environmental issues.
- Heritage will be recognised, valued and addressed appropriately.

- Planning documents will be streamlined and manageable.
- Updates to planning documents will be transparent and timely.

## Development pathways and processes

- Regions will have more control over their local plans.
- There will be more capacity for government agencies and land owners to update changes to plans.

- Necessary infrastructure will be identified and rolled out through a streamlined assessment process.

- Design review and consents will focus complex development on contextual issues.
- Effective enforcement options will make it easier to address issues affecting the amenity of places.

- Design review and design consents will address sustainability and adaptive reuse.
- Environmental assessments will be integrated for major projects.

- Assessment pathways will be clear and streamlined.
- Regional assessment and assessment by accredited professionals will improve assessment outcomes.
- Review processes will strengthen accountability for assessment decisions.

## 9 SNAPSHOT OF REFORM BENEFITS

### Place-making, urban renewal and infrastructure



#### PARTNERSHIPS AND PARTICIPATION

- Effective urban renewal will be based on community engagement and participation.
- There will be clear avenues for private sector investment in urban renewal and infrastructure delivery.



#### INTEGRATION AND COORDINATION

- Infrastructure funding and delivery will be integrated within government.
- Coordinated approaches to open space will benefit local councils and their communities.



#### DESIGN AND PLACE

- New tools for urban renewal and public realm will support effective place-making.
- Incentives for urban renewal will help secure 'tipping point' investments to activate languishing precincts.



#### RENEWAL AND RESILIENCE

- Urban renewal processes will support a more sustainable and economically efficient urban form.
- Improved frameworks for urban greenery will help maintain and enhance the city's vegetated canopy.



#### PERFORMANCE AND PROFESSIONALISM

- Infrastructure funding regimes will facilitate timely infrastructure roll-out and alignment with urban development.

## Alignment, delivery and culture

- Effective urban renewal will be based on community engagement and participation.
- There will be clear avenues for private sector investment in urban renewal and infrastructure delivery.

- Infrastructure funding and delivery will be integrated within government.
- Coordinated approaches to open space will benefit local councils and their communities.

- New tools for urban renewal and public realm will support effective place-making.
- Incentives for urban renewal will help secure 'tipping point' investments to activate languishing precincts.

- Urban renewal processes will support a more sustainable and economically efficient urban form.
- Improved frameworks for urban greenery will help maintain and enhance the city's vegetated canopy.

- Infrastructure funding regimes will facilitate timely infrastructure roll-out and alignment with urban development.

### Key questions for feedback

- Which ideas are most workable and suitable?
- How can specific ideas be improved or modified?
- What costs, benefits or other implications should the panel consider?
- What other reform ideas should be considered?









## **PART 10**

# Delivering reform



- Staged delivery
- Resourcing the planning system
- Legislative framework
- Administrative arrangements

## 10 DELIVERING REFORM

Many of the ideas and proposals outlined in this report are complex and will require significant changes to the way in which the planning system functions in this state. If adopted, they will require careful consideration as to how they might be delivered. In this light the panel offers early thoughts about implementation, noting that the reforms proposed in this report will attract feedback before they are defined clearly in our third and final report.

### 10.1 Staged delivery

It is clear that many of the reforms will involve significant change both within the planning system and across government. To implement such changes effectively may require several years of sustained work. However, care must be taken to avoid implementation becoming overlong and drawn-out. There should be clear deadlines and early action should be taken to identify and resolve potential deadlocks.

The panel suggests a carefully designed, staged approach to implementation is needed. Ideally, this should be reflected in transitional provisions in the legislation. It is also clear that implementation must be undertaken in close partnership with the local government sector and relevant government agencies.

The panel would be pleased to receive suggestions as to how implementation could be staged and which, if any, reforms should be prioritised.

### 10.2 Resourcing the planning system

Many of the reforms have implications for current resourcing of the planning system. Changes to governance structures and processes will necessitate different cost-sharing models. These might include examination of the fees, charges and cost recovery mechanisms within the planning system.

Of course, we believe many of the proposed reforms will bring economic benefits, overall system efficiencies and budget savings for individual councils and agencies across the state. We propose to examine these issues in our final report and provide the government with advice on how the costs and benefits of reform might be shared fairly across government.

