

Think
Design
Deliver

Creating a new
planning system
for South Australia

South Australia's Expert Panel

THE PLANNING SYSTEM WE WANT

on Planning Reform



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A MESSAGE FROM THE EXPERT PANEL

Eighteen months ago this panel was asked to explore the best path for planning in this state. What we have found is a system struggling to deliver the outcomes citizens want, and our state needs, and that is in need of an overhaul in key areas.

Planning in South Australia has become unnecessarily costly, complicated, cumbersome and focussed on processes rather than outcomes.

Our planning system discourages innovation and locks out new investment and the jobs it brings. It frequently generates divisive debate for minimal gain, and often fails to protect the things we value as a society. These effects are compounded by duplication and layers of inefficient practices that have become entrenched and add to costs for taxpayers and ratepayers. This situation cannot continue.

Our land is one of our most valuable resources. It's not replicable or replacable. Once a decision is made to use land in a certain way, changing this can cause great difficulties. A decision made at a

particular point in time has enormous ramifications for many years ahead. That is why our planning system must result in decisions that are founded on high quality directions and policies, that are transparent and can withstand close analysis, and that, fundamentally, deliver the best places for South Australians to live and work in.

South Australia has a tradition of world-class planning that has helped shape the state. If we want to continue to build South Australia and secure an affordable lifestyle for future generations, we need a planning system that is the best that it can be. As we look to the challenges ahead, we need a planning system that is contemporary, innovative, capitalises on technology and adapts to change.

In this report we recommend action to achieve the planning system South Australians want and deserve. The package of reforms is complex and will affect almost all players in the system. We believe it will result in significant benefits if fully implemented.



To be successful, reform will require a sustained effort and a partnership approach between state and local government and communities. The consensus that has been evident from the more than 2,500 people who have had input throughout our review gives us every confidence that this effort will be forthcoming, and that government and parliament can act on our recommendations knowing the proposals have wide support.

The panel is grateful to the many people who participated in our work, and particularly the members of the Planning Reform Reference Group. We 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 contributed in many different ways.

Our work is complete with the handing over of this report. We have appreciated the opportunity to offer our skills and expertise to a process that, we hope, will transform the South Australian planning system. As a panel, we are confident the vision we present in this report will forge enduring growth and success for this state and its people.

Brian Hayes QC (Chair)
Natalya Boujenko
Simone Fogarty
Stephen Hains
Theo Maras AM

12 December 2014

PART 1

Towards a new
planning system



1.1 Why reform must happen

1.2 The panel's approach

**1.3 The shape of the new
planning system**

**1.4 Statutory objectives
for planning**



1 TOWARDS A NEW PLANNING SYSTEM

1.1 Why reform must happen

Our planning system should provide communities with a clear understanding of the policies that will guide development, while ensuring that unnecessary costs and delays for applicants and assessing authorities are minimised. It is critical to the competitiveness of the state, but our current planning system is not up to this task.

Too often the system focusses energy and effort on micro-level issues. We have the same debates over and over again on detailed issues of individual developments, but devote precious little energy to fundamental policies and strategies that are the cornerstone of the system.

We cannot continue with a system that is increasingly unaffordable, unsustainable and unconnected to our future needs.

The last significant review of South Australia's planning system was conducted more than 20 years ago. It established the fundamental elements of the current system—a clear and consistent strategy for the state, development plans that outline what can and cannot happen in an area, and a 'one-stop-shop' for development assessment. These elements were groundbreaking in their time, and are still widely praised.

But the intent of these reforms has been whittled away through two decades of accumulated practice and legislative amendment. Over this time, the legislation has been amended 629 times by 48 separate bills. Meanwhile, much about the world we plan for has significantly changed; in 1993, the internet barely existed, all infrastructure was held in government hands and the effects of a changing climate were poorly understood.

The Expert Panel's engagement and research has clearly identified where the biggest problems exist in the system. Communities do not believe that plans address their aspirations and are not engaged when those plans are set. The culture of the planning

Problem

There are too many plans

There are too many versions of the same rule

Planning documents are convoluted and cumbersome

It takes too long to update plans and rules

The system is straining under the burden of assessment

Assessment takes too long and involves much more effort than it warrants

Planning is not integrated with other government plans and policies

system focusses on controlling development, has become risk-averse and is an obstacle to investment. The results are lengthy processes, lack of debate, outdated policies and opaque decision-making.

As a consequence, few trust the planning system to deliver what they want.

Evidence that illustrates the problem	Consequence
<ul style="list-style-type: none"> • 10 volumes of the Planning Strategy • 72 development plans • multiple structure plans, master plans, open space strategies, etc 	<ul style="list-style-type: none"> • fragmented policy and lack of clear direction • contradictions deter investment • confusion for users • lack of direct link between policy and development plans • expensive to maintain
<ul style="list-style-type: none"> • more than 2,500 combinations of zones, overlays and other spatial layers • over 500 different zones for residential areas alone 	<ul style="list-style-type: none"> • duplication and inconsistency • confusion for users • different outcomes for similar types of developments
<ul style="list-style-type: none"> • more than 23,000 pages across multiple planning documents • development plans can be more than 1,100 pages long • legislation includes 296 provisions and 39 schedules 	<ul style="list-style-type: none"> • people do not understand the rules • people do not engage when rules are set or changed • voluminous rules create loopholes • onus is on the community to read and understand many documents
<ul style="list-style-type: none"> • it takes nearly three years on average for a council to change a development plan • 40 per cent of councils have not reviewed the strategic basis of their development plans for more than a decade • some plans have zones untouched for more than 30 years 	<ul style="list-style-type: none"> • out-of-date plans and planning rules • limited confidence in plans • development becomes harder and assessment out-of-touch • plans are too controlling, not outcome driven
<ul style="list-style-type: none"> • about 30,000 applications every year • this is more than six times the number in Western Australia and 30 times more than Toronto (per capita) • number of applications has reached almost 70,000 a year in recent years 	<ul style="list-style-type: none"> • no time to consider strategy and policy • excessive resources consumed by low-level assessment
<ul style="list-style-type: none"> • 90 per cent of development applications are considered as 'merit' • simple home approvals average two months and can take as long as 12 months 	<ul style="list-style-type: none"> • home owners bear costs, delays and frustration • investors walk away from development
<ul style="list-style-type: none"> • government has multiple overlapping strategic plans • multiple and sometimes contradictory regional plans 	<ul style="list-style-type: none"> • councils repeatedly make new plans for separate issues • long-term investment in infrastructure is thwarted



1.2 The panel's approach

This final report contains our conclusions and recommendations after more than 18 months of detailed consideration of the planning system and extensive consultation with a wide range of people. Our intent is to design a system that:


- shifts focus to setting clear directions and policies upfront
- encourages communities to be involved when their participation is most meaningful
- ensures plans and rules are up to date and address contemporary needs
- promotes place-relevant design outcomes
- declutters and simplifies the assessment process
- makes it easier to access and understand planning information
- promotes policy integration, regional collaboration and a professional culture.

Practical, user-friendly processes should remove duplication, ambiguity, conflicts and unnecessary costs and delays. Upfront effort in setting clear directions, policies and rules will help the efficient delivery of agreed outcomes and meet community expectations.

Capitalising on emerging technologies should improve access and reduce delays and duplication. Independent, open and transparent systems and practices, combined with coordinated land use and infrastructure planning, will increase investor and community confidence.

Throughout this review we have aimed to remove barriers to development, investment and affordable living. Fundamentally, we believe planning reform should underpin and help stimulate a dynamic economy, ensuring that South Australia is a great place to live, work, visit, study and do business.

Our reforms have been shaped by the vision outlined on the page opposite and the guiding principles we adopted and refined throughout this process (see **Part 2**).



The panel's vision

For South Australia to have an **effective**, **efficient** and **enabling** planning system that:

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

1 TOWARDS A NEW PLANNING SYSTEM

1.3 The shape of the new planning system

This report outlines a series of 22 reforms to the planning system. The reforms have been designed to assist the government and parliament in devising a sound legislative framework that can take planning forward in coming decades, while addressing the problems we have identified.

At the apex of the system, a new State Planning Commission will take a leading role in helping government shape policy based on best practice, oversee its delivery and ensure coordination of efforts within the bureaucracy. This will increase the focus on policy development and reduce unacceptable delays. Operating at arm's length from the government, the commission will help promote confidence in decision-making processes. Accountable to the minister, it will assume responsibility for administrative and implementation matters, enhancing the capacity of elected representatives to focus on fundamental policy issues.

In parallel with the commission, we believe planning activities must be reshaped at a regional scale where state and local aspirations can be integrated. Regional decision-making will provide a considered approach to both state and local aims, now and in the future.


To do this, we propose that regional planning boards be established to give regions greater self-determination and provide real opportunities for the integration and coordination of broader government policies and statutory bodies. Together with the commission, this reform will provide clear state and regional level forums for elected representatives to deliberate on policy matters.

Communities must be engaged meaningfully in decision-making processes, from the earliest stages of strategy and policy-setting. To do this, we propose a 'Charter of Citizen Participation' that will set outcome-focussed principles for community participation at all stages of the planning system. We envisage that engagement will be a key role for the regional planning boards.

Reshaping planning at a regional scale also presents an opportunity to streamline the confusing array of planning documents into a simplified regional structure and standardise how planning rules are expressed.

Development assessment must be dramatically reformed. We propose a regional and professional approach to the assessment task that will substantially reduce the overwhelming number of applications in the current system that require special assessment (at considerable cost to both applicants and authorities), and to achieve greater professionalism and consistency in the interpretation of planning rules. We also propose that the many other statutes that affect the planning system be better integrated with the assessment process.

Planning rules must be clear, consistent and focussed on high-quality design. The minister must have clear, transparent and timely means to mandate policy directions, and to determine matters of state significance. A new state planning and design code will set rules that will be consistently applied across the state. This code will be supported by a contemporary, user-oriented, electronic platform that will give everyone transparent access to information, clarify the expression of policy, and improve the cost-effectiveness of processes across the system.



There will be flexibility for the system to use a variety of processes to enable a more comprehensive and design-led solution for the development of defined areas, or precincts, whether within greenfields or urban renewal projects. These processes will be supported by a clear and transparent legislative framework that establishes criteria and processes for the funding of infrastructure and open space in association with private development.

Fundamentally, the planning system depends on those who administer it. For this reason, the panel proposes a significant program of culture enhancement and performance monitoring—led by the commission—to achieve the objectives of this review. One of the key goals will be to ensure that the planning system can enable and empower better outcomes for our communities, rather than be used solely to control development.

We believe the reform package as a whole carries great benefits and will deliver an effective, efficient and enabling planning system for South Australia.

1.4 Statutory objectives for planning

The panel believes it is important that the legislation include clear statutory objectives that outline how it should be used and administered.

During our review, we have noted many suggestions as to what these objectives should be. Ideas have included an emphasis on environmental protection; a focus on the facilitation of good outcomes rather than the regulation of processes; and specific issues such as design, health, heritage, affordability, ecological sustainability, culture and lifestyle.

While a good planning system provides a foundation for valuable developments in a range of portfolio areas, referring specifically to each issue within the legislation would reduce an important statutory provision to a shopping list that would be unmanageable and lose emphasis. As a result, our recommended objectives, outlined in the breakout box below, are succinct and unambiguous.

Proposed objectives of the new planning legislation

- to shape cities, towns, neighbourhoods and country regions that meet the needs and aspirations, and reflect the diversity, of the state's communities, present and future
- to contribute to a competitive and productive economy, through orderly and efficient development, in ways that are practical, fair, equitable and just
- to optimise the social utility, economic potential and amenity of land, places, cultural heritage and public spaces through effective planning and urban design
- to eliminate, minimise and mitigate adverse impacts on, and contribute to the conservation, restoration and enhancement of, the state's natural systems supporting life and biodiversity and to promote the sustainable use of resources
- to coordinate, facilitate and regulate planning issues and activities, including the development and delivery of infrastructure and services, in ways that support the objectives

PART 2

The panel's guiding
principles



2 THE PANEL'S GUIDING PRINCIPLES

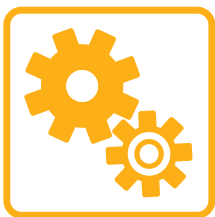
To design an effective, efficient and enabling planning system the panel has developed guiding principles against which reforms can be assessed. These have emerged progressively through our engagement and research over the last 18 months. Each reform in this report has been developed using the guiding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

The full text of our guiding principles, as outlined in *Our Ideas for Reform*, can be found in **Appendix 3**.



Partnerships and participation

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



Integration and coordination

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



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



Renewal and resilience

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



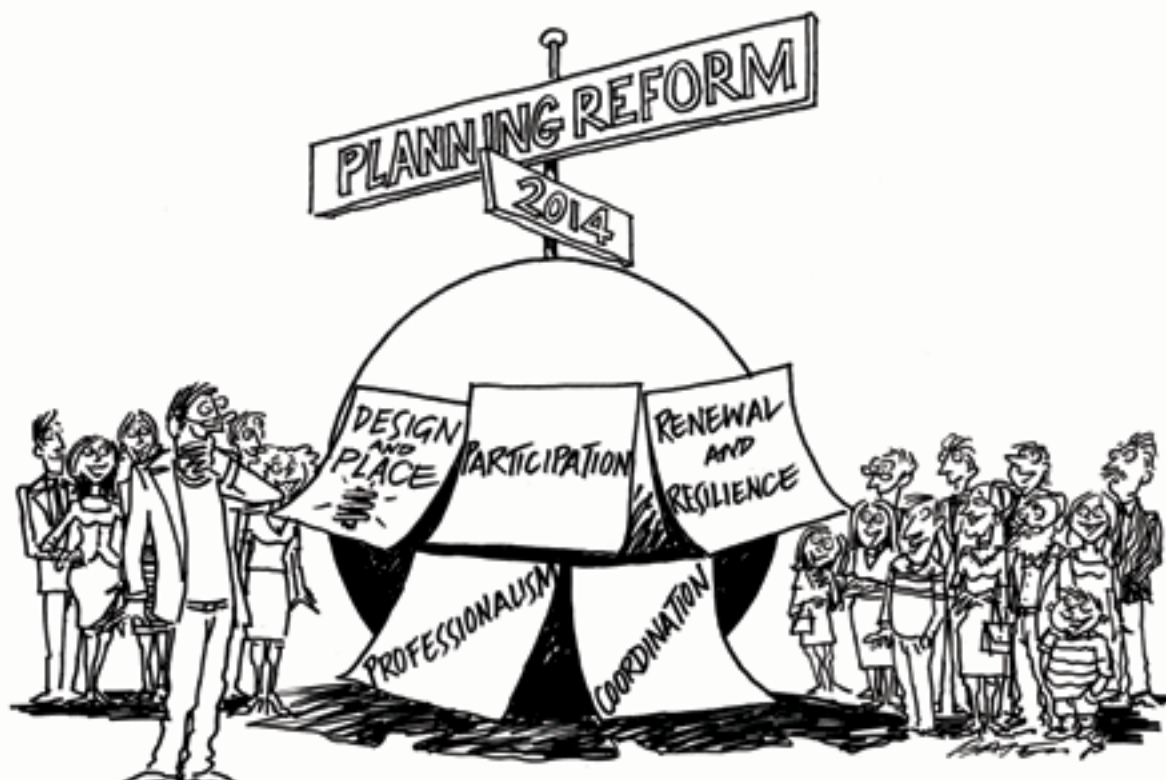
Performance and professionalism

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



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.





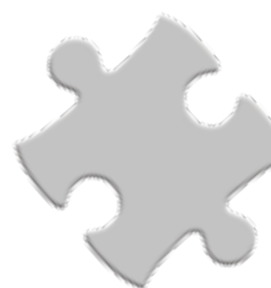
THE REFORM AGENDA

This part outlines the panel's proposed reform agenda.

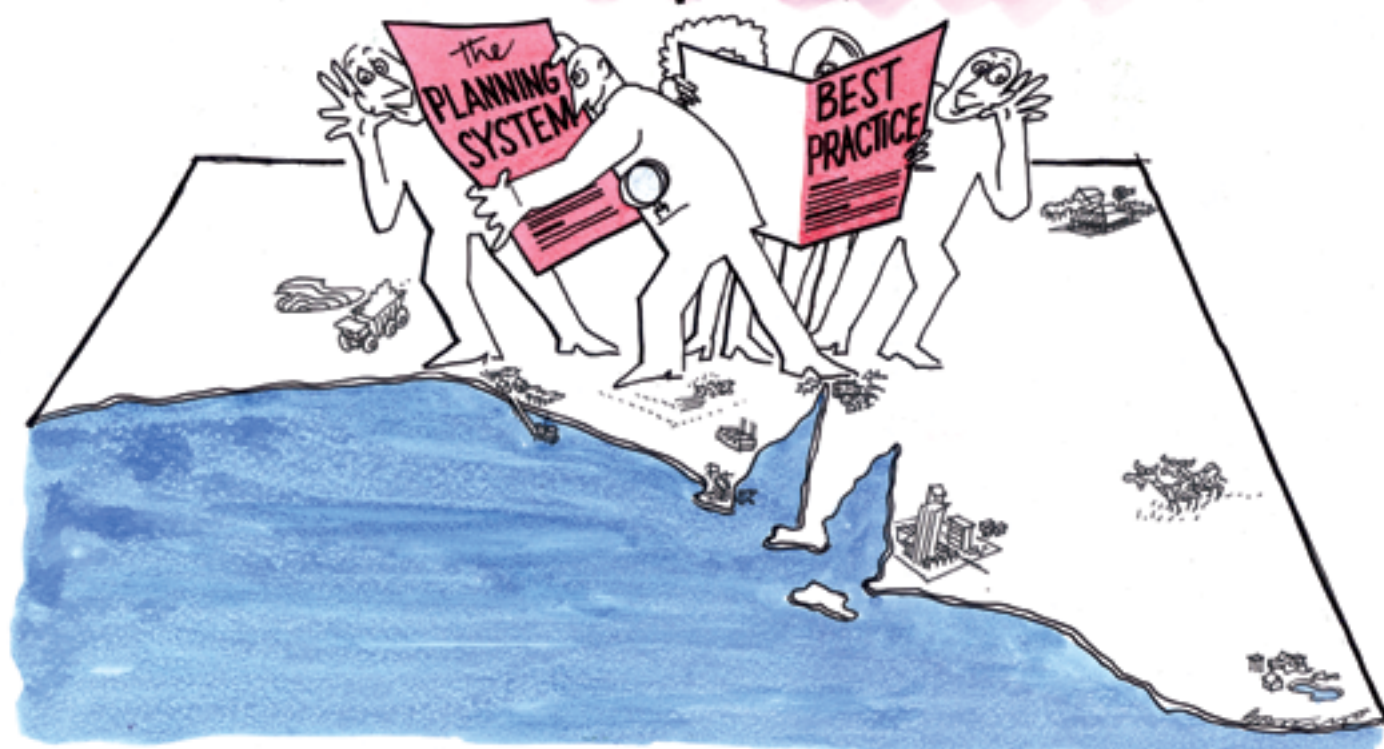
Each of the 22 recommended reforms fits within an integrated package. While there is room for detail to be developed and negotiated, the benefits of any one reform—and of the entire suite—will be minimised if the proposals are separated.

For each reform, we have indicated links to other reforms and to the ideas we canvassed in our second report, *Our Ideas for Reform*. The feedback referred to followed the publication of that report and its suggestions.

In our earlier report, *Our Ideas for Reform*, we presented 27 reform ideas. In this report, in response to feedback, we have merged a number of these where appropriate. Links are included as a reference at the end of each reform.



the EXPERT PANEL
ON PLANNING
REFORM



PART 3

**Roles, responsibilities
and participation**

» **Reform 1**

Establish a state planning commission

» **Reform 2**

Create a network of regional planning boards across the state

» **Reform 3**

Legislate to create a charter of citizen participation

» **Reform 4**

Engage parliament in the development of planning policies

3 ROLES, RESPONSIBILITIES AND PARTICIPATION



Who makes planning decisions, how they are made, and how the community can participate in them is fundamental to the planning system. The panel consistently heard a strong desire for transparent decisions that are focussed on what matters most, based on meaningful input from community members and integrated with other policy settings.



Key messages

- elected members, both state and local, should focus on setting directions
- there needs to be greater emphasis on meaningful engagement upfront
- regional planning is the best scale for integrated decision-making

To this end, the reforms in this section focus attention on key directions and strategies; clarify that the role of elected members is to determine these, not to involve themselves in day-to-day administrative matters; and provide meaningful opportunities for citizens to participate in upfront decision-making processes.

The governance framework we propose will also enable much greater levels of integration within government and between state and local government—enabling effective delivery at a regional scale wherever possible.

3 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 State Planning Commission will provide high-level advice to the minister and Cabinet on planning, provision of infrastructure and services, urban renewal and related issues.
- 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 State Planning Commission.
- 1.5 The State 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, align policies relating to planning issues and promote a high standard of professionalism across the system.
- 1.7 It will include independent members (including an independent chair) with professional expertise and community standing.
- 1.8 It will be administratively supported by the department and report to the minister. It will be able to delegate its powers to staff or committees as it sees fit.
- 1.9 The State 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.
- 1.10 It may from time to time initiate formal inquiries into complex or contentious matters of planning policy.
- 1.11 These inquiries will harness professional skills and knowledge on a sessional basis, helping to resolve issues apolitically.
- 1.12 Inquiry reports will be published and require decision-makers to formally respond to their recommendations and findings.



The State Planning Commission will be South Australia's peak planning body, a statutory body with its membership, functions, powers and procedures provided in legislation.

Reporting to the minister, it will develop, manage and maintain the state's planning framework. In so doing, it will regularly engage with councils, community, business and professional groups.

The State Planning Commission will drive the delivery of South Australia's planning system. Its members will have the expertise, experience and community standing to generate trust in its results.

It will oversee and monitor planning policies, practices and performance and help coordinate the delivery of infrastructure. It will have a legislative mandate to ensure policy integration, resolve administrative deadlocks and duplication, and promote performance across the planning system.

Why this reform is important

The establishment of the State Planning Commission is a core element of our package of proposed reforms for the future of planning in this state.

Issues this reform addresses

- a perceived lack of transparency in the rationale and information behind major decisions
- poor coordination of planning priorities across state government and between state and local government
- inefficiencies in the administration of minor matters at a political level
- the lack of a central body charged to monitor and improve the system as a whole



3 ROLES, RESPONSIBILITIES AND PARTICIPATION



At arms length from the government, the State Planning Commission will provide independent, professional advice, enable quality public debate and generate policy that can span political cycles. As an independent body, it will focus on planning excellence driven by research, whole-of-government policy development and ongoing dialogue with communities.

The commission will also have a key coordinating role within government to ensure integration across multiple areas of government policy and service delivery. This state cannot afford for councils or

government agencies to be duplicating each other's work; this reform will help address this persistent problem. The commission will have a statutory role in coordinating the delivery of infrastructure and related services that overlap with planning, subject to Cabinet direction.