Accordingly, we would be pleased to receive suggestions on the resource implications of proposed reforms and, more generally, principles relating to cost recovery and cost sharing across the planning system.



### 10.3 Legislative framework

Under our terms of reference, the panel has been asked to review the planning system, with a specific focus on the Development Act, now 20 years old. The panel has also been asked to review the Housing and Urban Development (Administrative Arrangements) Act—now the Urban Renewal Act—and has also been given scope to comment on other legislation.

At the time the Development Act was enacted, legislative consolidation was a major trend in law reform and was a primary motivation for the review that led to it. However, the business of planning has become more complicated and many of the proposed reforms may not be as easily accommodated within a single principal statute. Moreover, a number of the reforms will entail amendments to other legislation in order to be fully effective.

The panel would be pleased to receive suggestions on the way the legislative framework should be framed. For example, should there be one act or a suite of interrelated legislation? How should the role and function of different legislation be delineated? What other laws need to be amended to accommodate the proposed reforms?



### 10.4 Administrative arrangements

The panel's terms of reference allow it to comment on governance and administrative arrangements that relate to the planning system. A number of reforms may have implications for the state government that will require consideration of how functions are provided and by whom.

Machinery of government changes can be costly and disruptive and we are conscious that departmental arrangements have undergone recent change. We expect that change of this nature should come as a consequence of reform implementation only if necessary and after consideration of alternative solutions.

With this in mind, the panel would be pleased to receive suggestions on implications for departmental arrangements that could arise from any of the reforms and suggestions for how they should be addressed.

#### Key questions for feedback

- Which ideas are most workable and suitable?
- How can specific ideas be improved or modified?
- What costs, benefits or other implications should the panel consider?
- What other reform ideas should be considered?





## **PART 11**

### The way ahead

- Next steps
- Feedback on this report
- Conclusion



## 11 THE WAY AHEAD

### 11.1 Next steps

This report presents the ideas for reform the panel considers are viable and suitable for South Australia. It builds on and responds to the issues and ideas that were documented in the panel's first report, *What We Have Heard*, following extensive engagement in 2013.

As part of the panel's 'exploring and discussing' phase, the panel has undertaken research and worked closely with its two reference groups to test, debate and fine-tune the ideas presented in this report. The panel now invites feedback from interested members of the public on these reform ideas.

As part of the consultation process, the panel will conduct a series of reform-testing and scenario-based workshops. These workshops will examine how the ideas could and should work in the South Australian context. The panel will also continue its engagement with local councils, community groups, industry and professional bodies to elicit feedback.

This feedback will feed into the preparation of the Expert Panel's final report in December 2014. That report will present recommendations for the future of planning in South Australia—recommendations that will have emerged from the engagement and research undertaken in 2013 and this year.

The government will be asked to consider the recommendations for implementation.

### 11.2 Feedback on this report

The panel welcomes feedback on this report and the specific ideas within it. In providing feedback on an idea or ideas, you may wish to respond to the questions outlined in **Figure 5**.

#### Figure 5: Key questions for feedback

- Which ideas are most workable and suitable?
- How can specific ideas be improved or modified?
- What costs, benefits or other implications should the panel consider?
- What other reform ideas should be considered?

To assist you, the ideas are presented on our website [www.thinkdesigndeliver.sa.gov.au](http://www.thinkdesigndeliver.sa.gov.au) with a simple online submission tool. Please visit the website to make a comment or provide a further submission.

#### Feedback on this report

You can provide feedback on this report and put forward your own ideas for planning reform by visiting the panel's website [www.thinkdesigndeliver.sa.gov.au](http://www.thinkdesigndeliver.sa.gov.au) and leaving your comment, or by writing to us at GPO Box 1815 Adelaide 5001.



### 11.3 Conclusion

Over the course of this review, the Expert Panel has listened, studied and learned. Together with its two reference groups, the panel has debated and examined the issues and explored the ideas raised during its 'listening and scoping' engagement in 2013.

The ideas for reform presented in this report represent the fruits of that process.

The panel has been impressed by the energy, passion and commitment that so many people have brought to this process. This report aims to respond to those ideas in a way that is genuine and considered.