By entrusting much of the administration of the planning system to the commission, elected representatives can focus on strategic issues knowing delivery is being administered and managed. This will engender the long-term certainty that people seek.

Some tasks for the State Planning Commission

- providing clear, independent and impartial advice to the minister and parliament
- promoting community understanding of planning decisions and policies, including through citizen participation and engagement
- developing policies such as the state planning and design code, and overseeing planning processes such as zoning changes
- providing guidance to planning authorities and professionals
- coordinating strategic planning and ensuring its integration with government policies, particularly in the metropolitan area
- coordinating the planning, delivery and assessment of infrastructure
- registering and overseeing the accreditation and training of professionals and assessment panel members
- undertaking independent planning inquiries and assessment of called-in projects of state significance
- assessing or delegating the assessment of essential infrastructure
- monitoring the performance of the planning system

How this reform will work

This reform has received wide support from industry, community groups and local councils, indicating it has the potential to improve trust and confidence in our planning system.

For the State Planning Commission to garner public confidence, it will include members with expertise in planning-related topics, specified in legislation. They should not be government employees, representatives of any particular sector or be otherwise directly connected to the state government or its agencies. This will ensure members are, and are seen to be, independent arbiters of the planning system and that the commission's deliberations are not influenced by particular agency perspectives. Commission members will be appointed by the minister, who should be required to consult before taking recommendations to Cabinet.

Feedback on this reform

- membership of a State Planning Commission should be based on expertise, not sectoral representation
- the commission's independence will be boosted if government officials are excluded
- an effective commission should operate independently
- the commission must have a clear legislative framework and powers
- the state government should maintain control over key policy issues
- there will need to be close liaison between the commission and councils
- commission members' expertise should include skills and experience in urban design, local government and social and environmental policy
- the commission should take a lead role in coordinating infrastructure that overlaps with planning
- the commission should not create another 'layer' that can frustrate efficient decision-making



3 ROLES, RESPONSIBILITIES AND PARTICIPATION



The commission will regularly consult with community groups, business, industry and other peak bodies. A particularly close relationship with local government will be essential—both in the day-to-day administration of the planning system and in the consideration of higher-order policy questions.

Suggested expertise for State Planning Commission membership

- planning, building, urban design or development
- the provision of infrastructure or services
- legal, social or environmental policy
- local government or public administration
- economics, commerce or finance

Feedback suggested that to be effective the commission will need a clear legislative mandate to avoid becoming another ‘layer’ of bureaucracy in the system. We agree there is a risk this could occur. The commission must therefore be established as a statutory authority with specific powers and a clear reporting line to the minister. This will be particularly important in enabling it to coordinate and integrate infrastructure delivery with planning objectives.

The panel also proposes that the commission be given the capacity to conduct planning inquiries to explore challenging issues and resolve contentious or complex issues. These inquiries should harness the skills and expertise of recognised professionals and be used only to resolve policy issues; they should not be a tool for undertaking or reviewing assessment decisions.



Examples of issues an inquiry could explore

- reviewing sensitive land use issues such as the significant character landscapes
- investigating environmental impacts on a region-wide basis
- setting and reviewing the urban growth boundary
- reviewing constraints to land supply and housing affordability
- examining options to address demographic change
- challenging contentious zoning changes
- resolving complex inter-agency policy issues

How this reform will be delivered

It should be an early priority to establish the State Planning Commission. This will enable it to oversee and provide advice on the development and implementation of all reforms.

The commission will need to have its governance structures, composition and processes specified in legislation. Potential members may be identified and appointed while legislation is finalised. A dedicated secretariat will be required within the planning department to support it.

The commission will replace the Development Assessment Commission (DAC) and the Development Policy Advisory Committee (DPAC) and their sub-committees. Cost savings from the abolition of these bodies should support funding, but to attract high-quality candidates additional budget allocations may be desirable. Transitional arrangements will also be necessary to support the winding up of these bodies.

Priority: 1

Link to guiding principles:



Links to *Our Ideas for Reform*: Reform 1 and Reform 4



REFORM 2

Create a network of regional planning boards across the state



- 2.1 Divide the state into regions and establish planning boards for each to coordinate planning and drive regional policy integration.
- 2.2 Board members, including an independent chair, will be determined by the minister after a public process of nominations. It is anticipated that at least half of the appointments will be selected from nominations made from local government in a region.
- 2.3 Boards will work with local councils to coordinate planning functions in their regions 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 proposals to change development plans, undertaking public hearings and other engagement, and appointing and establishing regional development assessment panels.
- 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 regional basis with the State Planning Commission undertaking whole-of-metropolitan coordination. We anticipate there will be between three and five regional boards within the metropolitan area, and that each board should comprise at least two council areas.



A network of regional planning boards will be established across country and metropolitan regions, operating closely with councils and government agencies to coordinate and deliver planning outcomes.

It will give communities real influence over their own futures, while also meeting broader state-wide objectives and priorities.

Regional planning boards will have responsibility to prepare, update and amend regional planning schemes, including strategic plans and development plans. Regional planning boards will also appoint regional development assessment panels.

In country regions, regional planning boards will be cost-effectively integrated with natural resources management, regional development and infrastructure coordination.

In the metropolitan area, the State Planning Commission will establish regional structures and have an overarching role in coordinating metropolitan strategy.



Why this reform is important

The panel firmly believes that regional structures are essential to the future of planning in South Australia—and we are not alone in making this observation.

Regional models have been repeatedly recognised by government reviews, academics, local government, environmental lobbyists and business groups as the most effective way to generate economic development, plan and prioritise infrastructure, and ensure environmental outcomes.

Supporters of a regionalised approach

- Charles Landry, Adelaide Thinker in Residence, 2003
- Government Reform Commission, 2007
- Planning and Development Review, 2008
- Local Excellence Expert Panel, 2013

3 ROLES, RESPONSIBILITIES AND PARTICIPATION

Issues this reform addresses

- poor coordination of planning across suburbs and regions
- strategies and policies that most affect country areas are not linked to local aspirations
- some planning functions are overly centralised in state government
- overlapping responsibilities of multiple policy agendas leading to conflict

Regional planning models complement similar approaches in other areas of government activity, including public health, waste management, economic development and natural resources management. Many of these existing arrangements are a result of local councils working together for the effective delivery of services to their communities. A regional approach to planning presents a real opportunity for the integration of a wide variety of state government and council policy interests at an effective scale.

The division of planning responsibilities between local councils and state government has led to a plethora of documents and inefficient practices that impede quality outcomes and have diminished community and investor confidence. A regional governance structure, sitting between the two spheres of government, can recognise the shared responsibilities of state and local government and integrate policy directions at a regional scale. It will give communities real influence over their own futures, while also meeting broader state-wide objectives and priorities.



How this reform will work

This reform attracted more comments than any other outlined in *Our Ideas for Reform*, reflecting its significance in changing existing structures. While comments were broadly supportive, there were notable differences in views between various bodies and sectors. In particular, comments from councils varied significantly, from general support in country areas to reservations expressed by some metropolitan councils.

Feedback on this reform

- some councils are concerned that boards could undermine their role as elected bodies
- many country councils welcomed the approach for regional planning schemes to be generated in the regions, and the concept of consolidating other authorities and boards across a region
- concern that planning boards could create another 'layer' of bureaucracy in the system
- the composition of planning boards needs to be detailed
- the government should pursue council amalgamations rather than establish planning boards
- the funding of boards needs to be clearly outlined
- boards' autonomy from state government must be clear in legislation

It is worth reinforcing that we see this form of regional planning as an effective devolution of responsibilities to regional communities, as it requires state government to relinquish many of its functions to the planning boards and the local communities most affected by them.

While the panel understands that some in state and local government may see the creation of regional planning boards as a loss of their control over elements of the system, we are of the view that it will create a forum for governments to better collaborate at the right scale, bringing together local aspirations with state policy priorities. Equally, the development of regional planning schemes should be the vehicle for government agencies to integrate their policies into the planning system. Indeed, it is essential that this regional framework be used to integrate all government directions and policies on a regional level.

As the planning boards will streamline or replace processes and functions currently delivered by councils, funding should primarily come from councils in each region. However, an equitable funding model that also reflects that some state government functions will be delivered locally should be negotiated.

While regional planning boards will be accountable to the state through the State Planning Commission, their closest relationships will be with the councils and communities they serve.

It is also important to distinguish between our reforms to development assessment panels, outlined in Reform 11, and the establishment of regional planning boards. The most important role of regional planning boards will be to develop the strategy and policy that will guide not only assessment but also investment and growth in their regions.

Regional planning boards in the country

The panel heard from several country areas that they consider this to be a particularly important reform and feedback suggests it will be warmly welcomed. Integrating existing regional bodies will not only reduce costs but also provide the financial strength and autonomy that country-based South Australians need to make their regions work. In our view, there is no doubt that the establishment of regional boards should be prioritised. We also recommend that existing government administrative boundaries should be revisited so that all government services must conform with them, in recognition of the clear demand for this consistency.

Regions in the metropolitan area

In the metropolitan area, the issues are more complex. The size and nature of the 26 councils in the Greater Adelaide region vary considerably, and do not suit the contemporary planning needs of a modern city. Some metropolitan councils are small areas of quite consistent urban form; others are large and contain a wide variety of land uses. The fact that metropolitan councils vary from fewer than 8,000 residents to more than 150,000 illustrates the complexity of finding a workable approach to regional governance in the metropolitan area.



3 ROLES, RESPONSIBILITIES AND PARTICIPATION

The panel also acknowledges that planning for the whole of Greater Adelaide must be coordinated; there is a risk that our proposal for a number of regional boards in the metropolitan area, each responsible for strategy, may not achieve this. We have therefore modified our original reform proposal to provide a stronger role for the State Planning Commission in coordinating a single integrated plan for the metropolitan area. The commission should work with councils to establish a viable regional structure for the metropolitan area that emerges from the development of the new metropolitan plan. The commission should start by establishing an advisory committee structure that will enable councils to be represented in strategic planning for the metropolitan area. In the longer-term, as these groupings become more stable and accepted, a move towards a board structure could be contemplated.

Principles for metropolitan planning boundaries

- planning boundaries should be framed according to metropolitan planning boundaries, leading to between three and five regions
- planning boundaries should reflect common planning and development issues and be focussed around major metropolitan centres
- regions should be of sufficient size to provide effective coordination of infrastructure
- planning for the inner city should go beyond the park lands—the city centre should not be disconnected from surrounding neighbourhoods
- regional boundaries should not cut through council boundaries, and should include more than one council

Originally the panel proposed three boards that conform to council boundaries and that ensure planning in the inner city connects with surrounding areas—but we can see merit in having more boards. We remain firmly of the view that planning for the inner-city region should extend beyond the park lands to recognise the importance of access to our city centre. Beyond this we suggest that the State Planning Commission should explore and establish metropolitan region boundaries as a specific exercise.

To assist this process, we suggest that the State Planning Commission apply the principles set out in the breakout box above.





Case study: Melbourne's metropolitan planning authority

The Victorian Government established the Metropolitan Planning Authority in 2012. The authority works with the city's 28 councils and government agencies to coordinate planning and the delivery of infrastructure, growth areas and urban renewal. The authority, which emerged from the former Growth Areas Authority, has established five sub-regional planning groups in partnership with local councils across the metropolitan area.

Source: Metropolitan Planning Authority website

How this reform will be delivered

A careful legislative framework for planning boards will need to be crafted. The existing Natural Resources Management Act provides a practical model that could be adapted.

In country South Australia, regional boards should be progressed as a priority. This could be accomplished by using the existing framework of natural resources management boards and regional local government association structures.

In the metropolitan area, the boundaries of regional areas should emerge from the next round of strategic planning that will review and update *The 30-Year Plan for Greater Adelaide*. As a short-term measure, the State Planning Commission should work with councils through sub-regional advisory committees; as these become accepted, formal board structures may be progressively introduced across the metropolitan area.

Priority: **2**

Link to guiding principles:



Links to *Our Ideas for Reform*: Reform 2

REFORM 3


Legislate to create a charter of citizen participation



- 3.1 Legislate to require a statutory charter of citizen participation that will focus attention on policy and direction and streamline engagement on development assessment.
- 3.2 Establish principles of citizen participation in legislation, to guide the development of the charter.
- 3.3 The charter will be based on leading engagement practices, such as IAP2 guidelines, and will set out principles, benchmarks and suggested approaches.
- 3.4 The charter will be developed by the State Planning Commission and be subject to regular review, ensuring it reflects contemporary and leading engagement practices.

- 3.5 It will allow for flexible and tailored engagement and will replace existing prescriptive consultation requirements.
- 3.6 The charter will encourage use of digital platforms and innovative engagement techniques. For routine matters, it will provide a suite of standard consultation practices.
- 3.7 Agencies and councils will be required to develop engagement plans, consistent with the charter, for each of the planning processes of different kinds within the legislation.





Effective participation by communities will be fostered and valued through the use and promotion of contemporary approaches to engagement. The focus should be on testing ideas with community input before they become definitive propositions.

The centrepiece of this approach will be a new outcomes-oriented 'Charter of Citizen Participation', prepared and maintained by the State Planning Commission. The charter will outline how communities and individuals can contribute to planning decision-making, and the responsibilities of councils, government agencies, land owners and citizens in fostering and managing input.

Why this reform is important

The role and significance of community engagement in planning have changed dramatically since the Development Act was introduced in 1993.

Today informed communities and individuals not only expect that their needs will be reflected in planning decisions, but, with the rise of online and social media, demand the ability to influence outcomes.

The new planning system must embrace these challenges.

Issues this reform addresses

- poor citizen engagement and debate on strategy and policy
- an emphasis on seeking and providing comments on assessment
- a focus on meeting statutory requirements for consultation rather than on true engagement outcomes
- public consultation too often comes at the end of a process, rather than in the early stages

3 ROLES, RESPONSIBILITIES AND PARTICIPATION

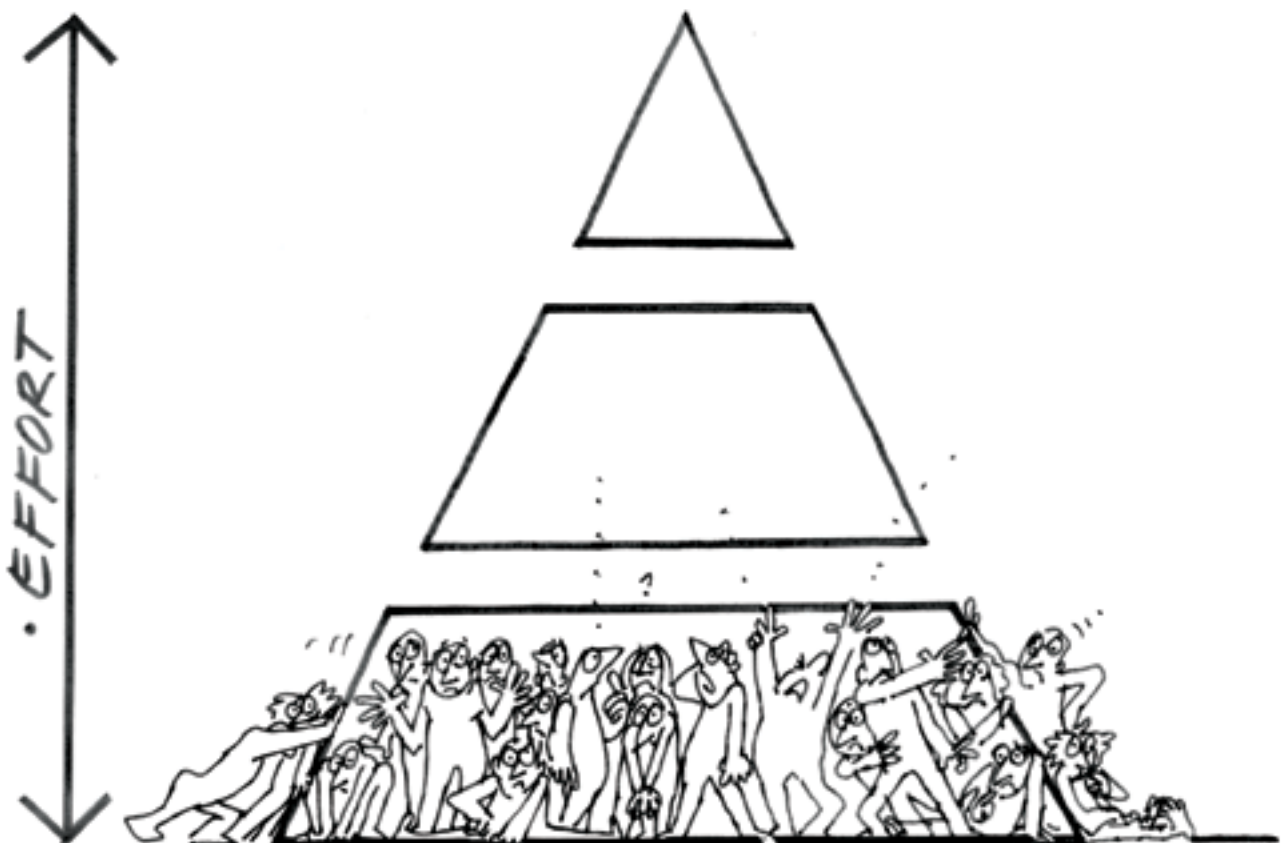
The proposed 'Charter of Citizen Participation' will enable communities and individuals to participate in planning decisions early, often and in ways that are meaningful for them and for decision-makers. The charter will be founded on the premise that citizens' input can be valuable at all stages of the planning process, and has the most meaningful impact at the strategic and policy level.

Currently, people's attention is largely concentrated on processes that occur at the end of the planning system—most notably assessment. This means

citizens find themselves engaged in 'rearguard' action with limited success, leaving them feeling unsatisfied with their opportunities to influence decisions that affect their lives. The charter will provide for early, upfront and ongoing dialogue about key issues and the planning frameworks that will address them.

However, there must be recognition within the charter that there will be occasions when citizen participation will not be warranted, and these occasions should be clearly outlined.

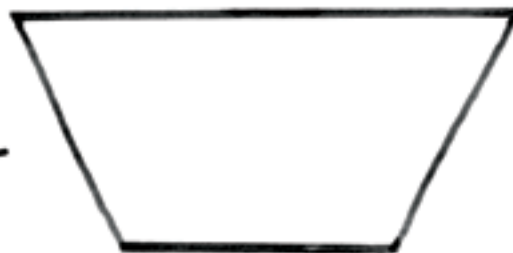
• WHERE WE ARE •



• WHERE WE WANT TO BE •



• STRATEGIC
PLANNING



• ZONING
FRAMEWORK



• DEVELOPMENT
ASSESSMENT





3 ROLES, RESPONSIBILITIES AND PARTICIPATION

How this reform will work

The concept of a charter of citizen participation has attracted broad support, along with calls for detail on how the charter should operate.

Feedback on this reform

- by focussing on outcomes, the charter should improve engagement overall
- the concept of a charter is good, but it will require resources and state government commitment
- councils will require training and support to manage engagement
- increased opportunity for engagement should not add costs or delays to reasonable development
- the charter should not override mandatory consultation on assessment matters
- development of the charter should draw on leading practice in community engagement
- the charter should apply to state and local governments and act as a guide for proponents
- regular updates and practice advice will be essential for ongoing credibility

It is clear a charter should be flexible and adaptable without losing authority.

The panel believes the State Planning Commission should develop and maintain the charter, subject to ministerial approval. Legislation should specify the purpose of the charter in facilitating meaningful public participation in the best planning outcomes, and establish consistent criteria. Clear statutory powers should outline core principles that shape detail to be developed by the commission.

Our intent is that the charter will be an outcomes-oriented document. It should outline the types of participation that are appropriate in varied circumstances, how such participation should be generated and encouraged, and how decisions will take into account any participation. These components will be incorporated into engagement plans developed at the local government level and customised for a region's needs, detailing who should be consulted, when, and how input and feedback will be facilitated.

Some have suggested that the charter should not displace current statutory requirements for consultation. We do not agree with this proposition; however, we do agree that the charter should include minimum and consistent requirements for consultation on straightforward planning processes. The charter will also specify those assessment matters for which consultation is not required.

Statutory principles the charter should address

- citizens have a right to be informed openly and honestly about planning issues that affect them
- citizens have a right to have reasonable, meaningful and ongoing opportunities to participate in planning processes
- planning information should be in plain language, readily accessible and in a form that facilitates community participation
- wherever practicable, citizens should be given options to consider rather than fully-fledged propositions seeking their responses
- citizens should be given opportunities to participate in planning processes as early as possible to enable consideration of their views

Examples of similar engagement frameworks

- South Australia's *Better Together: principles of engagement*, 2013
- NSW's *Community Participation Charter*, 2014
- International Association of Public Participation (IAP2)
- Scotland's *National Standards for Community Engagement*, 2005
- Portland's *Five-year Plan to Increase Community Involvement in Portland*, 2012

How this reform will be delivered

The State Planning Commission must develop the charter as a priority. This will build trust in the planning system and ensure that the roll-out of regional planning schemes will be based on best-practice engagement.

The first version of the charter should be relatively short. However, as the system evolves, the State Planning Commission should update the charter to reflect emerging engagement practices.

Our approach to the charter will focus citizen input in early planning policy-making. This will result in upfront costs; however, our analysis suggests these costs will be offset by speedier resolution of downstream issues.

- community participation methods should foster and encourage constructive dialogue, discussion and debate
- community participation methods selected for a planning or infrastructure project should have regard to its size, significance and likely impact
- community participation methods should be inclusive, equitable and engaging, and seek and encourage diverse community views
- community participation methods should be stimulating and use multiple platforms, including online tools
- planning decisions should be open, transparent and timely
- communities should be provided with reasons for planning decisions
- there will be some planning decision-making processes that do not warrant community consideration or input

Priority: **1**

Link to guiding principles:  

Links to *Our Ideas for Reform*: Reform 3



REFORM 4

Engage parliament in the development of planning policies



- 4.1 The relevant parliamentary committee should be given an opportunity to comment on key policy instruments before they are endorsed by the minister.
- 4.2 Consistent with constitutional practice, parliament should retain the power to disallow subordinate legislation, but steps should be taken to ensure this occurs as early as possible in decision-making processes.
- 4.3 Parliament should review its committee structure to better accord with the new planning legislation.

Parliament has an important constitutional role in our system of democracy, providing input into and scrutiny over executive government. In the context of planning, the engagement of parliament should aim to ensure stronger consensus around long-term state directions.



To make parliament’s role more effective, the planning system will provide avenues for early engagement with members and will enable elected representatives to focus on policy-setting functions of state-wide significance rather than the detail of implementation and delivery.

The role of parliament

Parliament has a general role in holding ministers to account for the administration of legislation. This manifests in a number of ways. It includes scrutiny of subordinate legislation. In the planning system this currently includes development plan amendments which are referred to the Environment, Resources and Development Committee for consideration at the end of the process.

Why this reform is important

Under our system of government, the minister is ultimately responsible to parliament for the administration of legislation—and this includes the planning system. According to constitutional practice, as the state’s principal democratic forum parliament will always have a role in scrutinising subordinate legislation that can affect the legal rights of citizens. In the case of planning, this includes the planning rules and processes monitored by the relevant committee—currently the Environment, Resources and Development Committee.

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However, the current planning laws result in the parliamentary committee being involved in minor issues and micro-level detail rather than being engaged upfront. This is not the best use of its time or resources—and it does not result in meaningful input. The panel believes there is a need to refocus this scrutiny process to make it more effective and to build political consensus around long-term planning directions that will provide certainty for communities and investors. We believe South Australia will be best served if the parliamentary committee can concentrate on strategic policy discussions.



Issues this reform addresses

- parliament focusses entirely on lower-level matters, rather than strategic issues
- the committee's contribution is often too late in the process to be meaningful
- there is no process for elevating high-level planning matters for parliamentary debate
- the Environment, Resources and Development Committee's role is ineffective

Our proposed State Planning Commission will assume many of the low-level roles and responsibilities currently undertaken at a ministerial level. This should remove costly and time-consuming activities from the minister's and parliament's schedules, and place administrative matters beyond partisan dispute or political timeframes. At the same time, the minister and parliament will be able to focus on strategy that addresses state-wide demands and integrates planning projects and developments across interested portfolios.

How this reform will work

Feedback has confirmed that there is a need to make parliament's involvement in planning issues more meaningful and effective. For example, when we met the Environment, Resources and Development Committee, it became clear that its members do not find the current process of scrutiny of individual development plan amendments useful.

Feedback on this reform

- agreement that the current role of the parliamentary committee is ineffective
- concerns that parliamentary oversight could complicate or delay decisions
- differing views on the purpose and role of parliamentary input into planning



The panel's view is that parliament must have the ability to comment on key policy documents with less focus on administrative or implementation details. Accordingly, new planning legislation will require that the relevant parliamentary committee have two roles: commenting on the development of state directions, and scrutinising regional strategies and delegated legislation such as the state planning and design code. This change will mean that the committee no longer has a direct role in the rezoning process. Care should be taken in drafting the legislation to ensure our recommendation meets constitutional requirements.

As with many of our reforms, our underlying concern is to ensure that there is a greater focus on setting effective policy directions instead of on unproductive debate at the end of a process. By giving parliament opportunities to comment on strategic plans and oversight over the planning and design code, the need for input into each individual rezoning process will be removed.

How this reform will be delivered

Legislative changes will be necessary and should be included in the initial package of measures. The provisions should come into effect as the State Planning Commission and planning boards develop planning documents following commencement of the legislation.

Parliament may also wish to review its committee structure to pursue alignment with the reform package.

Priority: 3

Link to guiding principles:   

Links to *Our Ideas for Reform*: Reform 5

PART 4

Plans and plan-making

» **Reform 5**

Create in legislation a new framework for state directions

» **Reform 6**

Reshape planning documents on a regional basis

» **Reform 7**

Establish a single state-wide menu of planning rules

» **Reform 8**

Place heritage on renewed foundations

» **Reform 9**

Make changing plans easy, quick and transparent

4 PLANS AND PLAN-MAKING

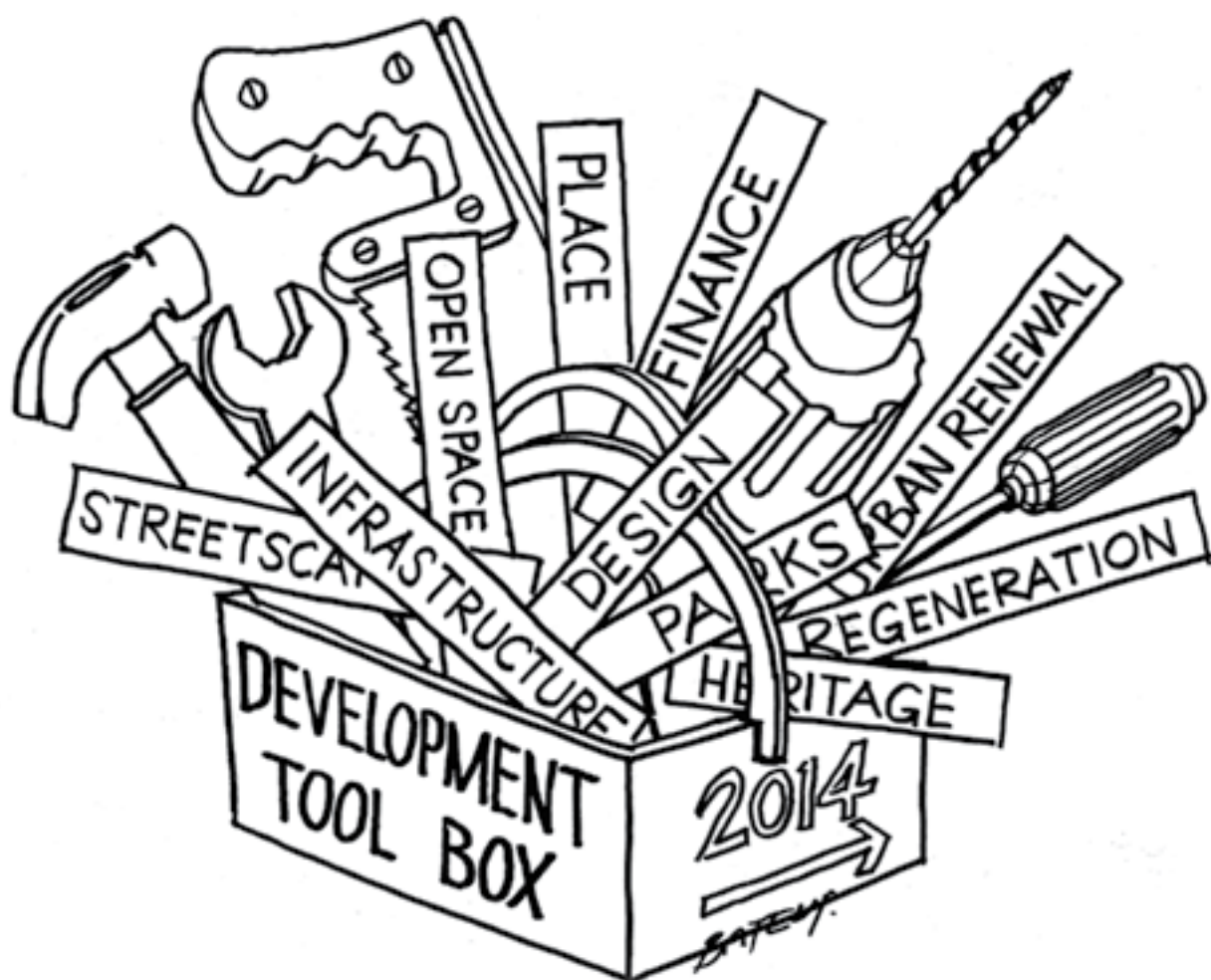


Most decisions in the planning system are made on the basis of policies and rules that are set out in a number of planning documents. The role of these planning documents is crucial in delivering good decisions. However, the sheer complexity and length of the various documents in the current system, including the 10 volumes of the Planning Strategy and the 72 development plans, frustrate both development and real community participation.

The reforms proposed in this section aim to improve and simplify this confusing array of policy documents. The panel intends to establish simpler, more consistent planning policies and rules that are framed at a regional level; give elected governments stronger capacity to implement their key policy positions; and provide a capacity to resolve issues through debate on policy upfront, not while attempting to solve assessment conflicts.

Key messages

- there are too many layers and documents in the planning system
- regional planning should be implemented to reduce overlaps and duplication
- there needs to be stronger role for design in zoning
- planning rules and zones should be more consistent across the state



REFORM 5

Create in legislation
a new framework for
state directions



- 5.1 Establish a process for making new policy instruments to be known as 'state planning directions'.
- 5.2 The state planning directions will include high-level targets and policies of the government to focus delivery of outcomes around specific issues.
- 5.3 State planning directions will be brief documents that establish policy directions that regional planning boards must address in the development of strategic plans for their regions.
- 5.4 Planning directions will be issued by the minister with advice from the State Planning Commission. Where directed by the minister, the commission will undertake consultation.



A single framework of state directions will clearly reflect whole-of-government policies on significant planning targets and issues. State directions will be single-purpose documents that set out the policy goals to be met by regional plans.

State planning directions will be issued by the minister with advice from the State Planning Commission. The minister will consult before finalising any state direction, including with relevant parliamentary committees.

The State Planning Commission will implement the state planning directions. It will be responsible for consulting about any proposed changes and for keeping the state directions current, consistent and manageable.



Why this reform is important

In South Australia's current planning system, state-wide policies are outlined in the Planning Strategy. This aims to ensure a coordinated approach that reflects government priorities across the planning system in all areas of the state.

However, over the past 20 years government plans and strategies have multiplied so that there are cases of overlap, conflict, and ambiguity. For those working within the planning system, this creates confusion and uncertainty. Strategic positions on policy developed from one perspective can have unintended implications for other issues. The panel

believes this must change through a process that brings together multiple aspirations, testing them before they are applied to development processes such as assessment.

The panel proposes a new policy instrument to be known as a 'state planning direction'. State planning directions will be simple, high-level policy statements that succinctly outline state government policies and priorities that affect planning. They will provide a single point of reference for planning boards and agencies in how they spatially plan for, develop and oversee issues such as infrastructure, housing, health, education, industry, energy and water, and environmental resources. This will reduce conflict and confusion.

4 PLANS AND PLAN-MAKING

Issues this reform addresses

- the Planning Strategy is no longer a truly effective tool for setting clear, coordinated government policy
- confusion about what government policies councils must apply locally, and how councils should do this
- ambiguity about how government plans are intended to interact with each other
- policy conflict between different plans and agencies
- current strategic planning conflates high-level directions and targets with detailed implementation

How this reform will work

There is strong support for the concept of state planning directions. This reflects frustration and confusion among many users of the existing planning system about the high number and unclear status of government policies, strategies and plans.

Feedback on this reform

- agreement that the current number of strategies and plans is confusing and their roles unclear
- general view that the minister and government must still set whole-of-state directions
- supported in the context of regional planning boards undertaking strategic planning

While the concept of a single point of reference for all state directions has been welcomed by many, some submissions have raised concerns that state directions could become complex or over-detailed. It is important that the state government resist the temptation to prescribe every policy detail through the directions, otherwise they will become unmanageable and regional autonomy will be undermined. The forum for resolution of detail will be the regional planning boards.



The panel also understands that governments will continue to have a range of policy documents outside the planning system. However, unless a policy has been formally adopted as a state direction, there should be no expectation or requirement that it is incorporated in planning practice. Clearly, the directions should be made only for matters that can be given effect through the planning system.

Case study: how state directions could help protect coastal areas

There is currently a Cabinet-endorsed and widely accepted policy on how development should respond to the risks of coastal inundation from storm surge and sea-level identified by the Coast Protection Board.

In 1994, local development plans were amended to reflect this policy. These have been subject to ad hoc updates on a council-by-council basis as scientific knowledge has developed. However, an audit in 2010 showed that 38 per cent of coastal hazard areas are no longer appropriately zoned.

The new 'state directions' could be used to more effectively update state-wide policies on coastal hazards. As new data about inundation risks becomes available, the government could issue directions to regional planning boards with immediate effect.

Source: Coast Protection Board submission

How this reform will be delivered

Development of the initial suite of planning directions will be an important and early task. This will require analysis of existing policies and dialogue with government agencies with an interest in policy directions within the planning system.

In the meantime, a Cabinet direction should outline how the minister and the State Planning Commission can work with government agencies to prepare a suite of directions ready for early implementation.

Importantly, the panel envisages that the state directions will remove the need for the cumbersome strategic directions report process under section 30 of the Development Act.

Priority: 1

Link to guiding principles:  

Links to Our Ideas for Reform: Reform 6



REFORM 6

Reshape planning documents on a regional basis



- 6.1 Establish a planning scheme for each region, to be known as a 'regional planning scheme'.
- 6.2 Regional planning schemes will comprise a regional strategy and a regional development plan.
- 6.3 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 needed.
- 6.4 Changes to regional strategic plans will include consequential changes to the development plan, reducing the lag time in implementation of strategic priorities and directions.

- 6.5 Legislation will require regional strategic plans to incorporate infrastructure, open space, environmental, public health and other considerations, eliminating the duplication of resources and the possibility of conflicting guidance.
- 6.6 Regional strategies and development plans will be subject to oversight and direction through the State Planning Commission. To ensure alignment with state policies and funding priorities, regional planning schemes will require ministerial agreement, based on the commission's advice.
- 6.7 Regional schemes will be supported by a rolling implementation program developed by each regional board and linked to state and local budget processes.
- 6.8 Regional planning schemes may include master plans and other visual tools to supplement text-heavy documentation of policy.

Each region of the state will be served by a single, integrated 'regional planning scheme'.

A regional planning scheme will comprise a single planning strategy and development plan for a region. Planning boards and councils will share responsibility for each scheme, with resource assistance from the state government.

Regional planning schemes will integrate all strategic planning elements relevant to a region.

Why this reform is important

Regional planning schemes will give councils and regional communities control and influence over strategic planning in their regions.

Together with the regional planning boards proposed in Reform 2, the regional planning schemes will increase and promote each region's capacity to plan according to its needs, now and in the future. This will result in a significant devolution of control from state government.

Regional planning schemes will replace the 72 development plans and the 10 volumes of the Planning Strategy that currently guide councils and their development activity. Councils and agencies will also integrate their infrastructure and open space plans within the regional schemes.



This proposal will effectively translate the state planning directions proposed in Reform 5 into detailed policies that reflect the needs and objectives of councils, industry and communities within their regions. It will also save time and effort and reduce duplication between government, councils and agencies operating in each region

Issues this reform addresses

- the development of regional strategies is highly centralised
- people in country areas feel that they have little say in the setting of strategy for their areas, and that their concerns are not well understood by state government
- there are too many documents for planning strategy and policy that are not coordinated



4 PLANS AND PLAN-MAKING

How this reform will work

There was a mixed response to this proposal, reflecting a range of views from different sectors.

The panel's view is that a regional planning scheme is an essential mechanism for regions to determine their own futures. The development of regional planning schemes will be the responsibility of planning boards, subject to oversight and direction through the State Planning Commission to ensure alignment with state directions (Reform 5).

Feedback on this reform

- industry groups welcomed a concept that should provide integrated and consistent strategy and policy
- councils in regional areas were supportive, with some councils already moving to a regional development plan
- some concern that a regional development plan will reduce local input

Recognising the importance of the metropolitan area, there will be a single metropolitan scheme developed collaboratively by the State Planning Commission and metropolitan regional planning boards. This will result in a single strategy and a single development plan for metropolitan Adelaide. In country areas, regional schemes will incorporate economic development and environmental management strategies.

Councils will retain an ability to propose changes to regional development plans to reflect local needs.

Changes to regional strategic plans will include consequential changes to development plans, reducing delays in implementing strategic priorities and directions.

Neighbourhood character issues will be reflected through the use of more tailored local policies for specific areas, incorporated within each regional scheme.

How this reform will be delivered

Initially, we expect that the existing development plans in a region, together with the relevant volumes of the Planning Strategy, will constitute the regional planning scheme. However, we expect that a key task for each planning board will be to update its strategic plan in response to the state directions issued by the minister. This will then lead to an update of its development plan, in line with new planning tools and processes.

Infrastructure planning and environmental plans should be introduced into the planning schemes as part of the staged approach.

Until a regional planning scheme is finalised, the regional development plan will be the existing development plan for all council areas in a region.

Priority: 2

Link to guiding principles:

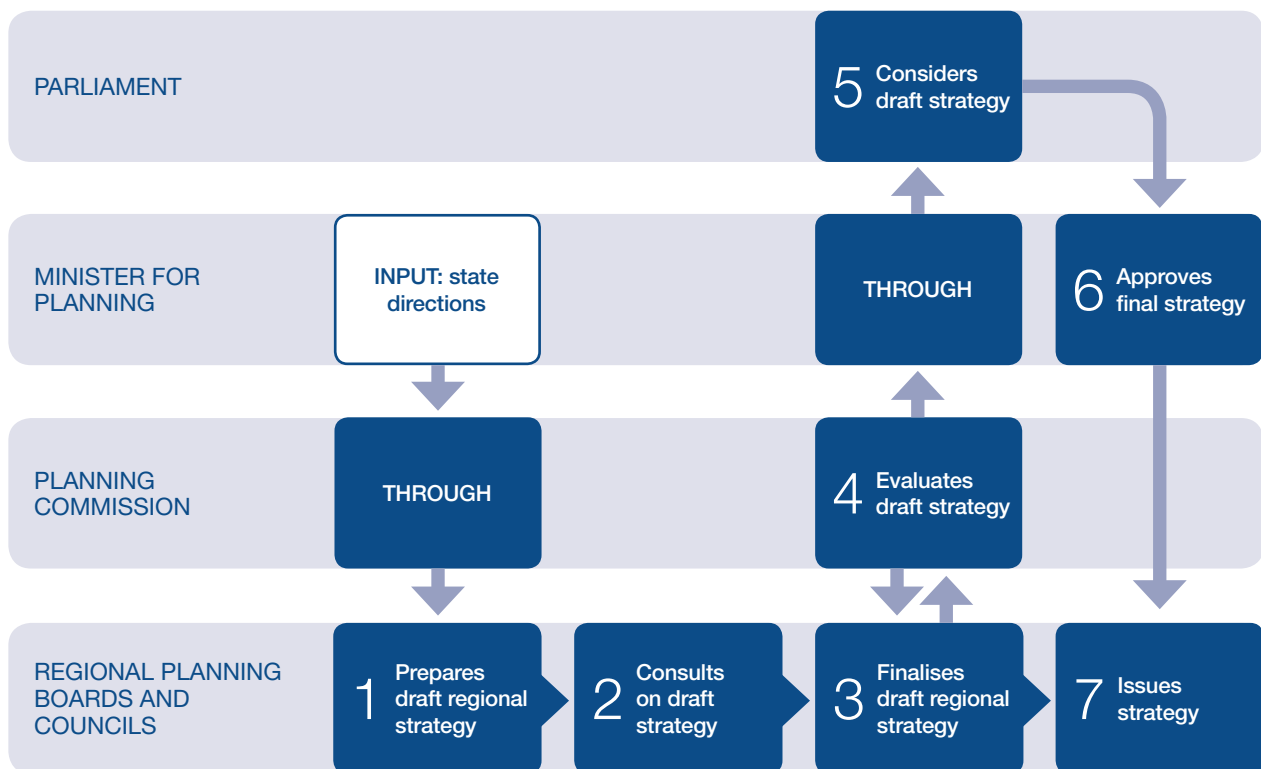


Links to Our Ideas for Reform: Reform 7

PREPARING REGIONAL STRATEGIC PLANS

ROLES

PROCESS



REFORM 7

Establish a single state-wide menu of planning rules



- 7.1 Create a statutory head power for a state-wide suite of planning rules, to be known as the 'state planning and design code'.
- 7.2 The state planning and design 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. Provisions of the code will be incorporated in regional development plans.
- 7.3 The code will contain a comprehensive menu of zones, overlays and other spatial layers for incorporation in development plans across the state. Zones and overlays will include both merit-based and complying provisions and standards.
- 7.4 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.





- 7.5 The State Planning Commission will develop and maintain the menu of planning rules in the code at the direction of the minister and subject to consultation with councils, the community and industry sectors.
- 7.6 Councils, regional boards and government agencies will be able to propose changes to the code and associated documents.
- 7.7 Updates to the zones in the planning and design code will flow automatically across development plans through the use of online systems. Consultation on the code will occur before amendments are made, enabling early council input.
- 7.8 There will be a regular update process for the code, to be undertaken by the State Planning Commission, with final sign-off by the minister and subject to parliamentary scrutiny.
- 7.9 A form-based approach to zoning based on mixed-use principles will be implemented progressively through the code.

- 7.10 Specific design features such as provisions for streetscape, townscape and landscape character will be included in the state planning and design code.
- 7.11 The code will be supplemented by design standards and guidelines as appropriate.

A single state-wide planning and design code will provide a comprehensive menu of planning rules for use in regional planning schemes by councils and planning boards. This will build on experience with the state's policy library.

The State Planning Commission will develop the code with input from councils, planning boards and government agencies, and with public consultation. It will include zones, subzones and overlays that can be used and adapted in local plans. There will be scope for adaptation of the code to cater for local needs such as neighbourhood character.

The code will be digitally enabled and seamlessly linked to each planning scheme. An online approach will increase accessibility and enable updates to flow automatically into regional planning schemes without cumbersome amendment processes.



4 PLANS AND PLAN-MAKING

Why this reform is important

Issues this reform addresses

- excessive numbers and varieties of complex zones and policies in development plans
- lack of sophistication in complex zoning policies, resulting in poor outcomes
- limited use of performance-based planning rules and complying standards
- the presence of out-of-date planning policies that in some cases go back decades
- confusion, delays and frustration from the interpretation of complicated policies
- design and its benefits are poorly addressed in existing planning documents

With more than 2,500 zone combinations spread across 23,000 pages of policy, maps and tables in the state's current 72 development plans, the volume of regulation in South Australia's system is unsustainable. It results in planning rules that are unusable, highly variable and out of date, and makes it difficult for many people to meaningfully interact with the planning system. This causes confusion and downstream delays in assessment, resulting in deferred investment, unnecessary development costs, and a lack of community confidence in assessment decisions. It is little surprise that users of the planning system find it hard to locate or understand the rules that affect them most.

A new state-wide planning code will set a single, consistent and high-quality approach to zoning throughout the state, drawing on interstate and

overseas best-practice models. The code will contain a 'menu' of zones and overlays to be applied through each regional planning scheme. This will make rezoning simpler and quicker, reducing delays and costs, and improve investor, developer and community confidence.

Current number and volume of zones and plans

- 72 development plans
- more than 23,000 pages in total
- more than 11,000 pages of text
- 2,500 combinations of zones and other spatial layers
- almost 500 separate residential zones

Benefits the planning and design code will deliver

- a single repository of state planning and design rules
- consistent decision-making, less confusion and fewer delays
- a focus on clear rules will improve quality
- online delivery will streamline processes and roll-out
- voluminous paperwork will be dramatically reduced
- communities and investors will be able to locate and understand planning rules
- increased certainty about how the rules apply
- flexibility to cater for fine-grained local issues
- reduced costs and delays in updating development plans
- removal of restrictions on good design that currently result from land use-based zoning
- promotion of the benefits of design to planning processes and outcomes

How this reform will work

The need for a more straightforward, understandable and easy-to-use zoning system was widely recognised. The proposed code builds on the work undertaken through the 'Better Development Plans' initiative.

Feedback on this reform

- it builds on familiarity with the 'Better Development Plans' initiative
- more consistent policy will save time and resources and make development rules easier to understand
- local needs, such as character, should not be overlooked in the code
- single-use zoning has resulted in unintended outcomes
- compatible land uses should be favoured through mixed-use zoning approaches
- the number of zones in the current system makes it difficult to administer
- industry supports the code as a fundamental reform
- form-based zoning offers a way for design to be better recognised in the system

Community groups and councils were concerned that a single state-wide code may not address important local needs and expectations. The panel acknowledges this concern, and agrees that the code could recognise some different local needs through the use of overlays and other design based tools. However, this flexibility must not lead to a degree of variation that would nullify the reform's intent.