In the long run, the success of this project will rely on building as wide a consensus for reform as possible. The panel encourages people interested in the reform process to have a say, continue the debate in the wider community and stay in touch.

#### Stay connected

You can stay connected to the panel's work.

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# Reform ready reckoner

## key leadership roles in the new planning system

	Directions and engagement	Planning and planning rules
<b>Parliament</b>	<ul style="list-style-type: none"><li>• scrutiny and oversight of state planning policies</li></ul>	<ul style="list-style-type: none"><li>• scrutiny and oversight of state planning code and regional planning schemes</li></ul>
<b>Minister</b>	<ul style="list-style-type: none"><li>• sets regional targets and directions</li><li>• approves regional strategies</li><li>• approves charter of citizen participation</li></ul>	<ul style="list-style-type: none"><li>• approves state planning code editions recommended by the planning commission</li><li>• can initiate changes to regional planning schemes in limited cases</li></ul>
<b>Planning commission</b>	<ul style="list-style-type: none"><li>• oversees state planning policies</li><li>• maintains charter of citizen participation</li><li>• oversees community engagement plans by councils and regional boards</li></ul>	<ul style="list-style-type: none"><li>• maintains state planning code, initiates changes and implementation at regional level</li><li>• signs off on major changes to regional planning schemes</li></ul>
<b>Regional planning boards</b>	<ul style="list-style-type: none"><li>• responds to directions and seeks to deliver through regional planning schemes</li><li>• prepares community engagement plans for approval</li></ul>	<ul style="list-style-type: none"><li>• maintains regional planning schemes</li><li>• can initiate changes to regional planning schemes</li><li>• signs off on minor changes to regional planning schemes by councils</li></ul>
<b>Regional development assessment panels</b>		
<b>Councils</b>	<ul style="list-style-type: none"><li>• provides input into all activities by the regional boards</li><li>• leads on local community engagement</li></ul>	<ul style="list-style-type: none"><li>• can propose changes to regional planning schemes</li><li>• can propose changes to state planning code</li></ul>
<b>Coordinator-general</b>		<ul style="list-style-type: none"><li>• helps identify infrastructure in regional planning schemes</li></ul>
<b>Precinct authority</b>	<ul style="list-style-type: none"><li>• engages with community in undertaking urban renewal projects</li></ul>	
<b>Environment, Resources and Development Court</b>		

General assessment	Facilitating complex projects	Culture, practice and guidance
	<ul style="list-style-type: none"> <li>• has call-in power for major projects or infrastructure, which are otherwise assessed regionally</li> </ul>	<ul style="list-style-type: none"> <li>• has overall accountability for the system to parliament</li> </ul>
<ul style="list-style-type: none"> <li>• may undertake assessment for projects of state significance</li> </ul>	<ul style="list-style-type: none"> <li>• assigns major projects and infrastructure assessment to state or regional assessment panels</li> <li>• recommends to minister when to exercise call-in powers</li> <li>• declares urban renewal precincts</li> </ul>	<ul style="list-style-type: none"> <li>• issues guidelines and practice notes</li> <li>• runs culture changes and planning excellence programs</li> <li>• accepts and investigates complaints</li> <li>• monitors performance</li> </ul>
<ul style="list-style-type: none"> <li>• appoints regional development assessment panels</li> <li>• assigns assessment powers to regional panels and council staff</li> </ul>	<ul style="list-style-type: none"> <li>• may propose urban renewal precincts to the planning commission</li> </ul>	<ul style="list-style-type: none"> <li>• supports culture and professional training in its region</li> </ul>
<ul style="list-style-type: none"> <li>• undertakes assessment of projects of regional significance</li> </ul>	<ul style="list-style-type: none"> <li>• may undertake assessment of major projects or infrastructure assigned by the planning commission</li> </ul>	<ul style="list-style-type: none"> <li>• undertakes administrative review of decisions made by council staff under delegation</li> <li>• may mediate disputes with applicants and community members</li> </ul>
<ul style="list-style-type: none"> <li>• receives all development applications</li> <li>• refers applications to regional panel as required</li> <li>• staff assess matters of local importance</li> </ul>	<ul style="list-style-type: none"> <li>• provides input into assessment processes</li> </ul>	<ul style="list-style-type: none"> <li>• develops urban design documents outlining character</li> <li>• may mediate disputes with applicants and community members</li> </ul>
	<ul style="list-style-type: none"> <li>• coordinates infrastructure delivery</li> </ul>	
	<ul style="list-style-type: none"> <li>• manages and undertakes complex urban renewal projects</li> </ul>	<ul style="list-style-type: none"> <li>• hears merit review and enforcement proceedings on development assessment decisions</li> </ul>





## **PART 12**

# Glossary, References and Appendices

- Glossary
- References
- Appendix 1 Terms of reference
- Appendix 2 Reference group members
- Appendix 3 Engagement and consultation
- End notes

## 12 GLOSSARY, REFERENCES AND APPENDICES

### GLOSSARY

**adaptive reuse**

the reuse, through adaptation, of older buildings (including heritage buildings), often involving changes to the existing fabric, the recycling of materials and the sensitive design of new services and upgrades that enhance the functionality of the building

**affordable housing**

housing that meets the needs of households with low and moderate incomes (determined by reference to price thresholds)

**amenity**

the pleasant or agreeable characteristics of a location enjoyed by residents, workers and visitors alike

**appeal**

the ability to contest an assessment decision before the Environment, Resources and Development Court

**appeal rights**

the rights of land owners, neighbours or third parties to appeal specified types of assessment decisions

**assessment pathway**

refers to various statutory assessment processes or 'tracks' for different types of development, based upon risk and impact

**'Better Development Plans' policy library**

the state government's collation of zones and planning policies, which councils are encouraged to use and adapt when updating a development plan (currently referred to as the South Australian Planning Policy Library)

**building consent**

results from assessment of a proposed structure (assessed against the national building rules), granted following a planning consent

**building rules**

refers to the building rules outlined in the National Construction Code together with state-specific standards known as 'minister's specifications'; typically building rules address structural, access and safety matters

**character**

see reform 9

**charter of citizen participation**

see reform 3

**COAG**

Council of Australian Governments

**complying development**

development which is acceptable and is likely to have a low level of impact on the surrounding area, typically identified by technical standards and quantitative requirements

**council**

the elected body of a local government

**court**

see 'Environment, Resources and Development Court'

**Crown development**

a development for the purposes of public infrastructure or services undertaken, or sponsored, by a government agency

**density**

number of residents or dwellings in an area, typically described as number of persons/dwellings per hectare

**desired character statement**

appears in development plans and describes in words the intended future character of an area and how development should fit in with it

**development**

a statutory term (defined in the Development Act) which describes those activities that trigger the need for assessment—including building, change in use of land, subdivision of land, some changes to heritage properties and some earthworks

**Development Act**

refers to the *Development Act 1993* and associated regulations which establish the primary framework for planning and development in South Australia

**development approval**

approval obtained from an assessment body in two steps (consistent with each other)—planning consent assessed against the zoning in a local development plan and building consent assessed against the national building rules

**development assessment**

process of determining the suitability (or otherwise) of a development proposal by an assessment body



**Development Assessment Commission (DAC)**

a statutory body appointed by the state government to undertake assessment of developments of state significance, including major projects, matters specified by regulation and matters referred in certain circumstances

**development control**

term referring to the combination of statutory planning rules and the process of assessment of development in accordance with those rules

**development plan**

the principal document used in South Australia governing private development through zoning and planning rules and able to be changed by local councils and the planning minister

**development plan amendment**

process by which changes can be made to a development plan, often called a 'rezoning' where it involves a change to zone boundaries or zones policies

**Development Policy Advisory Committee (DPAC)**

a statutory committee appointed by the state government with a variety of advisory functions including to review development plan amendments and to conduct hearings

**disallowance**

the ability for parliament to veto a statutory rule or policy made under legislation, including a development plan amendment

**DPTI**

Department of Planning, Transport and Infrastructure

**elected representatives**

includes ministers, members of parliament, elected councillors and mayors

**Environment, Resources and Development (ERD) Committee**

the main parliamentary committee dealing with planning issues, including scrutiny of development plan amendments, comprising members from both houses of parliament and chaired by a lower house member

**Environment, Resources and Development (ERD) Court**

the main court dealing with appeals relating to planning decisions and enforcement issues; also deals with related land and environment issues