The State Planning Commission will develop the planning and design code to boost community confidence in the independence and apolitical nature of its content. The commission must also approve any changes to the code in the context of state directions and strategic plans, reinforcing an independent consideration of local requests.

The code must be developed collaboratively. We also believe that councils, planning boards and government agencies are well placed to bring their expertise and experience to the evolution of the code over time. Accordingly, the legislation should require the commission to consult widely as it develops the code and afford the opportunity for councils, planning boards and agencies to propose changes.

The panel recommends that the code and planning schemes be seamlessly linked online rather than being replicated in multiple documents. This is an important innovation that will ensure any changes to zones automatically flow across local planning schemes, minimising delays and costs. Online delivery will also continue the 'one-stop-shop' ideal by providing a single portal for users.

The State Planning Commission will update the code regularly, and completely review it every five years. This will ensure the code reflects contemporary needs and is amended in an orderly fashion. However, there should be a capacity to introduce urgently required changes outside the annual cycle. Updates to zones outlined in the planning code will flow automatically across regional planning schemes through the use of online systems, again minimising delays and costs.

4 PLANS AND PLAN-MAKING

Case study: Victoria's approach to consistent zoning

In 1987 the Victorian parliament passed legislation to provide for the 'Victoria Planning Provisions' — a template approach to zoning.

As a result, Victoria has a set number of consistent zones and overlays that councils can select from and apply in their local planning schemes. For example, there are six residential zones, three industrial zones and two commercial zones.

Whenever amendments to the standard zones are made, they automatically flow across the state's 83 planning schemes. Variations to the standard zones can be made in limited circumstances and require ministerial agreement.

Source: Victorian planning schemes portal

We recommend the introduction of form-based zoning as an integral part of the planning and design code. Form-based zoning acknowledges that urban areas increasingly include a range of activities that can be compatible—such as home-based businesses, small retailers, community services and residences. Current land-use based zoning often applies blanket rules that stifle variety and innovation.

By placing more emphasis on built form and mixed-use principles, form-based zoning will focus attention on how individual projects can be designed to suit their physical contexts and local character. As older neighbourhoods undergo regeneration, a more design-focussed approach can help ensure neighbourhood character and a sense of community is sustained and enhanced while change is effectively managed.

Councils will have a significant role in detailing fine-grained design that will meet community expectations of local character. We envisage that as part of a form-based zoning approach, the planning and design code will include specific features to recognise and manage streetscape, townscape and landscape character.

How this reform will be delivered

Developing the code will be a priority task for the State Planning Commission, to enable the early update of policy in regional plans. The commission will assist regions to implement the code.

The legislation should enable the commission to implement the code and its elements flexibly over time. For example, the commission could opt to retain existing character or environmental policies, pending later work.

A review of definitions and change-of-use principles will be necessary to accommodate a form-based approach.

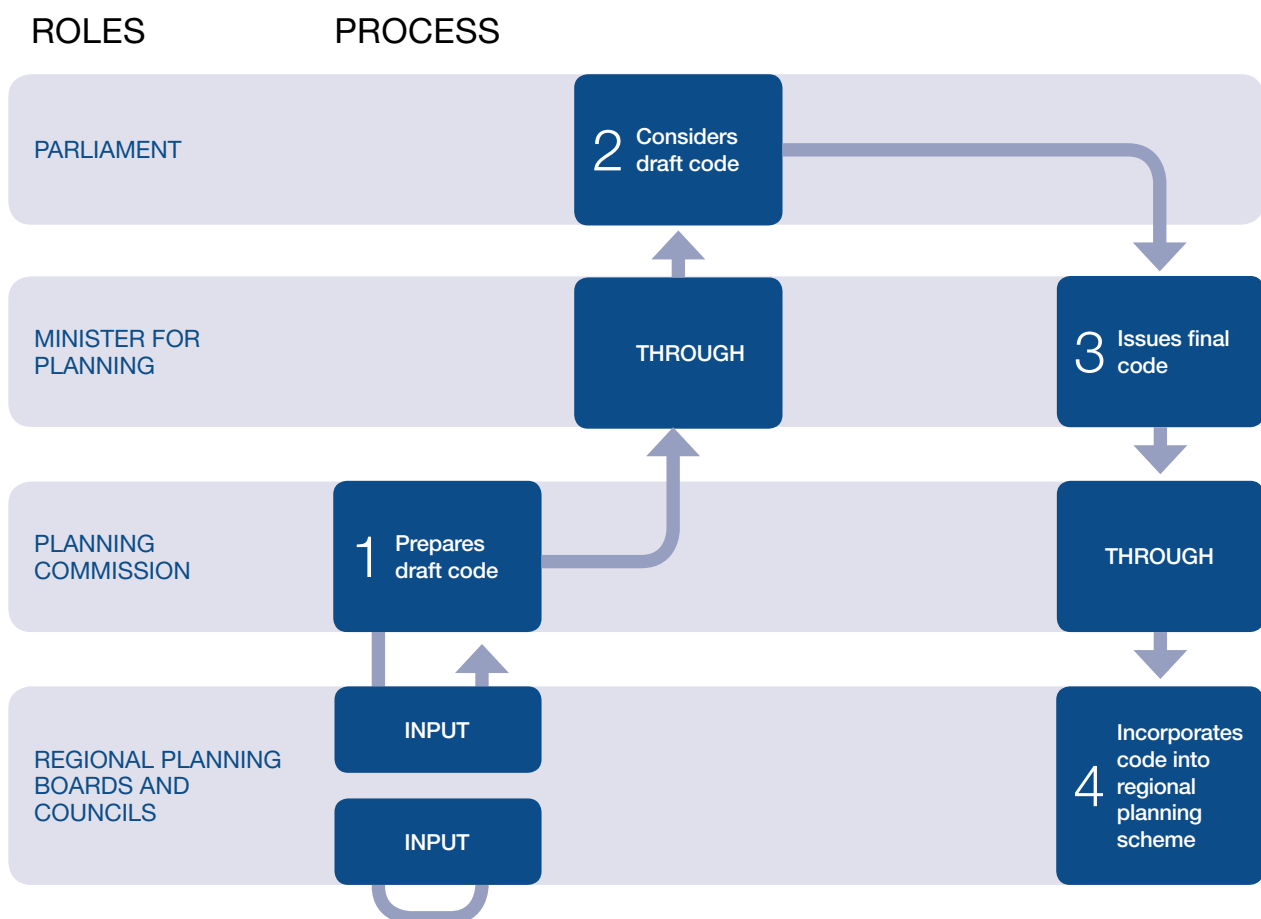
Preparation of the first version of the code will require an early initial outlay by government, in order to implement better policy and therefore better decisions. Over time, maintenance of the code should be managed within existing departmental resources.

Priority: 1

Link to guiding principles:    

Links to Our Ideas for Reform: Reform 8 and Reform 9

DEVELOPING THE STATE PLANNING AND DESIGN CODE



REFORM 8

Place heritage on renewed foundations



- 8.1 Heritage laws should be consolidated into one integrated statute.
- 8.2 Terminology for heritage should be reviewed and updated as part of this new statute.
- 8.3 There should be an integrated statutory body, replacing existing multiple heritage bodies. It should include links to the state's cultural institutions.
- 8.4 The new body should administer a single integrated register of heritage sites, including state and local listings, and have the power to add special landscapes and historic markers to the register.
- 8.5 Legislation should provide for a heritage code of practice to outline how listed properties should be described, maintained and adapted.
- 8.6 The legislation should allow accredited heritage professionals (similar to private certifiers) to provide advice and sign-off on changes to listed properties that are consistent with the code of practice.
- 8.7 Existing heritage listings should be audited to accurately describe their heritage attributes.
- 8.8 Financing of heritage should be placed on a stable, long-term footing, with discounts on property-related taxes and a heritage lottery providing the basis for heritage grants.



The recognition, protection and management of heritage will be revitalised through new integrated legislation that consolidates existing fragmented laws and processes under one umbrella.

The legislation will improve linkages with the state cultural institutions and enable new terminology to better articulate heritage with planning.

Why this reform is important

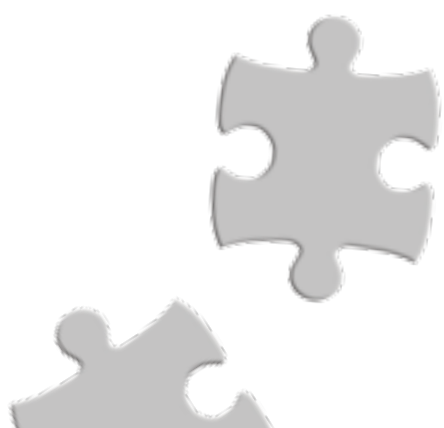
Issues this reform addresses

- heritage laws that are fragmented and out of date
- poor links between heritage and planning
- perceptions that heritage is a barrier to development
- lack of sustainable resourcing of heritage management
- duplication of state and local heritage functions
- poor integration of Aboriginal heritage with the planning system

South Australia has been a leader in heritage policy but its laws have become inefficient, resulting in duplication and practices that are out of step with contemporary needs and trends. If place-based heritage is to be valued, it must be managed more effectively and be better integrated with the planning system.

The panel believes there is a pressing need for a single piece of legislation to govern heritage issues. The legislation should take an overarching perspective of heritage, providing links between the state's cultural institutions and the management of place-based heritage. This will help ensure heritage value is sustained and understood, and solidify the value of place-based heritage in a wider context.

The confusion between heritage and character must be addressed. The rise of various quasi-heritage terms, such as 'contributory items' and 'historic conservation zones', shows how these issues may be confused and can lead to the use of terminology not sanctioned by statute. Our suggestion for form-based zoning and new tools to use design to enhance neighbourhood character will partially address this. However, we also believe that heritage needs new terminology to overcome this confusion.



4 PLANS AND PLAN-MAKING

Case study: a legacy of heritage layers in the city

Heritage recognition in the City of Adelaide dates back to 1974 and has been modified by several changes to planning and heritage laws. Successive heritage audits have created new categories of listings. There are now four levels of heritage listing, including state heritage listing, in central Adelaide, accounting for about 14 per cent of buildings in the city area.

It is also critical that the funding gap for heritage management is addressed. Legislative solutions can only partially address this; government must address the lack of a sustainable revenue stream and old-fashioned approaches to heritage policy.



How this reform will work

This reform was well received. There is particularly strong support for integrated heritage legislation, the detail of which will require extensive consultation.

Feedback on this reform

- strong support for a single heritage system
- agreement that the terms such as 'heritage' and 'character' have become confusing
- concern that the success of this reform will rely on resourcing that may not be forthcoming
- concern that the proposed audit of heritage properties would result in a reduction of listed places

Under the new legislation, heritage will be administered by one body, which will be located in the planning portfolio. It will replace the various bodies with heritage-related responsibilities. This new body will embrace and capitalise on the knowledge, skills and expertise of world-class cultural institutions such as the state museum and library.

Clear criteria to define heritage and a register that properly details heritage listing will bring transparency and consistency to the system.

The new heritage body will administer a single integrated register of heritage sites, including state and local listings, and will have the capacity to recognise additional special landscapes and identify historic markers. Existing heritage listings should be audited to accurately describe their heritage attributes before being placed on this register.

A code of practice will outline how heritage places are to be described, protected and maintained and by whom. Crucial to this reform and its integration with the planning system will be making the heritage documentation openly available through the e-planning system. The proposed audit of current listings will help ensure heritage characteristics are described in ways that support this online approach.

The legislation should allow for accredited heritage professionals (on a similar basis to private certifiers) to provide advice and sign-off on changes to listed properties, consistent with the code of practice. This will provide a financially responsible way for the services formerly provided by the state's heritage advisory program to be made available to developers and councils. Clear state-wide criteria and documentation will ensure the system is transparent.

The new heritage framework will also include sustainable funding models. These will include the use of accredited heritage professionals, discounts on property taxes for land owners who enter heritage management agreements, and the establishment of a heritage lottery.

How this reform will be delivered

Legislation will be drafted to outline necessary changes, separate from but linked to new planning statutes. It will replace the heritage-related references in a range of existing legislation and repeal existing separate heritage statutes.

Tools for financial sustainability, including discounts on property taxes and a heritage lottery, will need to be enabled within the legislation but may be introduced later, after details have been negotiated.

Priority: 3

Link to guiding principles:  

Links to *Our Ideas for Reform*: Reform 10



REFORM 9

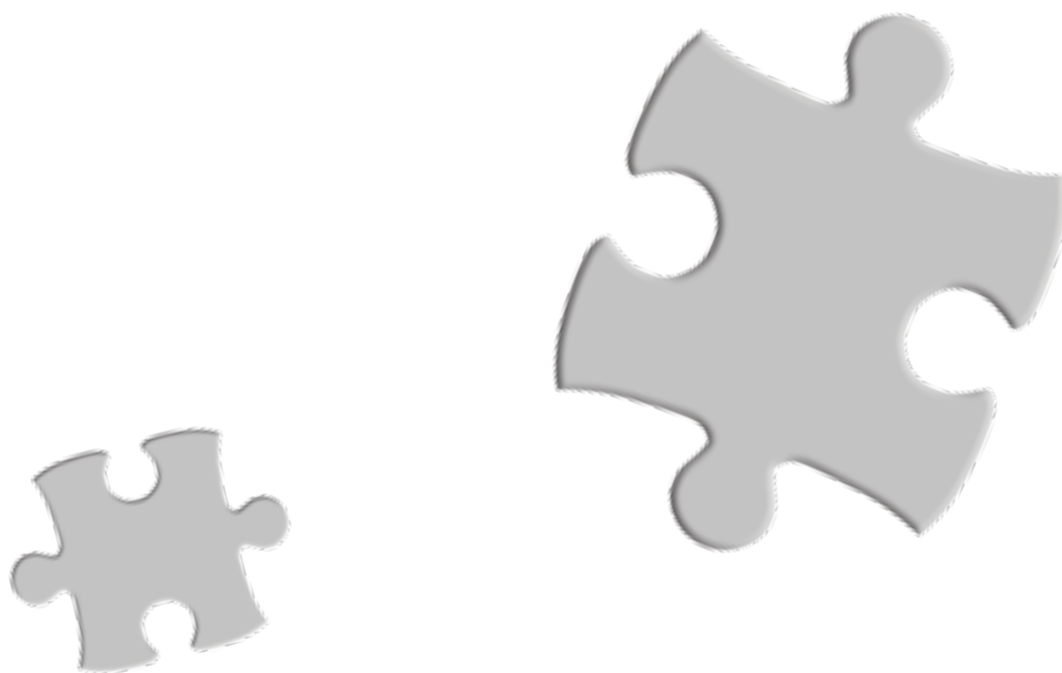
Make changing plans
easy, quick and
transparent



- 9.1 Make statements of intent short, simple initiation documents and allow for approval of a rezoning program rather than individual rezoning approvals.
- 9.2 Allow regional planning boards to initiate rezoning changes and decide on council proposals to initiate rezonings. These will include clear plans for engagement consistent with the 'Charter of Citizen Participation'.
- 9.3 The State Planning Commission will make final decisions on zoning changes, in line with state directions and planning strategies. Ministerial involvement will not be necessary, although the minister will retain a call-in power within a prescribed timeframe.

- 9.4 Government agencies, infrastructure providers and land owners (subject to criteria) will be able to propose changes to development plans, as will councils, regional planning boards and the minister.
- 9.5 There will be clear timeframes imposed on councils, the State Planning Commission, agencies and the minister at each stage of the zoning process.
- 9.6 Interim operation criteria should be tightened to prevent adverse impacts.





Development plans are the foundation of the day-to-day administration of the planning system. The policies in these plans must be up to date at all times, so that development proposals and assessment decisions can result in the best outcomes for an area.

This reform will use the planning boards and regional planning schemes put forward in Reform 2 and Reform 6 to streamline the process of changing plans.

Statements of intent will be simplified and be able to be approved by regional planning boards. Final approval of amendments will lie with the State Planning Commission. The minister will no longer need to have a direct role in this process.

All regional planning schemes will be based on the state planning and design code, so that changes will be rarely required.

4 PLANS AND PLAN-MAKING

Why this reform is important

Currently, it takes far too long to change development plans. By the time a change is approved and implemented, the policy on which it is founded may have been updated or replaced. The panel has heard of some development plan policies that have remained untouched for decades.

A number of our reforms address these issues. For example, by changing how councils and state government interact (see Reform 2 for example), it will be easier and faster to update plans, while the new state planning and design code will mean policy issues will be debated and resolved upfront, not when an individual proposal for zoning change arises.

The panel's view is that the purpose behind statements of intent—for councils to receive early feedback on their proposals before committing resources to a full proposal—has been eroded. A major cause is that there is a single approval authority (the minister) for both statements of intent and the final rezoning proposal, so that approval of a statement of intent has become tacit approval of the proposal itself—and the documents are prepared accordingly.

Issues this reform addresses

- avoidable delays in updating zones and planning schemes
- frustration about bottlenecks in the approval pathway
- planning policies that are out of date and out of step with trends and expectations
- the use of alternatives such as interim operation to avoid slow processes
- a tendency to make the rezoning process harder than it needs to be

Current timeframes for amending development plans

- 40 council strategic directions reports are more than 10 years old
- average time for a council development plan amendment is 35.8 months
- average time for a ministerial development plan amendment is 18.3 months

Source: departmental analysis

A key concern has been the use of interim operation provisions to short-circuit the rezoning process. We agree that interim controls are important to prevent adverse impacts, but they should not be used to circumvent slow or inefficient processes. The introduction of the state planning and design code, reforms to the rezoning process, and allowing land owners, infrastructure providers and government agencies to initiate zoning changes directly, should obviate the need for interim controls to be used in this way.



How this reform will work

The changes proposed in this reform have been welcomed across all sectors and the need to reduce extended timeframes widely acknowledged.

Feedback on this reform

- the rezoning process is unacceptably slow
- statements of intent do not facilitate quicker processing of zoning changes
- some see ministerial approval as a bottleneck that causes delays
- many in the community are confused by the minister's role
- country people feel dissatisfied with having to obtain state government approval
- engagement about zoning changes is poor
- councils welcome the idea of transferring zoning change approvals to an independent body or bodies
- there is wide support for simpler documents and change processes

To ensure that policy can be changed quickly and effectively, we do not think that the minister should directly consider zoning changes. Instead, regional planning boards and the State Planning Commission will manage this process (guided by state directions and strategic plans) with respective responsibility for considering statements of intent and the final rezoning proposal. The minister will retain a call-in power over rezoning proposals but we expect this will only need to be used sparingly.

The combination of state directions, regional planning schemes and the state planning code—all of which integrate government policy—should result in considerably fewer zoning changes and the process of changing them will be more straightforward. Statements of intent can be dramatically simplified, returning them to their original purpose in guiding proponents before they invest time and energy in more detailed proposals.

Planning boards will also be able to work with councils in their region to coordinate a rezoning program rather than deal with individual rezoning submissions.

Opening the initiation of rezoning proposals to bodies beyond councils, planning boards and the minister will reduce the resource burden on councils and the planning department. While there have been some concerns about land owners initiating zoning change directly, we remain of the view that this is an important step towards more transparent process, as this reform will formalise privately-funded rezoning—already a common practice. Land owners will remain subject to the same consultation and approval processes as councils. These proposals will also need to be consistent with strategic plans and the planning and design code.

It is clear that this change, and the associated ability for infrastructure providers and government agencies to undertake zoning changes, will significantly benefit all parties, including through reduced costs for councils and taxpayers. However, the commission must tightly control this to protect against potential misuse. To achieve this, we suggest that the commission make guidelines that govern when and how zoning changes may be sought—particularly

4 PLANS AND PLAN-MAKING

in relation to the management of potential conflicts of interest. It will also be important that there are efficient powers to ensure these processes are properly undertaken and completed.

One of the fundamental principles of our reforms is to focus community engagement on the elements of the planning system where it can have the greatest influence: in developing strategy and policy. It is crucial that every effort is made to explain and debate any proposed changes to planning policy with affected communities.

The statement of intent prepared for all rezoning proposals, or for a proposed rezoning program, must therefore include clear plans for engagement consistent with the 'Charter of Citizen Participation' proposed in Reform 3. However, there will be some cases where a relatively standard engagement process may be more efficient and just as effective. The ability to deal with engagement plans as a class or on an individual project basis is considered within the discussion on the charter.

How this reform will be delivered

Most of the outlined changes will require minimal legislative amendments. Regional planning schemes will include both strategic and zoning plans, so there will be no need for strategic directions reports.

These changes should come into effect after the State Planning Commission and regional planning boards are established. However, tightening the criteria for the use of interim operation should not come into effect until there has been substantial roll-out of the state planning and design code.

Priority: 2

Link to guiding principles:   

Links to *Our Ideas for Reform*: Reform 11

COUNCIL REZONING PROCESS



PART 5

Development pathways
and processes

- » **Reform 10**
Adopt clear, simple development pathways
- » **Reform 11**
Take the next steps towards independent professional assessment
- » **Reform 12**
Clarify the approval pathways for projects of state significance
- » **Reform 13**
Streamline the assessment of essential infrastructure
- » **Reform 14**
Make the appeals process more accessible and accountable
- » **Reform 15**
Provide new and effective enforcement options

5 DEVELOPMENT PATHWAYS AND PROCESSES

The panel's engagement revealed widespread confusion about development assessment and a desire for clearer processes. The fact that 90 per cent of developments are being assessed on the merit pathway is an undeniable sign that there is a need for substantial change.



Key messages

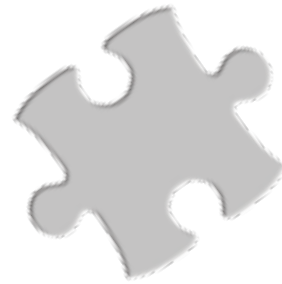
- there need to be clearer pathways for development
- the level of assessment should match the level of impact of a proposed development
- assessment should be seen as a professional task with limited political involvement
- there should be better processes to resolve disputes and address non-compliance

The level of assessment should be proportionate to the complexity and impact of a proposal. The expectation should be that similar projects are assessed in the same way, by applying the same rules and processes, wherever they arise. To achieve this, assessment should be undertaken by professionals who are independent and able to exercise their expertise dispassionately and in accordance with established planning rules. Only particularly sensitive or complex proposals should be evaluated in full by panels on their merits; most will be handled quickly on a complying basis.



REFORM 10

Adopt clear, simple development pathways



- 10.1 Revise current development assessment pathways to increase the use of complying pathways.
- 10.2 Reduce the number of matters captured in the assessment process by revising the definition of 'development'.
- 10.3 Modify planning and building consents by using an 'outline' consent approach, enabling applicants to stage the assessment process to suit their needs.
- 10.4 Incorporate other statutory consents into the consent process where possible.