**EPA**

Environment Protection Authority

**e-planning**

'electronic planning' is the use of electronic processes to deliver planning services, such as online lodgement, processing of applications, the provision of information and engagement

**essential infrastructure**

see reform 17

**exempt development**

developments that have a low impact and therefore do not require development approval, typically identified by type and scale

**finance**

refers to the way in which debt and/or equity is managed for the delivery and operation of capital projects

**form-based zoning**

see reform 9

**funding**

refers to revenue used to fund public infrastructure and services, such as taxation, commercial revenue or user pays charges

**government agency**

includes departments and statutory authorities

**Greater Adelaide**

refers to the spatial definition of an area wider than the traditional metropolitan area, first used in the *30-Year Plan for Greater Adelaide* and aligning with state government administrative region boundaries

**growth area**

area identified for urban expansion

**heritage**

includes buildings, structures, ruins, sites, trees, landscapes and other places that have historic, aesthetic, scientific, social or spiritual significance or the potential to yield such significance in the future

**infrastructure**

the basic underlying services supporting the functioning of human settlements, including a range of government and non-government services and facilities

**interim operation**

the ability of the minister to bring a development plan amendment into operation on an interim basis ahead of the usual consultation process





## 12 GLOSSARY, REFERENCES AND APPENDICES

### **judicial review**

refers to the common law right to seek review of any administrative decision before a court; in a planning context, this usually refers to judicial review of ministerial rezoning decisions or approval of major projects

### **land use**

the legal use to which land may be put consistent with the applicable planning rules

### **legislation**

includes statutes, regulations and other subordinate legislation

### **major project**

a development that has been declared by the minister to have significance for the state and has therefore been called in for special assessment, including environmental impact assessment

### **master plan**

a type of plan used to outline the desired shape, form and land use of a defined precinct, usually containing detailed guidance on building design, infrastructure, landscaping and public spaces

### **merit development**

development which requires assessment balancing its merits against the planning principles applying in a zone; under existing law all development defaults to merit unless specified as complying or non-complying

### **metropolitan area**

refers to the concept of metropolitan Adelaide, being an area of urban and peri-urban settlement centred around and with primary connections to urban Adelaide (presently defined using a boundary from 1994)

### **mixed use**

refers to a combination of major land-use types—such as residential, retail, office, commercial and light industrial—within the same zone, site or building

### **natural resources**

includes soil, water and marine resources, geological features and landscapes, natural ecosystems, native vegetation and wildlife

### **non-complying development**

development which is generally not envisaged and is likely to have an adverse impact on the surrounding area, typically identified in the planning principles applying in a zone, but which may be approved based upon a 'statement of effect' if agreed by both state and local assessment bodies

### **notification**

the process of providing information in accordance with statutory requirements to neighbouring property owners and, in some cases, to other community members about a proposed development

### **'on balance' test**

refers to the process of balancing various planning policies within a development plan to determine whether a merit development should be approved or refused

### **open space**

refers to parts of an urban area that are not built-up; open space includes parks, greenways or other public realm areas as well as private land which is undeveloped and is usually regarded as a network of interconnected spaces

### **overlay**

refers to a spatially defined area that may overlap several zones and applies uniform provisions on development in that area additional to the underlying policies in each zone; overlays are often used to identify environment issues and hazards

### **parliamentary scrutiny**

the process by which parliament provides oversight of subordinate legislation and statutory instruments

### **performance-based assessment**

see reform 12

### **place-making**

a term to describe the multiple activities that integrate the public realm with activity, built form and private development; it involves the planning, design, management and programming of public spaces

### **planning code**

see reform 8

### **planning consent**

approval for a land use, development or subdivision (assessed against the local development plan), granted before a building consent

### **planning legislation**

includes the Development Act and the Urban Renewal Act

### **planning rules**

refers to the planning requirements applying to development through zones, overlays and other parts of planning documents; often referred to as 'planning policies' in the existing system

### **Planning Strategy**

the foundation document in the planning system issued by the minister, setting out the state government's vision, policies and objectives (on a region-by-region basis) that local councils must deliver through development plans

### **planning system**

the system of planning supported by the Development Act, the Urban Renewal Act, related legislation and associated regulations and by the planning practices of the state government and local councils