- 10.5 Require notices about development applications to be attached to relevant properties as part of assessment consultation processes.
- 10.6 Notification, consultation and appeal rights should be linked directly to the proposed development pathways rather than as separate issues, and in accordance with requirements of the proposed 'Charter of Citizen Participation'.
- 10.7 Third-party merit review rights should be limited to cases involving a planning judgment and based on the level at which a project is assessed.

Development pathways will be redefined to provide clear, consistent and fair processes that reflect the risk and potential impact of proposals.

The new pathways will allow for checklist-based assessment for most routine developments. This will enable professionals across the state to focus their time and attention on strategic planning, policy development and the assessment of complex projects with lasting social, environmental and economic implications.

The pathways, along with new consultation requirements, will also support community understanding of assessment classifications.

Planning and building assessment processes will be flexible and user-friendly, allowing proponents to work through approvals processes in stages that suit their needs and community expectations. This will be possible through an 'outline' consent process. Guidelines will establish the steps that applicants can choose and at what stages consultation input is most meaningful.





5 DEVELOPMENT PATHWAYS AND PROCESSES

Why this reform is important

South Australia's planning system is clogged with too many assessment applications that take too long, cost too much and are frustrating for everyone. Currently more than 90 per cent of development applications are being assessed on a merit basis; the panel believes the proportion should be substantially lower than this. Indeed, the fact that the vast majority of merit applications are ultimately being approved suggests that a substantial proportion of them could be handled expeditiously through a complying development pathway.

Many of these applications also take too long, result in unnecessary and costly conditions, and involve frustrating back-and-forth discussion. Indeed, we have heard of cases where uncertainty and delays have resulted in investors simply deciding not to proceed with their proposed developments. Home owners and small businesses who do not have an option to go elsewhere are forced to bear the delays and extra costs.

Issues this reform addresses

- too many planning applications considered on merit
- development pathways that are confusing and lead to a risk-averse approach
- poor community understanding of the meaning of 'non-complying' development
- development definitions that are out of date
- inflexible assessment processes that do not support staging

It is noted that that this issue and its impacts on investment, resourcing and costs, were also identified as a problem in the 2008 planning review.

It is evident that the purpose of development control—to manage risks and avoid negative impacts to neighbours and future generations—has been lost. Current assessment practice is disproportionately focussed on micro-level details that do not warrant such levels of attention.



In addition, complex and outdated development plans fail to provide the clear, straightforward guidance needed to make assessment simpler and quicker. A number of our reforms, such as the planning and design code, address these front-end problems, but it is also crucial that assessment pathways are recast to improve practice.

Under this reform, the level of assessment will be proportionate to risk. Many small-scale issues can be removed from the system altogether. Examples provided to the panel include a requirement for approval of a 1.8m front fence, just because it was secured by a concrete footing. The result will be a change from burdensome detailed assessment of most developments to an efficient, professionally-driven review of routine applications. This will improve customer satisfaction and reduce costs.

It is clear that the current system does not align with the needs of developers and how projects are conceptualised and managed. For example, exploring an idea for a development, and its associated financing, can be complex and will rarely be fully detailed at the early stages of an application process. This is not recognised in a system that is often inflexible and remote, driven by risk-averse practices and demands information before it can be confidently provided.

The panel proposes a more flexible approach. The existing two-step assessment process—planning consent and building consent—will be replaced by a process based on an early ‘outline’ approval and a subsequent series of negotiated approval steps. This will enable an applicant to obtain an early decision before committing substantial resources to a project, helping facilitate project finance. Other information will be provided when available and relevant.

This process may also lead to more productive proposals that benefit from discussion and negotiation over licences, permits and approvals. Staged consents also enable design consent, design statements and design review processes to be incorporated into the assessment process for complex developments, improving results for developers and neighbourhood character.



5 DEVELOPMENT PATHWAYS AND PROCESSES

How this reform will work

Following feedback on the changes to development categories we outlined in *Our Ideas for Reform*, we have re-crafted our original proposals.

Feedback on this reform

- the proposed assessment pathways are unclear
- divided views on the proposed 'prohibited' category
- 'non-complying' is an ambiguous term that can be interpreted as 'not allowed'
- practitioners questioned the need for changes to the categories
- strong support for land use definitions to be reviewed and updated
- support for pre-lodgement practices to be formalised and extended, allowing expanded use of flexible assessment processes
- the staged approval process proposed in *Our Ideas for Reform* is unclear



Under this reform, development will be assessed according to risk. Assessment categories will be labelled with language that is clear, unambiguous and user-friendly. Four categories will replace the existing categories, as illustrated in the breakout box below.

Proposed development assessment pathways	
	Exempt
	Prohibited
	Standard assessment
	Performance-based assessment



The new categories will encourage the use of checklist-based, complying pathways. This is not a radical change; council assessment officers across the state routinely use checklists to manage merit-based applications.

Development that complies with the planning and design code (as incorporated in development plans) will account for most assessment tasks and will be assigned to a new 'standard' pathway that is quick, efficient and undertaken directly by professionals.

Development that is not compliant with the state planning and design code will be assessed by professionals or by the regional development assessment panel proposed in Reform 11.

for development not requiring assessment

for development that is not permitted

for development that can be assessed using the standards contained in the state planning and design code (as incorporated in development plans)

for development that falls outside the state planning and design code (as incorporated in development plans) and must be assessed based on overall performance and impact

Planning boards will be able to delegate assessment functions to staff as appropriate. There will be graduated levels of assessment within the performance-based pathway, reflecting different levels of risk and impact. This will incorporate current environmental impact assessment as the most detailed form of evaluation. Criteria will be included in the legislation to determine when environmental impact assessment is required.

Particular types of development that have been identified as unacceptable within a particular area may be placed in a new 'prohibited' category. This will provide certainty: it will indicate that to gain acceptance for development that is categorised as 'prohibited', proponents will be required to seek changes to the development plan provisions for that area. The State Planning Commission will control the 'prohibited' category through the state planning and design code, to guard against overuse.

A revision to what constitutes a 'development' will exclude many trifling matters from triggering any need for a formal assessment. Other definition changes—to be introduced in line with form-based zoning with its focus on design—will minimise the need for the unnecessary assessment of changes in land use. Definitions and exemptions will be set out in the state planning and design code and comprehensively linked to its suite of zones.

These reforms will also support clearer and more effective consultation on assessment. An overhaul of notification categories will eliminate anomalies.

5 DEVELOPMENT PATHWAYS AND PROCESSES

To increase the accessibility of information about proposed developments, councils will provide an applicant with a template 'assessment notice' to be attached to the exterior of the relevant property. At the same time, information about the proposed development will be published on a searchable, public online portal, with citizens able to subscribe for updates.

To deliver a more flexible assessment approach, we propose that the British 'outline' consent process can address the issues we have identified. This approach is similar to the 'in principle' consent process that applied in South Australia during the 1970s. A significant advantage of this approach is the ability to negotiate how an assessment should be undertaken. This could be used in South Australia to formalise pre-lodgement negotiations and provide greater certainty to applicants.

An example of stages in a UK outline consent process

- **Means of access**—covers accessibility for all routes to and within the site, as well as the way they link up to other roads and pathways outside the site
- **Layout**—includes buildings, routes and open spaces within the development and how they are laid out in relation to buildings and spaces outside the development
- **Scale**—includes information such as the height, width and length of each proposed building in a development
- **Appearance**—aspects of a building or place that affect how it looks, including the exterior of the development
- **Landscaping**—the improvement or protection of the amenities of the site and the area and the surrounding area; this could include planting trees or hedges as a screen

Source: UK Planning Portal



However, applying a fully flexible outline consent process will not be suitable for many smaller-scale projects such as mass-market housing and outbuildings. Practice directions to be issued by the State Planning Commission will provide standard approaches using conventional steps that address land, design, building and reserved matters.

Clear information requirements will be spelled out in the state planning and design code for distinct matters such as land use, building envelope, design, earthworks, structure, layout, finishes and landscaping, design and heritage.

Officers will be trained to help applicants secure approvals when necessary, and will be able to offer 'good faith' advice that supports these processes with the protection of a statutory indemnity. This provision will overcome the risk-averse practices that have become entrenched in many parts of the system.



How this reform will be delivered

Statutory definitions of each new development pathway will be needed. Other changes, such as schedules to the regulations, will be provided in the state planning and design code. The legislation will also define the assessment steps and provide for pre-lodgement processes and criteria. The new pathways will repeal the 'non-complying' category and the new regional panels will mean there is no longer a need for concurrence procedures for these.

The panel expects that this reform will follow promulgation of the state planning and design code, adoption of regional planning schemes and establishment of regional assessment panels.

Priority: 3

Link to guiding principles:   

Links to *Our Ideas for Reform*: Reforms 12, 13 and 14

REFORM 11

Take the next steps
towards independent
professional assessment



- 11.1 Regional-level assessment panels will become the primary forum for development assessment, replacing existing assessment bodies.
- 11.2 Assessment panels will consist of accredited professionals with relevant skills and knowledge.
- 11.3 Regional panels will undertake various assessments now handled centrally by the Development Assessment Commission and locally by council development assessment panels.
- 11.4 An assessment coordinator will manage assessment processes for each panel. Council assessment managers will present recommendations to regional panels on development proposals from their councils.

- 11.5 The State Planning Commission will register, accredit and audit professionals, audit assessment bodies and receive and act on complaints.
- 11.6 Panel members will undergo periodic training as part of the accreditation process.
- 11.7 Panels will be able to co-opt specialist professional members and local expertise for particular matters.
- 11.8 There will be some flexibility for regions to determine the arrangements that suit them best. This could include the appointment of more than one panel, but it is envisaged that regional panels will only need to consider contestable matters that are subject to performance-based assessment.
- 11.9 All applications will be lodged with and processed by council staff, including the preparation of assessment recommendations for the regional panel. Delegations will be provided to council staff to enable this to occur.
- 11.10 Some 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.





Independent professionals will undertake assessment processes on a regional basis, cutting costs and improving performance. Elected representatives will not make assessment decisions—either at state or local level. Instead, they will set the rules while independent professionals make sure those rules are applied consistently to every application.

All assessment personnel will be subject to professional accreditation. The certification of technical matters by private-sector professionals will be possible without the need for further checks.

Why this reform is important

Communities and investors need to be confident that projects are assessed impartially and dispassionately. The panel suggests that South Australia's current hybrid arrangements—involving a mix of private and public officials, and elected and non-elected decision-makers—fall short of achieving this and have now reached their use-by date.

Assessment panels were established to achieve these impartial outcomes. However, it has become clear that the panels should be more independent and professional. There is no longer a compelling case for elected councillors to have roles in assessment decision-making; rather, development assessment is now a technical discipline that should be undertaken by professionals at arm's length from elected bodies. The assessment process must be professional, regional and fully independent. In addition, users should have the choice to contract accredited private-sector professionals to certify technical matters if it saves them time and costs.

Issues this reform addresses

- a perception that elected representatives act as community advocates in assessment decision-making
- a perception that the elected representatives' involvement in assessment results in decisions that are not impartial and well considered
- concern that council appointments to assessment panels are not always based on expertise
- difficulties in finding independent experts to appoint to multiple assessment panels in a region, particularly in country areas
- assessment that is not coordinated across regions
- the absence of mechanisms to consider complex proposals that have regional implications





5 DEVELOPMENT PATHWAYS AND PROCESSES

As the panel has stated throughout this report, the most important function of elected representatives is to set policy direction. It is our view that placing assessment decisions in independent hands will allow elected members to advocate more freely for their communities at all stages of the planning process, as there will no longer be a conflict in their advocacy and decision-making roles.

How assessment panels have evolved in South Australia

Initially, councils undertook assessment directly. As a matter of practice, many councils, particularly in the metropolitan area, established subcommittees or panels to do this on their behalf.

In 2000 it became a statutory requirement for all councils to form assessment subcommittees or panels, which continued to include elected members. Many councils also chose to include independent experts and community members.


As this practice became more prevalent, statute law was again changed in 2006 to require that most panel members be independent experts rather than elected members. Regional panels were also enabled by this change and three have since been established.

How this reform will work

This reform attracted views more polarised than those relating to any other of our proposals. Industry groups welcomed the proposal to place all assessment in the hands of independent professionals. Many from the local government sector, particularly elected members, strongly opposed the removal of councillors from development assessment panels, a view shared by a number of community and environmental groups. However, this view was not universal—and even among opponents, there was strong support for the removal of the minister from assessment decisions.

The panel remains convinced that the system will benefit if elected representatives, be they local councillors or the minister, are removed from assessment decision-making. In addition, assessment should be undertaken at a regional level for more complex decisions, pooling expertise and maximising consistency across a regional area. There should be flexibility for regional planning boards to determine how assessment panels are structured to suit their region; for example, a region may decide that it requires more than one panel.

The result will be that regional-level assessment panels become the primary forum for development assessment, replacing existing assessment bodies. This will dramatically reduce the number of assessment bodies from 61 to a manageable number, optimising resources and knowledge. Regional panels will undertake various assessments now handled centrally by the Development Assessment Commission and locally by council development assessment panels.



Feedback on this reform

- both support for and opposition to the removal of councillors and the minister from development assessment
- some support for the expansion of regional development assessment panels, particularly in country areas
- concern that any one regional development assessment panel should not cover too large an area and risk losing 'local knowledge'
- some support for the expansion of private certification but concerns about the accountability and performance management of private certifiers

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 performance-based assessment. All applications will continue to be lodged with and processed by council staff, including preparation of assessment recommendations for the regional panel. Planning boards will issue delegations to council staff to enable this to occur.

Panels will be convened by a coordinator and consist of accredited professionals who undergo periodic training. The coordinator will manage assessment processes for each panel. Council staff will present assessments and recommendations to regional panels on development proposals from their councils.



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. The assessment undertaken in these cases will be documented and made publicly available to promote transparency. The State Planning Commission will register and audit accredited professionals and assessment bodies and receive and act on complaints. The commission will be able to engage professional bodies to offer accreditation services to their members.

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 about development in their council area, but not in decision-making.

How this reform will be delivered

Regional panels should be established shortly after the regional planning boards. This means that the State Planning Commission will need to establish professional accreditation standards early; there may need to be some transitional provisions to facilitate this.

An alternative approach could be to establish panels only when regional planning schemes have been consolidated.

Priority: 3

Link to guiding principles:   

Links to Our Ideas for Reform: Reform 15

REFORM 12

Clarify the approval pathways for projects of state significance



- 12.1 Create a mechanism to declare projects to be of state significance, enabling them to be assessed at a state level.
- 12.2 Enable the minister, with the advice of the State Planning Commission, to exercise this power and call in projects in accordance with clear criteria specified in the legislation.
- 12.3 Retain the Governor as the ultimate decision-maker for these projects, based on assessment undertaken by the State Planning Commission.

- 12.4 Reinstate judicial review rights for projects of state significance.
- 12.5 Ensure alignment of environmental impact assessment processes with federal laws, with graduated steps for lower-impact proposals and more streamlined paperwork.
- 12.6 Bring mining projects of state significance into the planning system, providing a single integrated approval for planning-related proposals for mines and associated infrastructure development.





The State Planning Commission will assess projects of major economic, social or environmental significance to the state, with the minister able to call in assessment on grounds clearly stated in legislation.

This will clarify and improve perceptions of the process for assessing projects of state-wide significance, and ensure that such assessment is integrated and transparent.

Why this reform is important

From time to time there are projects proposed that have long-term ramifications for the state and impacts that extend beyond their immediate regions. In addition, no planning system can possibly predict all future ideas or projects.

These projects may be considered 'major' because of their need for coordination, their economic, social or environmental impacts, or the opportunity they may offer.





5 DEVELOPMENT PATHWAYS AND PROCESSES

At present, the minister can declare a major project when, in the minister's view, the project is significant enough to warrant a higher degree of examination through an environmental impact process, or where the relevant planning policies are so out of date that they do not reflect current circumstances. While the intent of this provision is to facilitate closer examination of a project's environmental impact, the lack of clear criteria within the legislation can lead to a perception that ministers use this tool to 'call in' projects that they do not wish to subject to assessment by a local authority.

Identifying a project as being of state significance is not the same as determining that it requires environmental impact assessment—although they will often intersect.

At present, major project declaration is the only trigger for an environmental impact assessment. It is also the principal way in which a project can be called in for state assessment based on its significance.



Issues this reform addresses

- a lack of confidence in the current major project declaration process
- perceptions of poor transparency and reasoning for decisions
- an inability to consider complex proposals on a regional level resulting in greater 'call in' of these as major projects
- a complex process for the consideration of mining proposals and related infrastructure

In the system the panel is proposing, the need for environment impact assessment will be defined within the performance-based assessment pathway, not by a major project declaration. This means the current declaration power will change to focus exclusively on the ability to call in projects that are of state significance. Additionally, it will mean that environment impact assessment is not limited to those situations where the minister deems it necessary. This pathway will include all proposals that have greater impacts than are encompassed in the standard planning rules set out in the state planning and design code. Projects of regional significance will therefore be able to be assessed at a regional level.

However, there remains a need for the state to have the ability to 'call in' projects that have significance or implications beyond a single region, and we

have retained this power. It will remove the current confusion over the motivation behind major project declarations: all will be declared based entirely upon their significance to the state as a whole, using transparent processes and on specified criteria.

The panel believes that this will address concerns regarding the existing approach to the major project process. We heard similar concerns regarding the current process for assessing mining proposals. There is a perception that these processes are fragmented, that mining avoids full examination, and that once a mining licence is granted a dispassionate assessment of flow-on effects is not possible. We have also heard frustration from the mining industry about the fact that it is necessary to seek multiple approvals from separate agencies, which is expensive, slow, damages their relationship with community members and undermines investor confidence.

It is clear that the relationship between mining and planning legislation must be fundamentally reformed. Planning considerations must be brought in much earlier in the process, there must be a coordinated approach to community engagement, the assessment process must be seen to be unimpeachable, and miners must be able to take a proposal to one place for assessment and approval.

Case study: delays and frustration in obtaining multiple mining approvals

When the current planning legislation was enacted, mining approvals were 'carved out' on the basis that all of the approvals needed for a mining operation pertained to the proposed mining site. As South Australia's mining industry has grown, it has become increasingly apparent this approach no longer works.

Separate approvals are required for mine-to-port infrastructure that can double approval timeframes and jeopardise the financing window for resource companies. In one recent case, approval delays and duplication led to a 26-month process—nearly a year longer than expected. A single integrated process could have halved this timeframe. However, such coordination can occur only if both mining and planning portfolios reconsider existing silo arrangements. The government's own regional mining taskforce is an example of how this collaboration can work.

Source: PIA National Congress paper, Sydney 2014



5 DEVELOPMENT PATHWAYS AND PROCESSES

How this reform will work

Discussion of this issue highlighted a general view that the process of declaring and assessing major projects is unclear, not well understood, and able to be affected by political forces. This was particularly true of community groups. Other sectors, such as industry groups, disagreed but acknowledged a lack of confidence in the current process.

Feedback on this reform

- the current system by which major projects are declared and assessed is perceived as ‘picking winners’ to avoid, not increase, examination
- there is a perception that major projects are subject to minimal assessment
- lack of coordination between state and federal environmental assessment causes confusion and project delays

The panel’s view is that the process for declaring and assessing projects of state significance must be transparent and easily measurable, to provide the assurance that it is primarily a process for subjecting significant proposals to more examination, not less. We propose that the minister declare a project to be of state significance only after consultation with the State Planning Commission. The minister must then publish the reasons for the declaration. This advice will consider clear criteria within the legislation that outlines what kinds of projects may fall within this category, such as a port, mine, desalination plant or hospital.

The commission will assess projects that have been called in by the minister through a specially constituted assessment panel, with graduated steps for lower-impact proposals and streamlined paperwork. This will ensure that committees are appointed with specific knowledge of, and expertise in, the particular matters under consideration.

The final decision should require approval by the Governor. Consultation on projects of state significance will be consistent with requirements set out in the ‘Charter of Citizen Participation’ (see Reform 3). The panel also considers the reinstatement of judicial review rights for projects of state significance and infrastructure approvals to be essential to rebuilding the credibility of and trust in the assessment of these projects in South Australia.

The core principle underpinning our approach to projects of state significance is to provide a single process and a single point of contact—for both proponents and those affected. Reforming the interaction between mining and planning, and reinstating judicial review rights to ensure federal approvals can be delegated to a single body at state level, will be significant steps in this direction. However, ongoing mine management issues should remain a matter for mining and workplace regulators.



How this reform will be delivered

Legislation to replace existing major project powers and the development assessment components of mining laws will be needed. The interaction between mining and planning laws will require careful examination by government, in close consultation with industry and communities. However, the panel strongly recommends that this opportunity to create an open and transparent process for the approval of mines and all related infrastructure is not lost.

Existing arrangements should continue until it is clear regional panels have been established with appropriate expertise and resources, and are operating effectively.

Priority: 2

Link to guiding principles:   

Links to *Our Ideas for Reform*: Reform 16



REFORM 13

Streamline the assessment of essential infrastructure



- 13.1 Establish a separate assessment pathway that will cater for identified essential infrastructure. Categories of essential infrastructure will be determined by regulation.
- 13.2 Approval of essential infrastructure should be linked to strategic planning and impact assessment as required. Consultation in line with the 'Charter of Citizen Participation' should ensure infrastructure issues are considered early in the planning stages.

- 13.3 The State Planning Commission will have the power to determine the assessment process for essential infrastructure. Generally, this should be confined to design and engineering issues.
- 13.4 Exemption classes for infrastructure should be reviewed as part of the state planning and design code.
- 13.5 The concept of a special category for Crown development should be removed as a consequence of these changes.





Urban development must be aligned with the delivery of essential infrastructure to support liveable housing and economic outcomes.

Essential infrastructure and facilities will be assessed using a streamlined process that emphasises early planning and design to abbreviate downstream delivery.

This will replace Crown development processes and recognise that development is now largely delivered by private bodies or through various kinds of commercial partnerships with the private sector.

Why this reform is important

Communities expect that their towns, neighbourhoods and dwellings will be supported by the infrastructure and services that are part of modern living. From major facilities to trunk connections, the efficient and timely roll-out of infrastructure is critical for industry and community development. Examples include roads, reservoirs and water pipelines, electricity generators, rail and bus stations, schools and medical facilities.

Millions of dollars are invested in the state's infrastructure each year, but many infrastructure providers report that current assessment processes take too long and add costs that are ultimately borne by their customers in their bills. Between 2008 and 2018, ElectraNet alone will spend more than \$600 million in network infrastructure upgrades; this does not include expenditure on large capital projects.



5 DEVELOPMENT PATHWAYS AND PROCESSES

A streamlined method of assessing infrastructure projects will accelerate approvals and improve productivity, and should lower costs to users and government. It will also reduce confusion and improve confidence in assessment processes by focussing on delivering outcomes rather than on questions about the source of a proposal. An emphasis on early planning and high-quality design will lead to better outcomes for developers and communities.

Issues this reform addresses

- essential infrastructure should not be delayed by slow or inconsistent processes
- infrastructure must be designed with appropriate respect for its environmental and urban contexts
- the need for specialist input in the assessment of infrastructure, particularly where it extends beyond council or regional boundaries
- Crown development processes are confusing and inconsistently applied

Bringing planning for infrastructure into regional planning schemes will enable issues that would otherwise be explored in the assessment process to be investigated when the regional planning scheme is prepared. Resolving issues such as how projects integrate into existing settlements, urban design principles, and environmental and heritage concerns at a strategic level will be more effective than debating these issues during an assessment process.

This reform will enable the State Planning Commission to adapt the assessment process so it is quick, simple and consistent. Stronger community engagement on regional planning schemes, as outlined in the 'Charter of Citizen Participation', will resolve issues at an early stage in planning for infrastructure, avoiding lengthy debate.

A streamlined planning process will be most effective if it is integrated with existing regulation of infrastructure pricing. This will link infrastructure pricing to the government's planning priorities and development trends.

How this reform will work

Feedback from essential infrastructure providers was strongly in favour of this reform. Community and environmental groups recognised the need for essential infrastructure to be coordinated and costs to users to be minimised but were concerned that a streamlined path could be used to avoid scrutiny.

To address this, the panel proposes that the State Planning Commission—as an independent, apolitical body—will determine categories of essential infrastructure (by way of statutory instrument), keep them under regular scrutiny, and be responsible for the assessment of essential infrastructure. The commission will provide the specialist expertise needed to undertake assessment of major infrastructure networks that extend beyond council boundaries.





Infrastructure providers will be able to seek staged assessment, using the outline consent process proposed in Reform 10. Linking infrastructure to regional planning schemes will reduce the need for infrastructure providers to submit detailed design work upfront. It will also provide assurance that infrastructure sites and corridors have been selected according to a strategic evaluation of where they would best ‘fit’ physical context.

The commission will work with planning boards, government agencies, infrastructure providers and councils to include infrastructure planning in regional planning schemes. There could be a position within the commission that both coordinates the timely delivery of infrastructure to align with development objectives and approves streamlined essential infrastructure.

Feedback on this reform

- infrastructure providers welcomed the concept of a streamlined assessment path for essential infrastructure
- concerns that a streamlined path would lead to otherwise avoidable impacts on communities and the environment
- concern that the extensive list of potential essential infrastructure in *Our Ideas for Reform* was too broad as it included significant developments that should be subject to detailed assessment (such as schools and hospitals)

How this reform will be delivered

The panel expects that the new process will replace existing Crown development provisions in the Development Act and change elements of other infrastructure-related legislation.

The new assessment pathway will require oversight by the State Planning Commission and will need to be introduced with the other categories of assessment at the regional and state level.

It will be particularly important to commence the process of defining essential infrastructure and determining assessment requirements before implementing Reform 17 (infrastructure planning and funding).

Priority: **2**

Link to guiding principles:   

Links to *Our Ideas for Reform*: Reform 17



REFORM 14

Make the appeals process more accessible and accountable



- 14.1 Legislate for the Environment, Resources and Development Court to establish alternatives to full court hearings, such as desktop reviews and re-hearings by regional assessment panels, on similar grounds to the South Australian Civil and Administrative Tribunal (SACAT) legislation.
- 14.2 Widen the court's discretion to impose costs in limited cases, on similar grounds to the SACAT legislation.
- 14.3 Consider the potential integration of the court into SACAT in time.

The ability to resolve minor disputes administratively will significantly improve the effectiveness of the appeals process.

Reviews of minor matters could be dealt with at a regional level, streamlining dispute resolution and making it easier and less costly for users of the planning system to access the appeals process.

Why this reform is important

A planning system that aims to support the objectives of all users should have a fair and equitable appeals process. The existing Environment, Resources and Development (ERD) Court was established as a simple, approachable mechanism to deal with planning appeals and enforcement matters but is increasingly perceived as remote, legalistic and inaccessible. People unfamiliar with its procedures often see it as costly and daunting and are discouraged from appealing anything but major matters.

Issues this reform addresses

- the perceived inaccessibility of the appeals process in country areas
- a desire for access to a simple and more immediate review process
- perceptions that the court process is remote and legalistic
- the court having become more adversarial

Many of these shortcomings are matters of entrenched practice that have evolved over time, rather than fundamental flaws in the legislation governing the court's operation.

This reform will introduce processes that allow minor matters to be handled without court hearings, through either re-hearing processes by regional panels or desktop review by court officers. As a result, most appeals should be handled quickly and cheaply. Creating simpler, more accessible ways to resolve matters before they reach the court will help users navigate the system and improve their satisfaction with it.



5 DEVELOPMENT PATHWAYS AND PROCESSES

The system itself will benefit from streamlined processes that manage most matters quickly and efficiently, with only complex or difficult matters requiring a (potentially expensive and burdensome) hearing in the court. In time, this could permit the court to be integrated with the South Australian Civil and Administrative Tribunal (SACAT).

Benefits of an accessible appeals process

- enable most users to have their appeals dealt with simply and quickly
- reduce the need for most users to become involved with an intimidating and potentially costly court procedure
- improve confidence in a more user-friendly system
- capitalise on e-planning information to explain procedures and requirements

How this reform will work

Those who did argue for reform had divided views; some found the existing ERD Court system intimidating, costly and inaccessible; others found the review process had resulted in excessive appeals that are essentially trivial or frivolous.

Feedback on this reform

- little appetite for significant change to the current ERD court processes
- support for refinement of the current system through better practices
- support for alternative review options, such as regional or desktop reviews
- mixed views about the role of the SACAT



The panel believes legislation should allow an applicant the choice to seek a desktop-only review by a court official, without a right for further appeal, as an alternative to a full appeal. This will enable quick, targeted reviews of specific matters.



In limited cases, applicants should be able to have decisions reconsidered by regional assessment panels. This would require an application to the court, similar to the SACAT's legislation, seeking an order that the matter be reheard. This would help resolve matters quickly, address local concerns and provide faster resolution of minor matters that do not warrant court hearings. The precise details of this approach should be designed in discussion with the court and councils.

Our proposal to widen the court's discretion to impose costs generated some resistance. We think there are good reasons for the court to adopt a process similar to that used by SACAT, namely that costs should generally be borne by each party unless the court orders otherwise.



How this reform will be delivered

The reform will require the establishment of a legislative framework. Corresponding amendments to the statute that outlines ERD Court roles and responsibilities may also be needed.

The panel also looked closely at the potential integration of the ERD Court with the SACAT. There seem to be limited cost-saving reasons for this to occur immediately, but any legislative amendments should be made with a future integration of the two bodies in mind.

Priority: 2

Link to guiding principles:  

Links to *Our Ideas for Reform*: Reform 18

REFORM 15

Provide new and effective enforcement options



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

- 15.5 Improve links with other regulatory areas, such as consumer affairs.
- 15.6 Require assessment conditions to be aligned with enforcement and more accessible through an online planning portal.
- 15.7 Allow for the State Planning Commission to issue enforcement guidelines to help coordinate enforcement activities more effectively.





New enforcement options will contribute to public confidence in planning processes and robust, reliable planning decisions. These will complement streamlined assessment processes.

Penalties and sanctions will be tailored to individual breaches. The responsibility of developers and builders to act professionally will be reinforced with improved links to consumer protection laws. Land owners unduly affected by unlawful development will have the option of seeking compensation directly, providing a more suitable avenue for resolution of disputes.

Why this reform is important

The enforcement of sanctions for non-compliance with planning rules and guidelines is crucial to the integrity of the system. Penalties need to match the scale and nature of breaches. They should deter non-compliant behaviour but should not impose disproportionate burdens.

Existing enforcement options are not regarded as significant deterrents to unlawful behaviour. In some cases, a financial penalty may not be proportionate to the potential value of a development, or act as a sufficient deterrent to large businesses. This is exacerbated by the fact that penalties often come after a development has been built, when removing the development to address the non-compliance is not tenable. This means that there is little disincentive to complete a non-conforming development; any penalty accrued can be considered as the 'cost of doing business'.

Additionally, the current system only imposes penalties on landowners. This ignores the reality that contracted builders, professionals and developers may be the participants with the technical knowledge and skills to ensure compliance standards are met. If these standards are not met, land owners have to pursue contractors at their own cost, even if it was the negligence of the contractor that resulted in the breach.



5 DEVELOPMENT PATHWAYS AND PROCESSES

Issues this reform addresses

- current penalties are insufficient and do not act as a real deterrent to non-compliance
- enforcement is a cost burden for councils
- penalties are applied only to land owners
- excessively detailed conditions are placed on development approvals

In this context, it is unsurprising that communities and councils focus on the assessment process as a 'last line of defence'. This often results in approvals being given subject to detailed conditions that require continual enforcement to guard against problems. The result is a longer and more complex approval process. However, providing more enforcement tools that will allow authorities to quickly and effectively respond to wrong-doings will remove any need to set elaborate rules and conditions as a means of forestalling every possible scenario.

Councils cannot afford to police every development and will always have to prioritise their resources. In the context of development, issues such as building safety and site run-off should have priority over individual neighbours' concerns, yet current enforcement practice is often driven by such minor complaints. Sporadic and inconsistent directions from the state government exacerbate the expense of enforcement borne by councils.

To address this, the state government should also adopt a more consistent and coordinated approach to enforcement requirements; it should be focussed on risk and provide better guidance to councils in setting their own priorities. In addition, complainants should be able to seek civil damages themselves as an alternative to requesting enforcement action by public authorities. This will result in a much more strategic and risk-focussed approach to enforcement across the system as a whole.

Benefits of more effective enforcement options

More effective enforcement options will:

- simplify the enforcement of minor matters such as expiations and enforcement notices
- allow courts to impose non-financial sanctions such as publicity orders or business improvement orders
- allow for civil damages claims by neighbours as an alternative to criminal sanctions
- recognise that professional developers and builders have responsibilities and should be subject to legal duties
- provide for more effective monetary penalties linked to profits
- use online resources to promote assessment conditions.

How this reform will work

Councils were broadly supportive of these reforms, while professionals and industry groups were more cautious. The panel notes that new penalties and duties should be carefully drafted and include appropriate checks and balances to guard against misuse.

Feedback on this reform

- councils welcomed more administrative sanctions
- community groups suggested there seemed to be no real penalty for 'doing the wrong thing'
- industry groups were very concerned that increasing enforcement options would result in additional costs for no benefit

We see a need to create a wider range of enforcement options that can be tailored to suit the circumstances of each case. Existing tools should be supplemented by non-financial penalties (such as adverse publicity orders), the ability to claim civil damages as compensation, and a suite of easy-to-use administrative sanctions such as enforcement notices and enforceable undertakings. Additionally, monetary penalties should be reinforced through a multiplier penalty for companies, similar to that which applies in other areas of law, and a commercial benefits penalty linked to land value.

We envisage that legislation should define those parties with responsibilities and specify in what circumstances they could be joined to non-compliance actions. Environmental, workplace safety and consumer law contain models for potential adaption. Consideration should be given to

how 'reasonable care' defences would dovetail with professional indemnity insurance regimes.

This will release resources from councils and the state government to focus on strategic compliance risks rather than responding to streams of individual complaints. We envisage that the State Planning Commission and planning boards will have roles in providing guidance and coordination to enforcement efforts. The commission will have powers to issue guidelines and, as part of its monitoring functions, will evaluate practices and trends affecting compliance.

How this reform will be delivered

Adding new or changing existing sanctions will require legislative amendments. As more breaches could be subject to expiation notices, it will be necessary for the government to review offences closely, so that expiations are only available for appropriate breaches. In addition to planning legislation, consequential amendments to consumer protection laws may be necessary.

Those charged with imposing new sanctions will have to be trained both in administrative procedures and so they can match penalties with breach type and scale, and impose penalties fairly and accurately. Because this will take time, most of these enforcement changes should be timed to align with other key reforms.

Priority: **2**

Link to guiding principles: 

Links to *Our Ideas for Reform*: Reform 19

PART 6

**Place-making,
urban renewal
and infrastructure**

» **Reform 16**

Reinforce and expand precinct planning

» **Reform 17**

Settle and deliver an infrastructure funding framework

» **Reform 18**

Integrate open space and the public realm in the planning system

6 PLACE-MAKING, URBAN RENEWAL AND INFRASTRUCTURE

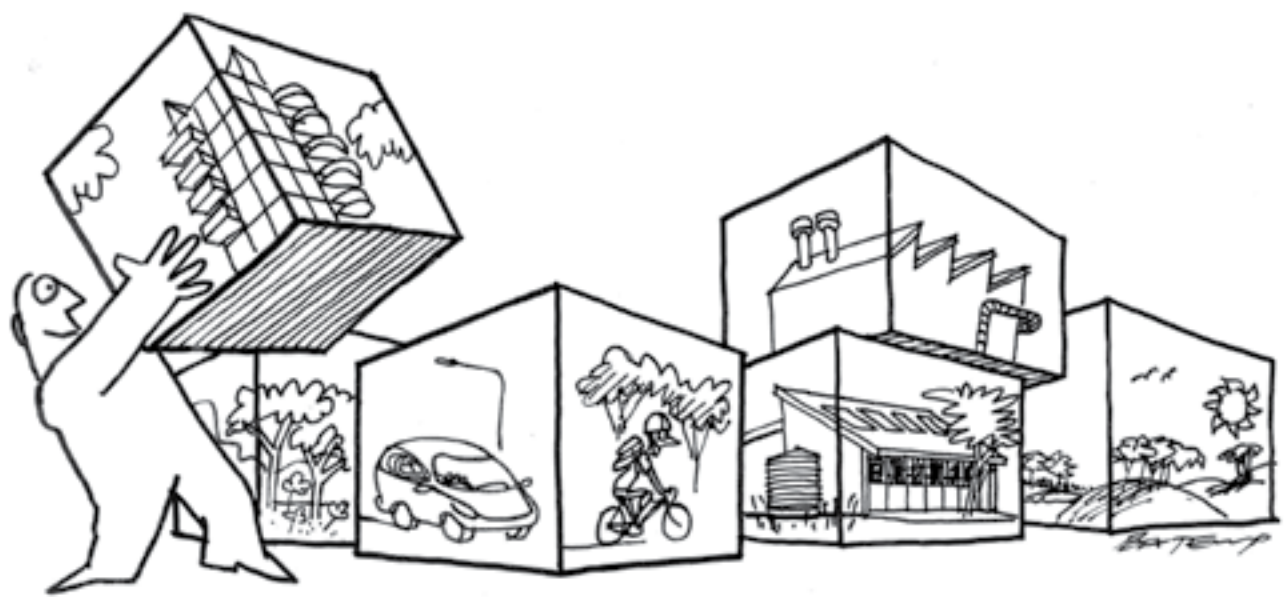
Managing complex urban change is an essential part of the planning task. However, the current legislative planning system offers limited mechanisms to support the roll-out of new suburbs or the renewal of established urban areas in ways that coordinate infrastructure, the public realm and the delivery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



Key messages

- planning outcomes must be supported by place-making
- infrastructure laws must be consolidated to support the planning system
- open space and the public realm should be integrated in planning processes

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.



REFORM 16

Reinforce and expand precinct planning



- 16.1 Expand precinct planning to include both greenfields development and urban renewal.
- 16.2 Develop a precinct development process more suitable for small-scale neighbourhood regeneration.
- 16.3 Give private-sector bodies the right to apply to undertake precinct planning processes.
- 16.4 Statutory head powers for precinct planning should provide authority for the State Planning Commission to approve governance, engagement and precinct master plans.

- 16.5 Legislate for precinct governance bodies to galvanise business and community involvement in urban renewal, similar to 'improvement districts'.
- 16.6 Urban renewal projects should be shaped and driven by master plans that incorporate design standards and streetscape guidelines.
- 16.7 Legislate for tools such as building upgrade finance in concert with precinct planning for complex urban renewal projects.





Complex urban renewal and greenfields development projects require coordinated approaches to planning, design, the public realm and infrastructure delivery.

A precinct-based planning tool that enables coordinated project development will contribute to high-quality development outcomes. It will provide opportunities and incentives for private investment to support holistic neighbourhood regeneration.

Why this reform is important

Cities are constantly undergoing change. Much of this is driven by individuals developing and upgrading their own properties. The conventional zoning system is well positioned to deal with small-scale activity in typical suburban settings but the development of new suburbs, or the regeneration of established urban areas, requires different tools. Infrastructure, public spaces, and private development need to be considered, planned for and managed in a coordinated fashion.


Recent legislative change has introduced a special precinct development process to support urban renewal and new urban development. This process is untested, but it is clear from industry and council feedback that it will offer real benefits for managing urban change and growth.

The panel's view is this legislation is a good start. However, our feedback has identified that precinct planning can achieve more benefits than was first anticipated. Improvements to the current statutory process that cater for a wider range of projects will help realise this potential.

Issues this reform addresses

- the need for complex greenfields and urban renewal projects to be closely coordinated
- how best to create opportunities for small-scale neighbourhood redevelopment
- a lack of opportunities for councils to manage precinct developments and oversee developer-led precinct planning
- missed opportunities to improve building and areas for public benefit
- a lack of clear and consistent guidelines for councils and planning authorities to leverage investment

6 PLACE-MAKING, URBAN RENEWAL AND INFRASTRUCTURE



For example, many of Adelaide's inner-suburban areas have building stock that is being regenerated to cater for changes in housing demand. This regeneration presents an opportunity to upgrade important elements of a neighbourhood, such as streetscapes, that site-by-site development processes cannot address. A council-supervised precinct development process could support and promote smaller-scale neighbourhood regeneration, signaling that investment is welcome in an area.

Place-making, urban renewal and the delivery of infrastructure cannot be driven by government alone. The private sector has the capital and interest to drive much urban change. However clear, predictable mechanisms are needed to ensure assessment does not become a tug-of-war between developers looking to maximise returns and public authorities imposing conditions and rules as they aim for maximum public benefits.


Precinct planning provides a way to capitalise on private-sector skills and investment capacity while ensuring critical public needs are accommodated. Tools including building upgrade finance and improvement districts can support small-scale improvements (for example, to a single building) and stimulate wider flow-on benefits to an entire neighbourhood. These tools will address perennial issues such as adaptive reuse of heritage buildings, the provision of affordable housing and environmental upgrades.

Benefits of precinct planning approaches

- enhance the planning for and provision of consistent, aesthetically pleasing, designed 'places'
- increase community understanding and appreciation of neighbourhood-based planning policies
- create more opportunities for private, community and business involvement in urban renewal and public realm projects
- increase and encourage infrastructure and services coordination within a new or redeveloped area

How this reform will work

While some community groups questioned the need for a separate legislation for urban renewal, the concept of precinct-based planning was generally supported—particularly as the model could be applied to urban renewal and greenfield projects. In relation to incentives, feedback was mixed and reflected a concern that government should be cautious in engaging in commercial activities that could distort market operations.





Feedback on this reform

- concerns from community groups that precinct-based planning would limit local input in development
- support for the concept of stronger planning and design of public spaces
- strong support from industry and professional groups
- a call for precinct planning for greenfield as well as urban renewal sites
- support from councils for building upgrade finance, particularly in regard to heritage buildings
- business and industry called for tax reform as the most important tool to support development

For smaller-scale projects, we believe the precinct planning process should be simple and dispense with some of the more complex governance mechanisms (such as precinct authorities) that currently apply. This will result in a simpler process that can be directly supervised by councils or regional planning boards, without the need for state involvement. Regional planning boards could consider applications from private-sector proponents to undertake precinct planning for these smaller sites.

Legislation should also outline how councils can use creative approaches to generating investment in development with public benefit. Perhaps the most obvious of these is the application of building upgrade finance, currently being piloted in South Australia. We see that this scheme could eventually support more re-use of heritage properties, the rehabilitation of contaminated land and small-scale urban renewal. Similarly, the use of business improvement districts such as the Rundle Mall

Management Authority could be extended to open urban renewal opportunities to private-sector investment. A clearer legislative framework that provides for the use of these tools will increase councils' confidence in adopting innovative practices while managing risks to ratepayers.

How this reform will be delivered

This reform extends existing precinct planning processes and adds supporting measures. Amendments to the recently introduced Urban Renewal Act may be necessary.

The availability of public housing stock and government land has significant implications for urban renewal and should be carefully discussed within government. The State Planning Commission should work closely with Treasury and the Urban Renewal Authority to address these implications.

While beyond the scope of this review, it is recommended that the government consider tax and financial reforms that would support urban renewal in the longer term.

Priority: 2

Link to guiding principles:   

Links to Our Ideas for Reform: Reforms 20 and 22

REFORM 17

Settle and deliver an infrastructure funding framework



17.1 The government should develop a comprehensive legislative framework to govern the planning, integration, funding and delivery of infrastructure for urban development. This should replace existing ad hoc funding tools such as augmentation charges.



17.2 Legislation should provide mechanisms to identify infrastructure needs and triggers. These will be identified as part of regional planning schemes, with funding and financing issues dealt with separately.

17.3 The legislation should provide for strong government oversight and coordination to support infrastructure delivery. Tools such as infrastructure levies, bond products and metropolitan-wide improvement levies should be considered.

17.4 Oversight of any levies must be, and 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.

17.5 Statutory augmentation charges for infrastructure should be reviewed and standardised with clear criteria for their use.

17.6 Clear infrastructure design standards should be developed to prevent gold-plating and enable alignment with planning and urban design outcomes through practices such as common trenching that minimise disruption.



A new framework for planning, funding, financing and delivering infrastructure will link infrastructure with planning through regional planning schemes. This will help ensure that necessary infrastructure and facilities are delivered in step with the development of new suburbs and urban renewal precincts—and that communities are able to fund the infrastructure they want and need.

The funding framework will be designed to recognise and reflect increases in land value associated with development, minimising unexpected costs to taxpayers and communities. Developers will benefit from predictable investment frameworks that avoid gold-plating, unfair pricing and decision bottlenecks. Infrastructure providers will benefit from certainty in the strategic planning and assessment process that assures long-term investment horizons.

Everyone will benefit from clear and transparent rules that minimise the need for ad hoc negotiation, which can distort decision-making and has the potential for misuse.



6 PLACE-MAKING, URBAN RENEWAL AND INFRASTRUCTURE

Issues this reform addresses

- lack of certainty for communities and developers
- bottlenecks on decision-making timeframes caused by funding uncertainty
- unbudgeted costs to tax- and ratepayers from lack of forward planning
- inequitable sharing of costs from development and value increases
- lack of infrastructure financing mechanisms to attract new private-sector investment
- fragmented laws governing the planning and funding of infrastructure
- inconsistent use of augmentation charging and costs falling to last developers

As land is developed, it imposes new demands on community facilities and infrastructure. Industry, governments and communities have a right to expect that new urban development will be supported by infrastructure and services that are carefully planned and budgeted. The absence of coordination and 'big picture' consideration of infrastructure planning and provision has repercussions for communities, agencies, governments and industry.

Existing and potential developers and land owners must be able to rely on the timely delivery of quality infrastructure. Funding, financing, ownership and management of such infrastructure is increasingly dependent on private investment. However, while land owners and developers benefit from increased land value, taxpayers foot the sometimes massive bills for neighbourhood infrastructure. Without new revenue streams this will continue, resulting in unfunded liabilities for taxpayers that can only be addressed by delaying either rezoning or infrastructure delivery. Neither of these outcomes is satisfactory.