### **precinct**

refers to a discrete urban area, usually associated with urban renewal

### **pre-lodgement**

refers to the process of negotiation of assessment outcomes, particularly for larger complex projects, prior to lodgement of a formal development application

### **prescribed**

legal term used to refer to the act of specifying certain matters by regulations made under primary legislation

### **private certification**

refers to the process of certification of specified low risk assessment decisions by accredited professionals known as 'private certifiers'

### **public realm**

includes public spaces such as streets, footpaths, pathways, rights of way, parks and open space

### **referral**

refers to the process by which an application for development approval may be referred to another body for specialised advice; referrals can be mandated by regulation or voluntary and the advice may be advisory or binding

### **regional planning board**

see reform 2

### **regional planning scheme**

see reform 7

### **residential development code**

a set of state-wide complying conditions for residential development set out in the Development Regulations

### **rezoning**

refers to the process of changing zones, currently by way of a development plan amendment

### **state planning commission**

see reform 1

### **state planning direction**

see reform 6

### **statement of intent**

the initiating document for a proposed development plan amendment by a council, setting out the intent and scope of the change sought and investigations to be undertaken; the minister must approve a statement of intent for a council to proceed further

### **statutory body or authority**

a body established by statute and invested with functions and powers; statutory bodies may be advisory or have specific powers, are often free of ministerial direction to some degree and come under various names such as commission, authority and board

### **structure plan**

a type of plan to describe in broad terms planning and development objectives and land use distribution in an area

### **urban growth boundary**

refers to the outer extent of urban development in metropolitan Adelaide, currently identified in the Planning Strategy

### **urban renewal**

see reform 20

### **Urban Renewal Act**

*Housing and Urban Development (Administrative Arrangements) Act 1995 as amended by the Housing and Urban Development (Administrative Arrangements) (Urban Renewal) Act 2013*

### **zone**

refers to a spatially defined area in a development plan that outlines planning rules specific to that area, such as the height of buildings and types of permissible land uses; types of zones include residential, retail, commercial, industrial, agricultural and mixed use





## 12 GLOSSARY, REFERENCES AND APPENDICES

### REFERENCES

#### Notes

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Adelaide Thinkers in Residence: [www.thinkers.sa.gov.au](http://www.thinkers.sa.gov.au)

Better Together: [yoursay.sa.gov.au/better-together](http://yoursay.sa.gov.au/better-together)

Building Commission (WA):  
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Building Rules Assessment Audit Summary of Findings:  
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Community Participation Charter (NSW):  
[www.engage.haveyoursay.nsw.gov.au](http://www.engage.haveyoursay.nsw.gov.au);  
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Department of Planning and Community Development  
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*Building Act 1993 (Vic)*  
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*Development Act 1993 (SA)*  
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*Electricity Act 1996 (SA)*  
*Environment Protection Act 1986 (WA)*  
*Environment Protection Act 1993 (SA)*  
*Environment Protection Act 1994 (Qld)*  
*Environment Protection and Biodiversity Conservation Act 1999 (Cth)*  
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## Appendix 1 Terms of Reference

1. The Expert Panel on Planning Reform is established to review the state's planning system and provide advice to the Government and Parliament for potential reforms.
2. The Expert Panel is required to:
  - a) review legislation relating to planning, urban design and urban renewal—including the *Development Act 1993* and the *Housing and Urban Development (Administrative Arrangements) Act 1995* [now known as the *Urban Renewal Act 1995*]
  - (b) review the role and operation of all other legislation that impacts on the planning system
  - (c) review statutory and non-statutory governance and administrative arrangements for the planning system
  - (d) propose a new statutory framework, governance and administrative arrangements for the planning system, and
  - (e) consider any matters referred to the Panel by the Minister for advice.
3. Recommendations of the Expert Panel must have regard to the vision for:
  - (a) a vibrant inner city for Adelaide—including the city centre, park lands and inner suburbs
  - (b) liveable, affordable and healthy neighbourhoods, and
  - (c) thriving, sustainable regional communities as outlined in *The 30-Year Plan for Greater Adelaide* and the new strategic plans for regional areas of the state.
4. The Expert Panel is required to:
  - (a) consult widely with the community, industry, councils and parliamentarians
  - (b) review interstate and overseas planning systems and urban renewal legislation, and
  - (c) consider relevant public reports and academic research relating to planning, urban design and urban renewal.
5. The Expert Panel must provide a final report outlining recommendations for a new planning system by no later than the end of December 2014.
6. The Expert Panel may provide such interim reports or other advice to the Government as it thinks fit, including advice on any matters that can be acted upon ahead of its final report.
7. Draft legislation will be developed by the Government, with the assistance of the Expert Panel. The Government will consult with parliamentarians in drafting legislation.