As future growth is increasingly accommodated through urban renewal, private sector-led projects are likely to increase in number and complexity—imposing new costs on community infrastructure. Wherever possible, costs should be linked to benefits but existing revenue tools are inadequate to realise this principle. While the government has indicated it will promote taxation reform in the near future, the costs of infrastructure should not depend on the public purse alone. New financing approaches will ensure land owners who benefit from infrastructure support the provision of that infrastructure, while communities acquire the infrastructure they need.

South Australia cannot afford to continue without legislation that addresses these concerns and provides a solid footing to support investment and ensure the fair distribution of infrastructure costs.



How this reform will work

Feedback on this reform

- government needs to deliver an equitable infrastructure funding framework
- augmentation charges should be standardised
- councils should use differential rates to fund infrastructure
- budget processes should align with infrastructure planning and delivery
- evaluation and prioritisation of infrastructure proposals should be independent of government
- taxation reform and user charges should be advanced to support infrastructure delivery
- clear definition of infrastructure categories is needed

There was widespread support for this reform, many seeing it as long overdue. Infrastructure providers, in particular, supported the concept of integrating infrastructure planning with early-stage land use planning. Several groups sought detail about how the funding framework would be introduced; agencies, for example, questioned governance arrangements. Industry questioned how funding models would work and expressed concern about the introduction of developer levies, while community groups asked how a scheme would ensure equitable access to infrastructure.

The panel is not able to answer all of these questions in detail; many relate to policy matters that should be addressed in consideration of the appropriate infrastructure funding system for this state. What is clear, however, is that there needs to be a legislative framework within which these decisions can be taken. We are aware of a number of significant pieces of work exploring these issues.



6 PLACE-MAKING, URBAN RENEWAL AND INFRASTRUCTURE


Principles for an infrastructure funding framework

- critical infrastructure should keep pace with urban development
- infrastructure should be planned with land use planning, not as an afterthought
- infrastructure should be defined broadly and include public spaces as well as services
- there should be various mechanisms to secure funding for necessary infrastructure
- those who benefit most from infrastructure, including land owners and developers, should be required to fund a reasonable proportion of its costs
- developer contributions should only be required where the infrastructure need is directly connected to development
- negotiating processes and frameworks should be transparent and accountable
- infrastructure funding should be calculated across the life of the asset, not overly weighted towards initial costs
- mechanisms should enable different ways of attributing cost sharing, including value increase
- revenues should be transparently administered and pooled in nominated funds
- clear pathways should support inbound investment in infrastructure
- market-based signals should be used to prevent gold-plating and price gouging
- funding of infrastructure should dovetail with wider taxation reform

It is our firm view that the government must now act to address this issue in legislation that establishes a clear cost-sharing framework. We suggest the principles outlined in the breakout box above as a basis for this.

This approach will be strengthened by enacting a single, consolidated infrastructure statute that overcomes the current fragmented approach to both planning and funding infrastructure across the statute books. It will replace the more than 100 laws now guiding the provision of infrastructure in South Australia.

The legislation will outline how the State Planning Commission will work with regional planning boards to oversee and coordinate the delivery of infrastructure, and with infrastructure providers to ensure alignment with planning priorities. Clear links will need to be established between the State Planning Commission and the Essential Services Commission as the state's principal infrastructure price regulator.



Infrastructure needs must be identified and prioritised when strategic land use planning is undertaken, and infrastructure plans must be incorporated in regional planning schemes. Infrastructure design standards will establish upfront rules for infrastructure that will safeguard against downstream uncertainty and gold-plating. Standards will be linked to desired service levels and reflect both engineering and urban design criteria. For local service connections, common trenching practices will be mandated, minimising costs and disruption.

The legislation will outline the range of funding tools available to support infrastructure delivery, such as upfront contributions, bond products and improvement levies. The basis for each of these, and the processes associated with each, will be specified in the legislation.

How this reform will be delivered

This reform will require new infrastructure legislation that sits alongside, and is linked to, the planning legislation. The legislation will consolidate existing laws in a comprehensive framework that will replace current ineffective and inefficient ad hoc approaches. The existing open space levy should be subsumed within a wider development levy as part of this reform.

The framework should be introduced into legislation, with its delivery staged to enable pilot testing and evaluation of how it will work in practice. We expect that this will be complex and require consultation. For example, links with the state budget process, taxation reform and the regulation of licensed infrastructure providers will require careful consideration and engagement.

Priority: 3

Link to guiding principles:   

Links to *Our Ideas for Reform*: Reform 23

REFORM 18

Integrate open space and the public realm in the planning system



- 18.1 Embed open space and public realm planning in all relevant processes in the new planning system.
- 18.2 Regional boards should ensure there is a strategic plan for the provision of open space in each regional planning scheme.
- 18.3 Review the means by which the open space levy is raised and spent, within the context of the infrastructure planning and funding review described in Reform 17.

Quality public realm and open space is a critical part of the infrastructure of a functioning urban centre. Like other funding for other infrastructure, funds available for spending on parks, open space and the public realm must be wisely allocated. However, unlike other types of infrastructure, there are no clear laws that require strategic planning for open space and the public realm. This reform will bridge this gap by ensuring open space and public realm planning and design are embedded in the planning system.



Why this reform is important

Issues this reform addresses

- an open space scheme that is out of date and not calibrated for infill development
- lack of coordinated strategic planning for open space
- fragmented and sometimes conflicting laws impacting on open space
- little recognition of the importance of streetscapes as open space in urban areas
- lack of reinvestment of open space funding into local areas

An open space scheme within planning legislation was first introduced in the 1920s. While this concept has served the state well, it no longer does. It is out of date and out of step with contemporary needs and expectations.

Throughout our work as a panel we have heard that South Australians place great value on open space and the public realm but do not feel that the current arrangements provide the quality they seek. We agree that the way we plan and design the spaces between buildings is critical in ensuring good outcomes, and that there are shortcomings in the statute books that must be addressed. Unlike other types of infrastructure, open space has no clear home in government or legislation. We have concluded that the most effective way to address this is by embedding public realm planning and design in all relevant activities.

6 PLACE-MAKING, URBAN RENEWAL AND INFRASTRUCTURE

How this reform will work

A number of submissions called for appropriate open space delivery and management. Councils and developers criticised arrangements that date back almost a century.

Feedback on this reform

- strong support for a review of the open space scheme
- interest in a coordinated approach to urban parks and open space
- a desire for streets to be recognised as important public spaces in their own right
- agreement that laws affecting parks and open space should be integrated

The State Planning Commission and regional planning boards should provide the strategic planning and coordination necessary to deliver open space and public realm objectives. The commission will offer system-wide guidance while regional boards integrate public realm planning in their planning schemes.

There should be a review of the open space levy. While we see the infrastructure funding framework laid out in Reform 17 as the way to do this, our expectation is that public realm funding will always be a discrete part of any infrastructure planning and funding scheme.

The review of the open space levy should be founded on a regional approach, allowing funds to be spent where they are collected while considering broader issues of social equity. It should be noted that areas less likely to attract renewal projects may be those most in need of high-quality public spaces. Incorporating open space planning in regional planning schemes will enable this, and also support a more flexible approach to the use of the levy. It should also address the perception that funds generated through the current open space scheme are increasingly going to the state government as urban renewal becomes more dominant, with councils more reliant on state government grants as a consequence.





Land owners should be able to invest directly in public realm improvements in their local neighbourhoods instead of paying a levy. This should be examined closely as part of the review of the open space levy. Examples such as the City of Brisbane's streetscape contribution regime and the Active Living Coalition's *Streets for People Compendium* should be considered. Additionally, government should review other laws that affect effective public realm planning, design and delivery.

Case study: how Brisbane manages in-kind streetscape contributions

For more than 14 years, the City of Brisbane has operated a streetscape contribution scheme that allows private developers to directly contribute to streetscape upgrades rather than pay an open space levy. Streetscape guidelines specify design requirements such as pavement materials, street plantings and furniture. The scheme applies in more than 50 targeted areas identified during zoning for urban renewal. This links street design with place-oriented development and movement networks.

Source: Brisbane City Council website

How this reform will be delivered

The current open space scheme should be reviewed and the levy should be incorporated within the wider infrastructure funding framework.

Regional planning schemes should be required to include open space planning, subject to state directions and design guidelines to be included in the state planning and design code.

Priority: **2**

Link to guiding principles:



Links to ***Our Ideas for Reform***: Reform 21

PART 7

**Alignment, delivery
and culture**

» **Reform 19**

Aim for seamless legislative interfaces

» **Reform 20**

Establish an online planning system

» **Reform 21**

Adopt a rigorous performance monitoring approach

» **Reform 22**

Pursue culture change and improved practice

7 ALIGNMENT, DELIVERY AND CULTURE

If the planning system is to work effectively, and deliver the best outcomes for South Australia, all legislative and administrative arrangements that affect it must have a consistent purpose and be truly integrated. The many processes within the planning system must also be accessible to all users and capitalise on modern technology to maximise efficiency.

Key messages

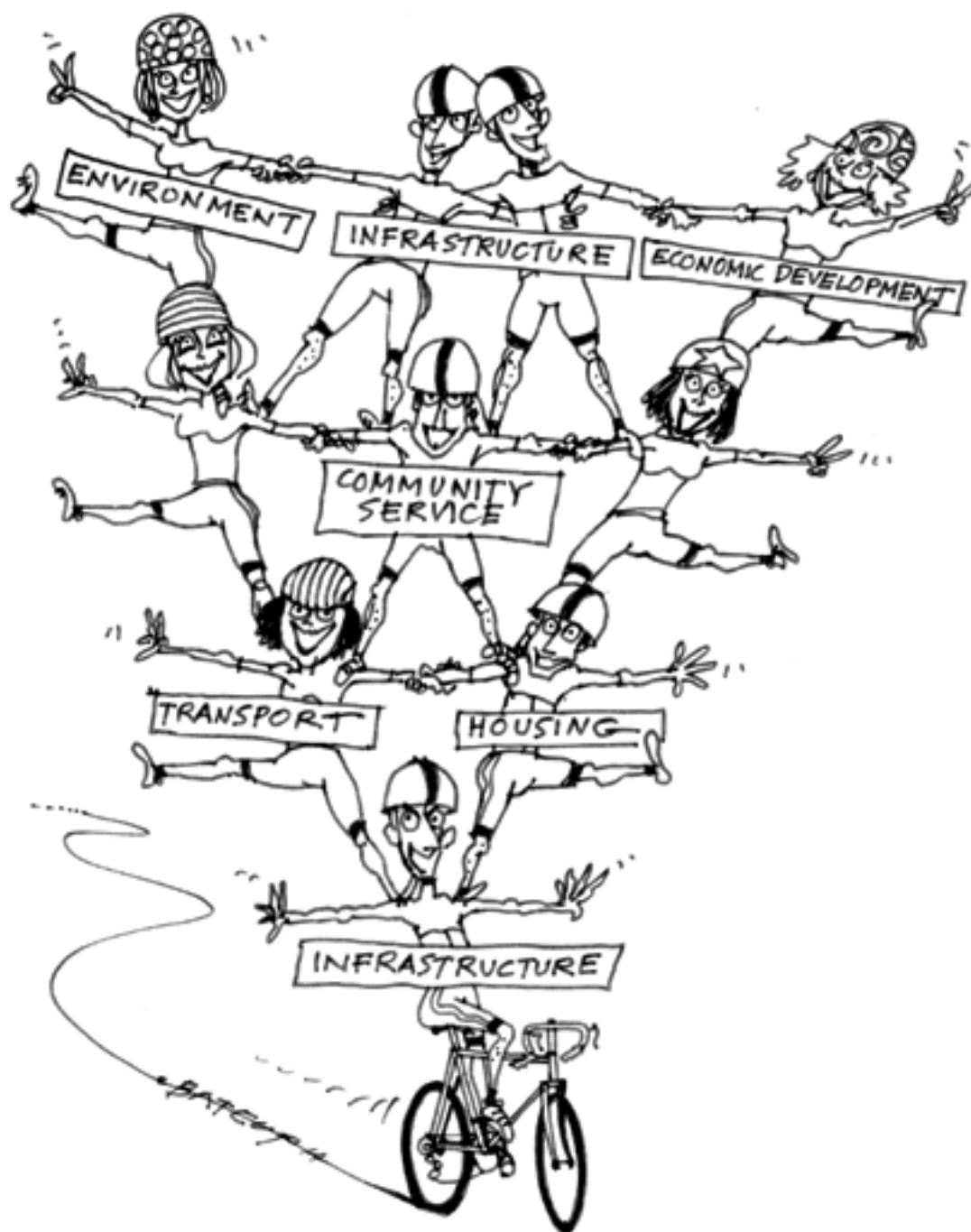
- the planning system must be grounded in a high-performing culture
- a digitally enabled planning system will be more responsive and accessible
- there should be seamless linkages between planning and related laws



This section recommends several reforms of the statute books and the referral system to bring all the elements that interact with planning into an integrated framework. The approach emphasises the resolution of issues at a policy stage to avoid ongoing debate over decisions at the assessment end of a process.

An integrated system that prioritises up-to-date policy, accessibility and predictable processes must be supported by online capabilities. The panel considers the introduction of a completely online planning system to be one of our most crucial reforms for improving transparency and reducing costly administration.

The panel also firmly believes that a planning system will only ever be as good as the people working within it. It is essential that a new system be founded on a culture that emphasises performance monitoring and improvement and empowers professionals who work in it to deliver the best outcomes, not simply control processes.



REFORM 19



Aim for seamless legislative interfaces



- 19.1 Audit the statute books to identify duplication and inconsistencies with planning laws.
- 19.2 Licenses and permits that duplicate planning processes will be repealed or transferred to the planning system.
- 19.3 Assessment panels will be empowered to issue minor statutory approvals or permits, as delegates of a home agency—reversing the traditional referral relationship.
- 19.4 The use of referrals should be limited to where there are other statutory approvals or permits. Referrals on policy issues will be removed from the legislation. The State Planning Commission will regularly review referrals to ensure their currency.

- 19.5 Referral agencies will 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 State Planning Commission.
- 19.6 Referral timeframes will be rigorously enforced. Agencies will indicate whether they intend to comment on a referral within a prescribed number of business days of receipt. The absence of a response will be deemed as 'no comment'.
- 19.7 Agencies will be able to provide advice to planning authorities, but through a separate stream from referrals and only on matters relating to their portfolio responsibilities.
- 19.8 Fragmented environmental and infrastructure laws will be reviewed and consolidated, and statutory boards rationalised, to improve interactions with the planning system.





Linking planning with other areas of law will be simpler and easier to understand. Duplication, double handling and inconsistencies will be reduced—and where possible eliminated—and the use of referrals will be limited to cases involving other statutory approvals or permits.

Planning, infrastructure and environment laws will be closely aligned, reducing the complexity and ambiguity that frustrate good development. Assessment panels will be empowered to issue minor statutory approvals or permits as delegates of a home agency—reversing the traditional referral relationship.



Why this reform is important

Many areas of law affect or overlap with planning. In itself this is not a problem, but it is critical that these laws interact efficiently, effectively and seamlessly.

Feedback on this reform

- duplication of processes across different agencies and statutes that cause unnecessary complexity in the planning system
- referrals required by the legislation often result in delays or direction founded on poor advice
- agencies provide input at the referral stage rather than setting clear policies upfront
- legislation that interacts with planning, notably environmental and infrastructure laws, is fragmented
- informal referrals occur within some councils; in some cases, planning staff are unable to prevent the imposition of internal ‘policies’

7 ALIGNMENT, DELIVERY AND CULTURE

In many cases, legislation that was once seamlessly integrated with planning has become outdated or out of step with the planning system, leading to delays and dissatisfaction. The net result is that developers, councils, community groups and individuals are frustrated by the unresolved conflict and confusion this generates between the plans, policies and activity of different government agencies—and this is leading to poor on-the-ground planning outcomes.

Benefits of seamless legislative interfaces

- improve the ability of all users of the planning system to apply planning laws
- save time and effort in identifying which legislation should have precedence and why
- increase confidence in South Australia as an investment destination
- help achieve wider whole-of-government policy objectives
- reduce wasted policy effort and point to budget savings
- link infrastructure and planning in a lasting fashion
- help make environmental laws more effective, efficient and targeted

Clearly there is knowledge and expertise within government agencies that is transferrable across portfolio ‘silos’ and must be tapped into; as with many of our reforms, the panel wants to ensure this knowledge contributes to early policy-making rather than causing delays and frustration later in the assessment process. This reflects the intent behind the panel’s reforms to focus the attention of elected members on strategy and policy; agencies and council departments should also concentrate their attention on this point in the system.

Reinforcing this approach, the panel proposes reforms to the referral system that will increase accountability and the efficient processing of assessment advice. For example, we think that many minor statutory licences under other laws should either be transferred or delegated to the planning system in a reversal of the more traditional referral arrangement. Similarly, a number of laws relating to management of public spaces may need to be reviewed to align with the new planning system.





Case study: overlaps between the Liquor Licensing and Development Acts

The Liquor Licensing Act contains a number of provisions and processes that duplicate those within the Development Act. For example, applicants for liquor licenses must establish that their venues meet requirements on issues such as maximum occupancy rates, provision of toilets, emergency exits, noise and amenity.

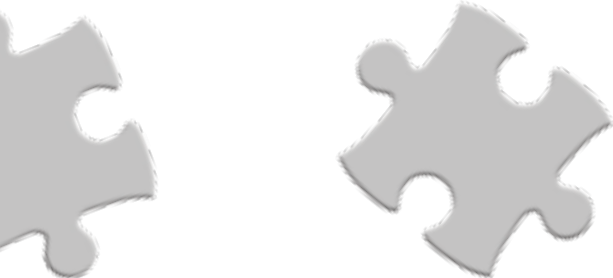
Many of these issues are already addressed under planning rules contained in zones and the national building rules. In addition, the Liquor Licensing Act often duplicates the need for consultation already required by the Development Act.

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.

However, changes to planning legislation alone will not achieve lasting policy integration. The removal of duplication and inconsistencies across the statute books is crucial and will contribute to quicker, simpler and more effective decision-making. We think, for example, that many minor licences and permits under other laws could either be repealed or transferred to the planning system.

In our view a comprehensive audit is required—and a concerted effort made to review and align legislation—if the state is to flourish and strengthen its competitive edge. We cannot afford efforts to integrate policy to be undermined, or reinforced, by a lack of integration at a statutory level. We also suggest such a review could lead to budget efficiencies not yet apparent.

7 ALIGNMENT, DELIVERY AND CULTURE



How this reform will work

It is hardly surprising that a proposal aimed at reducing duplication garnered widespread support. In particular, increased coordination of environmental and infrastructure legislation with the planning system will be welcomed by many. However, we should not understate the complexity of the task ahead.

Feedback on this reform

- strong support for reduction of duplication and inconsistency in legislation
- broad support from councils and an industry for reform of referrals
- concerns from government agencies on limited referrals and delegated decisions
- agreement that environmental and infrastructure laws need to be better integrated

While councils and industry supported our proposed referral changes, some agencies queried whether they would work and the benefits they would bring. We have considered the views put to us by agencies, but largely do not agree with them.

While agencies should be able to provide advice to planning authorities, in our view referrals should not be available to an agency unless there is a need for that agency to give binding directions; this will typically arise because of another statutory requirement such as a licence or permit. Too often agencies stray beyond their portfolio responsibilities in providing advice and this puts council assessment staff in a bind.

As some agencies pointed out, this will mean that some existing referrals are repealed. In the panel's view, if agencies cannot obtain support for statutory change they should focus on working with the State Planning Commission to determine the correct planning rules upfront.

The panel also believes that many licences and permits should be transferred directly to the planning system and decided during the development application process, giving applicants a single point of contact for their projects. While noting that this will take time and may be complex, we do not consider this a reason not to proceed with this reform. Delegating the power to issue these to development assessment panels or accredited private professionals will enable many of the issues associated with referral delays to be addressed. The State Planning Commission should evaluate all referrals regularly.

There was disagreement from agencies on the provision that established a timeframe for referral input. However, it is suggested that timeframes are essential; developers and other entities seeking referrals should not be expected to wait indefinitely for responses to their applications. Timeframes will be based on the complexity of the advice required. We do accept that lack of a response from an agency should not be deemed as agreement, but simply that no comment is offered.

In addition to our original proposals, we think referral agencies should be subject to greater accountability in the use of referrals. We propose that referral agencies be required to have policies that detail the criteria according to which 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 commission.

Importantly, to make all of these changes work it is essential that any duplication or conflict with other laws that interact with the planning legislation is removed.



How this reform will be delivered

Changes to referrals can be delivered within the legislation implementing this reform package. In preparing the state planning and design code, the State Planning Commission should work with agencies to develop and implement the referral framework. This needs to be complemented by better stakeholder engagement practices when developing strategies.

Changes to other legislation will take longer, requiring whole-of-government leadership to break down public sector fiefdoms and ‘silo’ mentalities. We are heartened by the cut-through approach adopted by the government in reviewing boards and committees and suggest a similar style is warranted in auditing and streamlining the statute books.

As a first step, Cabinet should commission an immediate audit of the statute books. This should identify those licences and permits in other portfolio areas that may be repealed or transferred to the planning system, or whether there is opportunity to ‘triage’ these issues in some other way. As with the boards and committees review, there should be a presumption in favour of reduction of unnecessary licences and separate points of contact.

Priority: 2

Link to guiding principles:  

Links to *Our Ideas for Reform*: Reform 24

REFORM **20**

Establish an online planning system



- 20.1 Establish a central online portal with links to council and government agency websites to access planning information. The portal should be searchable and enable citizens to subscribe for updates.
- 20.2 Use e-planning to drive rapid changes to planning rules through automatic updates to regional planning schemes.
- 20.3 Enable transactions such as development applications, referrals and consultation to be conducted through the online portal.
- 20.4 Create a joint local-state governance body for e-planning through the State Planning Commission.

- 20.5 Provide a sustainable revenue stream through a co-contributions regime from government agencies and councils, based on a detailed costing analysis.
- 20.6 Establish a common data standard for government agencies and councils to provide input into the portal.
- 20.7 Legislate to provide a basis for relying on e-planning online data to an evidentiary standard.
- 20.8 Adopt a phased-in approach to introducing e-planning.



A central online portal will be established in delivering planning information, with links to council and government agency websites.

Everyone will be able to interact with the planning system online, whether when seeking information or undertaking transactions. Referrals and consultation will also be conducted through the online portal.

The e-planning framework will increase efficiencies, store and distribute up-to-date information quickly and cost-effectively, and provide the preferred platform for increased community engagement. It will be crucial in delivering a transparent system where plans, reports and decisions are publicly accessible.

Why this reform is important

People expect to be able to access information from digital sources about most aspects of their lives—including planning. This expectation is likely to increase rather than diminish in years to come. We cannot ignore the potential of existing and emerging technologies if we want our planning system to remain current, relevant and valuable.