Hon John Rau MP

Deputy Premier

Minister for Planning

February 2013



## 12 GLOSSARY, REFERENCES AND APPENDICES

### Appendix 2 Reference Group Members

#### Planning Reform Reference Group

Dr Michael Llewellyn-Smith AM (independent chair)  
Adelaide City Council  
Australian Institute of Architects  
Australian Institute of Building Surveyors (SA Branch)  
Australian Institute of Landscape Architects  
Business SA  
Community Alliance SA  
Conservation Council of South Australia  
Engineers Australia (SA Branch)  
Environmental Defenders Office  
Housing Industry Association (SA Branch)  
Mainstreet SA  
National Environmental Law Association  
National Trust of South Australia  
Planning Institute of Australia (SA Division)  
Primary Producers SA  
Property Council of Australia (SA Division)  
Local Government Association—metropolitan representative  
Local Government Association—regional representative  
Urban Development Institute of Australia (SA Branch)  
South Australian Chamber of Mines and Energy  
South Australian Council of Social Service

#### Agency Reference Group

Attorney-General's Department  
Department for Communities and Social Inclusion  
Department of Environment, Water and Natural Resources  
Department for Health and Ageing  
Department for Manufacturing, Industry, Trade, Resources and Energy  
Department of Planning, Transport and Infrastructure  
Department of Premier and Cabinet  
Department of Primary Industries and Regions  
Department of Treasury and Finance  
Environment Protection Authority  
Urban Renewal Authority



## Appendix 3 Engagement and consultation

### List of submissions made to panel since release of *What We Have Heard*

Name	Organisation
Mr Peter Schirmer	Lutheran Church of Australia
Mr John Stimson	Fairmont Group
Mr Peter Harmer	Presiding Member, Building Advisory Committee
Mr Andrew Aitken	Adelaide Hills Council
Mr Brian Calvert	Mount Barker Coalition for Sustainable Communities
Mr Graham Brookman	
Mr Grant Pelton	Flood Reform Taskforce
Dr Amanda Rischbieth	Heart Foundation
Mr M.G. Smith	Metropolitan Fire Service
Mr John Ringham	SA Water
Mr Ashley Kellett	South East Australia Gas Pty Ltd
Mr Nigel Uren	ALDI Stores
Mr Tony Mudge	
Mr Nigel McBride	Business SA
Mr Darian Hiles	
Cr Peter Cornish	City of Burnside
Mr David Chick	Adelaide City Council
Dr Campbell Gemmell	Environment Protection Authority
Mr Demetrius Poupoulas	
Ms Sally Bolton	Australian Institute of Architects
Mr Ian Stirling	ElectraNet
Mr Ted Byrt	Presiding Member, Development Assessment Commission
Mr Gerald Thompson	
Ms Jean Germano	
Mayor David O'Loughlin	Local Government Association
Mr Ian Llewelyn	
Mr Michael Lohmeyer	

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### Briefings and meetings with stakeholders

Date	Place	Event
13 February	Adelaide	Meeting with James Brown Memorial Trust
19 February	Adelaide	Meeting with Development Policy Advisory Committee
24 March	Adelaide	Spatial Industries Business Association event
15 April	Adelaide	Meeting with Consult Australia, SA Division Executive Committee
6 May	Adelaide	Meeting with representatives of the Australian Institute of Architects, SA Division
5 June	Adelaide	Meeting with representatives of the Conservation Council SA and the Community Alliance SA
6 June	Adelaide	Meeting with Primary Producers SA State Council
23 June	Adelaide	Meeting with representatives of the Planning Institute of Australia, SA Branch
23 June	Adelaide	Meeting with representatives of Electranet
23 June	Adelaide	Meeting with representatives of Local Government Association of SA
24 June	Adelaide	Meeting with representatives of the Urban Development Institute of Australia, SA Branch
24 June	Adelaide	Meeting with representatives of the Housing Industry Association
26 June	Adelaide	Briefing to the Environment, Resources and Development Committee of Parliament
2 July	Adelaide	Meeting with representatives of the Property Council of South Australia



## End notes

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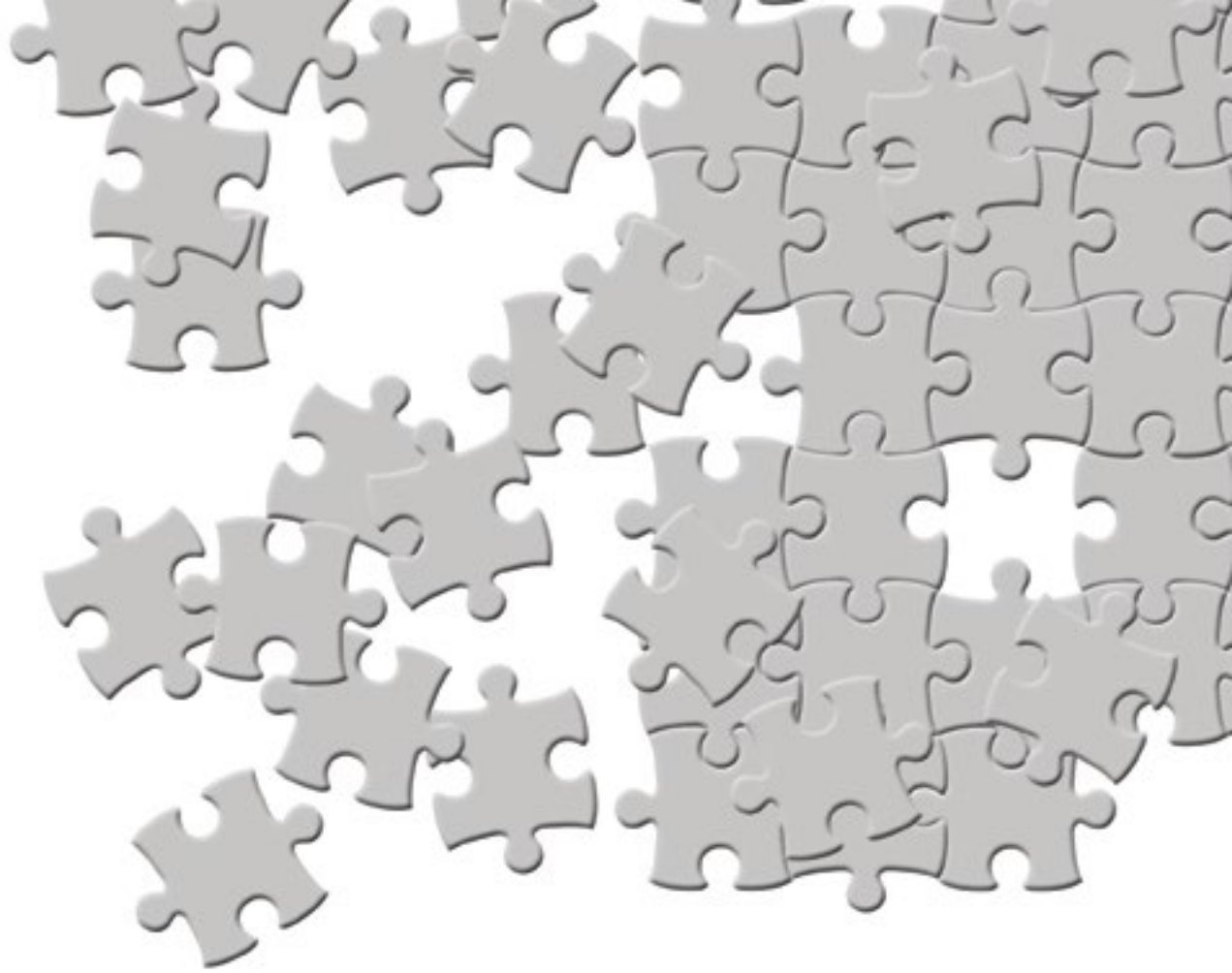
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**Government  
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