Issues this reform addresses

- the existing paper-based system that does not support accessibility by development proponents or community members
- difficulty in gathering reliable data on the performance of the planning system
- an inability to track applications or make changes to policy across the system

A central online portal will enable users of the systems to gain easy access to planning information in the form commonly expected by citizens. It will foster and encourage two-way engagement between the planning system—including the State Planning Commission, planning boards and councils—and the developers, community groups and individuals seeking information for their own development proposals or about those that may affect them.

An e-planning system—that is, a web-based electronic interface for the planning system—is fundamental to the delivery of other reforms, including the state planning and design code and the ‘Charter of Citizen Participation’. It will provide a platform to change planning rules faster than is currently possible and for the storage and retrieval of commonly used data. Transactions such as development applications, referrals and consultations will be managed through the portal, in the same way as licences, permits and other transactions are conducted in other portfolios and across the business landscape.

7 ALIGNMENT, DELIVERY AND CULTURE

Guidelines will ensure data and information are provided in simple and consistent language. New legislation and amendments resulting from the panel's reforms will be designed and written for an e-planning system rather than to suit existing or other paper-based approaches.

Benefits of online planning

- provides an efficient, accessible and cost-effective platform for planning information, assessments and engagement
- enables delivery of other reforms, including the state planning and design code
- simplifies and accelerates changes to planning rules
- ensures the system keeps abreast of methods of information distribution and engagement used in other jurisdictions and portfolios
- reduces costs for councils, government and taxpayers
- promotes the planning system as user-focussed and aiming for high performance standards




How this reform will work

Feedback on this reform

- enthusiastic support from all sectors
- concerns about resourcing, delivery and timeframes
- recognition that this needs to dovetail with reforms to the zoning system
- questions about how governance of an e-planning system would work

This reform gained overwhelming support. Most users of the system recognise that the introduction of e-planning in South Australia is long overdue and that the panel's review provides an ideal opportunity to implement this change. The reform will dovetail particularly well with the panel's proposal for a state planning and design code, which, among other reforms, will reduce the complexity and variability of zones.

There was concern about how and when such an overhaul could be introduced. Councils, in particular, noted that funding and other resource implications must be identified and negotiated, not only for the design and establishment phase but over the long term. In the long run, the e-planning system should deliver significant savings to ratepayers, but we agree that the state government must invest in the start-up phase of this reform.



The panel notes that the government has adopted a ‘digital by default’ strategy to promote greater citizen access to information and government services; we see this dovetailing with this reform. In the long term, a planning portal could become an online gateway for all land-related information and services across government.

Examples of online planning systems

UK Planning Portal (planningportal.gov.uk)— animated guides to development, access to planning schemes, mapping and other information, engagement tools, online applications

Victoria (planningschemes.dpcd.vic.gov.au)— planning provisions, comprehensive zone and overlay mapping

South Australia’s EDALA (edala.sa.gov.au)— provides a central lodgement and referral process for land division applications

Queensland’s State Assessment and Referral Agency (SARA) and MyDAS (www.dsdip.qld.gov.au/MyDAS)— enables the preparation, lodgement and referral of applications within a single state assessment and referral agency

Tasmania’s iplan (www.iplan.tas.gov.au)— a single state-wide resource for planning and development



How this reform will be delivered

The legislative framework should provide for the key features of the e-planning system, ensuring that it is recognised and supported as the preferred method of delivery of planning services and information to citizens. The first-stage portal will deliver the planning code; assessment should be the focus of the second stage.

The State Planning Commission will oversee the system, including its resourcing and cost-sharing co-contribution funding arrangements. Legislation should provide the head powers for this, including fair apportioning of expenses over the long term. The state government should provide initial establishment costs.

Legislation will also enable the commission to set common data standards and appropriate evidentiary aids. To foster collaborative approaches, the commission should consider partnering with the local government sector in its governance of the e-planning system.

Priority: **2**

Link to guiding principles:  

Links to *Our Ideas for Reform*: Reform 25

REFORM **21**


Adopt a rigorous performance monitoring approach



- 21.1 The State Planning Commission will monitor overall system performance. This will include monitoring system operations and the achievement of policy priorities and regional targets.
- 21.2 Regular public reporting by the State Planning Commission will identify areas for improvement, emerging trends and areas for further research and analysis.
- 21.3 The State Planning Commission will have powers to intervene in cases of under-performance by agencies, regional boards or councils.

- 21.4 Targets will be established to review regional planning schemes and monitor the performance of regional planning boards.
- 21.5 The State 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.
- 21.6 The government may explore funding incentives linked to this performance-monitoring regime.





For business and communities to have confidence in the planning system, planning decisions must be evidence-based and subject to regular performance checks that evaluate outcomes and benchmark the efficiency with which they are delivered.

The new planning system will be based on continuous improvement with monitoring of performance and trends, and feedback loops, built into the legislative framework. E-planning will be the preferred vehicle for gathering data.

The State Planning Commission will have overall responsibility for monitoring trends and performance. This will include the ability to address cases of under-performance by planning bodies.

Why this reform is important

Issues this reform addresses

- perceived lack of rigour in performance monitoring
- concerns about inconsistent monitoring practices
- lack of tools to address under-performance
- weak policy evaluation frameworks
- lack of clarity around planning targets
- desire for more regular and transparent data reporting
- lack of confidence in current system indicators

The health of the planning system cannot be maintained in a void. If the system is to deliver high-quality outcomes, decisions must be based on the latest available information, data and predictions that are seen to be valid and apolitical.

Regular monitoring of performance and trends is essential to track emerging issues, identify where improvements are needed and evaluate outcomes. It will play a key role in ensuring planning can address contemporary needs and is accountable to users and taxpayers.

7 ALIGNMENT, DELIVERY AND CULTURE

Effective monitoring programs only work when they have, and are seen to have, consequences for policy settings and decision-makers. It is therefore vital that feedback loops be built into the system to ensure that monitoring and analysis programs are sustained and have meaning. The State Planning Commission will take the lead, calibrating policy settings in response to trends and triaging obvious problems. For example, the commission could make changes to the state planning and design code or recommend that the minister issue a new state direction.

Benefits of rigorous monitoring of trends and performance

- provides tools to capture and report on the effectiveness of policies and programs
- enables the system to demonstrate its performance to government and system users
- reveals where improvements are necessary
- provides consistent measurement and reporting tools across the state
- improves accountability and transparency
- builds on existing monitoring programs

How this reform will work


Users across the system supported the need for better and system-wide performance monitoring, assessment and accountability. However, both council and industry support was qualified and the general sense was that mechanisms to improve performance monitoring should be elaborated.

Feedback on this reform

- general support for more rigorous and transparent performance monitoring
- councils were concerned about step-in powers and the criteria for their use
- clarification needed about how government agencies would be held accountable
- a limited pool of expertise will place natural limits on how quickly poor performance can be addressed
- government should consider the use of financial incentives as an alternative to step-in powers

The reform is intended to place the monitoring of performance and planning trends at the foundation of the system and its ongoing reliability. The panel considers that this can only occur if performance monitoring is entrusted to a neutral player: the State Planning Commission.






The commission will be well placed to provide the dispassionate monitoring and analysis of trends, data and performance that the system needs to ensure long-term outcomes are met in a timely, low-cost fashion. Moreover, as the pre-eminent advisor to government on the planning system, the commission will be able to ensure that policy settings are responsive to changing circumstances.

The panel envisages that the commission's remit would extend to monitoring system performance, the effectiveness of planning policies, the achievement of regional targets, and trends in land supply, housing affordability, travel patterns and changes in population and business activity. It will provide regular reports—including a 'report card'—to outline the status of priorities and targets. We envisage that the annual release of the report card will provide the basis for a regular roundtable discussion of performance achievements and trends by Cabinet and with the parliamentary committee.

The commission will also have the ability, with ministerial approval, to address under-performance by planning bodies such as councils or regional planning boards. Criteria for such step-in powers will need to be spelled out in the legislation. A 'name and shame' approach will also be among measures the commission can use to penalise under-performance. These measures will closely dovetail with the commission's role, under Reform 22, to facilitate culture change and improved practice across the system.

We suggest the state government might examine whether performance incentives could support the rapid achievement of system objectives.



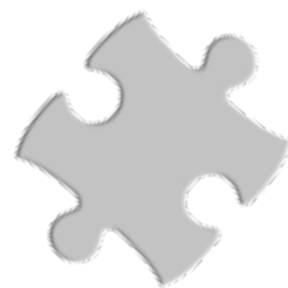
How this reform will be delivered

The performance measures and reporting mechanisms will replace existing measures. Some statutory functions related to performance monitoring currently invested in the minister will be transferred to the State Planning Commission, which will address the establishment of benchmark data and information as one of its first actions. Funding and other resources will be provided within existing allocations.

Priority: 2

Link to guiding principles:  

Links to *Our Ideas for Reform*: Reform 26



REFORM **22**

Pursue culture change
and improved practice



22.1 The State Planning Commission will take a leading role in shaping system culture. It will have a coordinator of planning excellence to lead this work.

22.2 The State Planning Commission will be responsible for a code of planning excellence that forms a charter for customer service and facilitation across the system.

22.3 The State Planning Commission will work with local government, the public service and professional organisations to pursue culture change that will contribute to planning excellence.

22.4 The State Planning Commission will have the responsibility to issue practice notes, providing direction across the system.

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

22.6 A complaints handling capacity should be established within the statutory framework under the State Planning Commission.

22.7 Provide a statutory indemnity for council officers for good faith advice, encouraging people to seek early advice. This will also enable council officers to seek to resolve local issues through mediation and negotiation knowing that they will not be exposed to legal claims for doing so.





In the new planning system, there will be an emphasis on building culture and practice that is responsive, service-oriented and driven by professionalism.

The State Planning Commission will work with councils and professions to identify and drive efforts to institute a high-performance culture within the planning system. At the heart of this will be a new code of planning excellence that will operate as a customer service charter for all players in the system.

Why this reform is important

Issues this reform addresses

- a system culture seen as risk-averse and negative
- perceptions that the planning system is characterised by a 'blame' culture
- lack of suitable avenues for complaints to be addressed and resolved
- inconsistent recognition of professional skills and expertise
- the need to shift to more facilitative approaches to development

As a panel, we recognise that legislative reforms alone will not address South Australians' concerns about the planning system. Legislation must be supported by an enabling culture and enabling practices.

At its heart, the planning system must focus on being more open and supportive rather than controlling. To achieve this, we believe the planning system must be grounded in a positive, open and facilitative culture focussed on providing end-users with high-quality service and good development outcomes.

An efficient and effective planning system must be able to offer solutions and outcomes tailored to the needs of individual developments and larger-scale projects and objectives. This capacity relies heavily on the skills and willingness of planning professionals to use planning processes to maximise community outcomes. However, the existence of varied and often inconsistent policies and tools, combined with a culture that often concentrates more on avoiding risk and less on addressing users' needs, has diminished the system's ability to provide positive experiences and results.

7 ALIGNMENT, DELIVERY AND CULTURE

Culture change will require sustained effort over time. We see that a pivotal role for the State Planning Commission is to lead and foster best-practice behaviour and activity by all players in the system. This will involve close engagement with councils, government agencies and professional bodies.

A high-performance culture across the planning system will help employers in government and councils attract and retain the best staff, which in turn supports their ability to offer and deliver quality experiences and results for all system users.

Benefits of improved planning culture

- demonstrates and maximises the value of professionals' skills and knowledge
- contributes to attraction and retention of staff and practitioners
- promotes user confidence and facilitates investment into the state
- emphasises outcomes rather than processes
- enhances users' satisfaction with the system

How this reform will work

There is general support for more focus on an improved performance culture, with professionals welcoming an emphasis on their roles and contribution to a productive planning system.

Feedback on this reform

- strongly supported, subject to commitment and proper resourcing
- professional bodies were keen to partner with government to improve culture and performance
- community groups perceive culture change as key to more meaningful engagement
- industry emphasised the need for a positive culture aimed at facilitating good outcomes, not controlling development

Questions were raised about resourcing and whether it would remain a priority over the long term. The State Planning Commission was widely regarded as the appropriate body to oversee culture change and monitor a high-performing culture; we suggest that the legislation should clearly outline the commission's responsibility to ensure ongoing attention is given to culture and workplace environments.





In this work, the commission should be supported by a senior official in the department responsible for promoting and maintaining a culture of customer service and policy excellence across the system. Tools available to the commission will include its ability to issue practice notes and directions, a new code of planning excellence that outlines expected customer service standards, accreditation of professionals, and a mechanism to receive, investigate and address complaints.

The panel envisages the commission leading work to ensure professionals are best placed to contribute to and work within a high-performance culture. This will include working with professional bodies to provide accreditation and training for professionals in the system. A high-performance culture is crucial to the achievement of a number of our reforms, particularly a move toward more professional development assessment (see Reform 11).

NSW's culture-change initiatives

The NSW government is undertaking a major overhaul of the state's planning system. In addition to legislative changes, the government has established a culture change action group to implement a range of actions. A senior executive has been appointed to pursue culture change and enhance relationships within government and with councils. An annual report card will reveal the status of the planning system's culture.

The establishment of a complaints handling mechanism will support users' confidence in the system and remind professionals that their actions are under scrutiny. Practice notes and directions will provide professionals with guidance and support in undertaking their roles and enable the commission to clarify issues quickly and effectively.

How this reform will be delivered

Changes to planning legislation will be necessary. The changes will:

- confer functions on the State Planning Commission
- introduce the code of planning excellence
- outline an accreditation framework and processes
- enable the commission to issue practice notes and directions
- expand existing complaints-handling mechanisms.

We suggest that establishing the code of planning excellence and the accreditation framework be among the State Planning Commission's first actions. The commission should work closely with councils and professional bodies to develop these.

Priority: 2

Link to guiding principles:   

Links to Our Ideas for Reform: Reform 27



PART 8

Snapshot of benefits



8 SNAPSHOT OF BENEFITS

In this section, we outline the benefits of each reform and how it contributes to the guiding principles.

Roles, responsibilities and participation



PARTNERSHIPS AND PARTICIPATION

- The reforms combine to create the right balance between state, regional and local authorities and interests.
- The charter will foster meaningful citizen input into decisions.



INTEGRATION AND COORDINATION

- Integration of planning, infrastructure and environmental issues can be coordinated at a regional scale.
- The planning commission will help integrate and coordinate whole-of-government policies.



DESIGN AND PLACE

- The planning commission will have a key role in integrating planning, design and development issues.



RENEWAL AND RESILIENCE

- Better engagement will help make managing urban and environmental change easier.



PERFORMANCE AND PROFESSIONALISM

- Professional planning inquiries capitalise on the expertise of professionals to deliver outcomes.
- More effective parliamentary oversight will improve outcomes.



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.

Development pathways and processes

- Regional panels will be able to undertake many processes currently handled centrally.
- More streamlined assessment pathways will foster effective community engagement.

- 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.

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

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

- 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.

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

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

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

- 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.

8 SNAPSHOT OF 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.
- Integration of the public realm in all planning processes 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

- Professionalism will be maintained and enhanced by partnerships with peak bodies.
-
- Online systems will promote integration, coordination and efficient interactions.
 - Rigorous performance monitoring will identify issues as they emerge and coordinate whole-of-government responses.
-
- Alignment of other legislation with the new planning system will ease tensions that may affect place-making.
-
- Effective performance monitoring will help monitor and diagnose urban sustainability.
 - Online systems will provide better information about environment concerns to end-users.
-
- The 'one-stop-shop' concept will be reinforced by reforms to referrals and seamless legislative interactions.
 - Benchmarks for planning excellence will promote a culture focussed on continuous improvement and customer service.
 - Online systems will adopt user-friendly formats and promote confidence in an open and accessible system.
-



PART 9

Delivering reform

- » **Our recommendations
for delivering reform**
- » **Reform ready reckoner**

9 DELIVERING REFORM

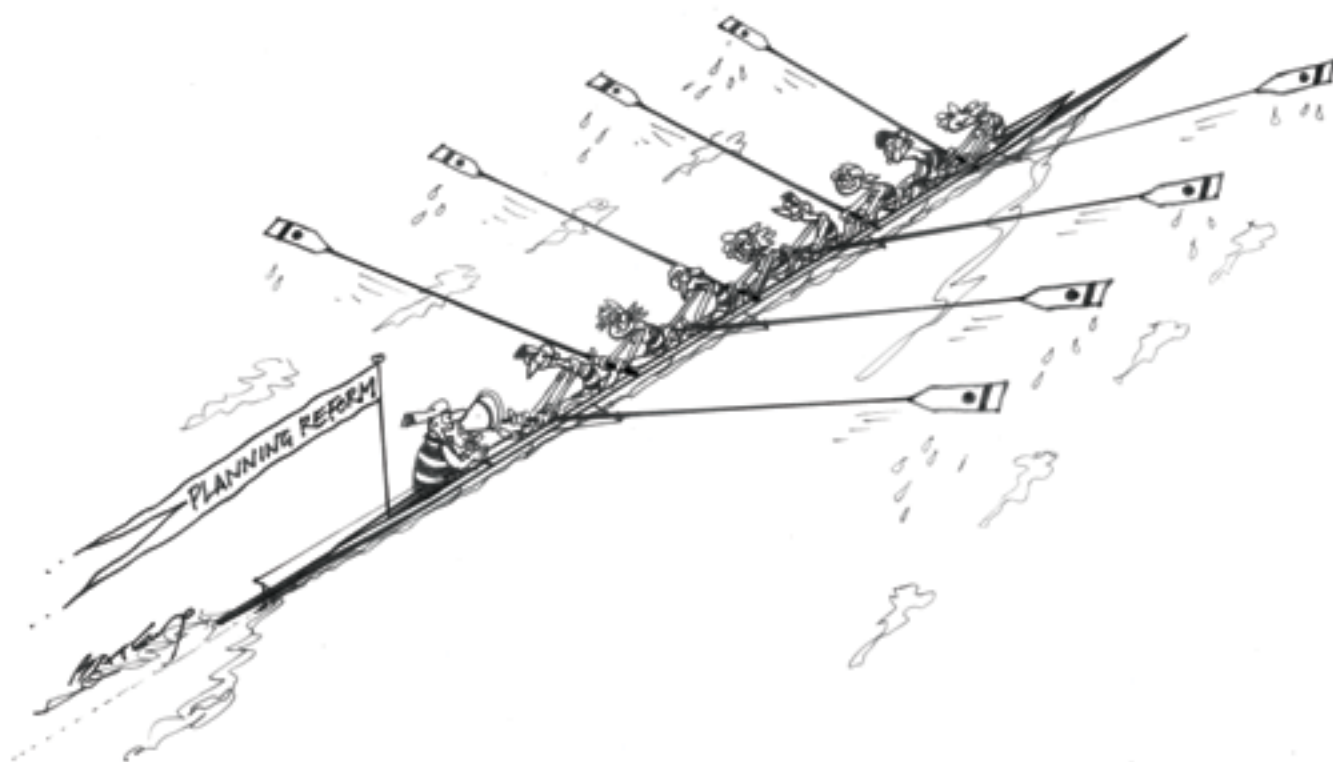
The proposed reforms must be delivered in a staged fashion. However, the process should not be drawn out indefinitely. The panel believes that once the necessary legislation has passed parliament, the full reform agenda should be able to be implemented within three to five years. We strongly recommend that the government set a clear timeframe for and deadline to the transition process—and that this should be outlined in the legislation itself.

The panel has considered different ways that staging could work. It could be on a topic-by-topic basis or be achieved in one region after another. Although there are some merits in a region-by-region approach, we are concerned that this would result in reform benefits being deferred for too long in some regions. Because of this, we recommend a holistic approach to delivery, comprising the three stages outlined in the following table. Throughout this report we have suggested a priority for each reform linked to these proposed delivery stages.

The government should ensure implementation is arranged and managed through close liaison with the Local Government Association.

Stage		Key steps
Stage 1	Foundations	<ul style="list-style-type: none">• passage of foundational legislation in one or more bills• establish the State Planning Commission• develop initial suite of state directions
Stage 2	Strategies and policies	<ul style="list-style-type: none">• establish regional and metropolitan planning boards• review regional and metropolitan strategic plans• develop the state planning code and regulatory policies• further legislation as required
Stage 3	Switch-over	<ul style="list-style-type: none">• update development plans using the state planning and design code• establish regional development assessment panels• start other new powers and roles as required• further legislation as required





We recommend
to the government
and parliament:

**Our recommendations
for delivering reform**

1. This report should be released as soon as possible to give interested parties opportunity to reflect and comment on our recommendations.
2. Government should provide a transparent whole-of-government response to this report. Draft legislation should be released for comment before it is introduced into parliament.
3. Legislation to give effect to this report's 22 planning reforms should be drafted in separate but inter-related statutes.
4. While the reforms should be implemented as an integrated package, delivery should be staged to avoid reform fatigue and ensure adequate consultation. There should be close liaison with local government during all implementation.
5. The government should outline a detailed implementation program, informed by consultation with local government. The program should include clear milestones and be backed by transitional powers in the legislation.
6. The State Planning Commission, proposed in Reform 1, should be established as an early priority so it can guide and oversee staged delivery of the reform package.
7. Other early priorities for implementation should include key system-wide changes such as the charter of citizen participation (Reform 3), state planning directions (Reform 5), the state planning and design code (Reform 7) and the e-planning framework (Reform 20).
8. Reforms targeted at regional delivery, including regional planning schemes, assessment reforms and infrastructure reforms, should be implemented by regional planning boards after system-wide changes have been introduced.
9. The State Planning Commission and relevant government agencies should be tasked with taking forward those reforms that require development later in the delivery process.
10. The government should ensure the State Planning Commission has adequate resources to establish the new planning system. Fair and equitable cost-sharing arrangements should be put in place to support the commission's ongoing operations.
11. The government should consider any minor machinery of government changes that streamline the delivery of planning-related activities and services outlined in the reforms.

Reform ready reckoner

key leadership roles in the new planning system

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

General assessment

Facilitating complex projects

Culture, practice and guidance

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

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- » **Appendix 1**
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- » **Appendix 2**
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- » **Appendix 3**
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- » **Appendix 4**
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- » **Appendix 5**
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- » **Appendix 6**
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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 communitiesas 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



Appendix 2

About the panel



Brian Hayes QC (chair)

Brian Hayes is a prominent senior counsel and acknowledged expert in planning and environment law.

He has an honours degree in law from London University and is admitted to practise in all states of Australia and overseas. He was appointed a Queen's Counsel in 1986.

Brian is an Adjunct Professor in the Geoinformatics and Planning School of the University of South Australia where he has lectured in planning law for nearly 40 years, and is consulting editor of *Planning Law SA*, the only planning law text in SA. He is an honorary life fellow of the Planning Institute of Australia, a former national chairman of the National Environmental Law Association of Australia, and a past president of the South Australian Bar Association.



Natalya Boujenko

Natalya Boujenko is the founder of consultancy Intermethod and specialises in integrated street design, city development, transport planning, community engagement and

organisational development. Natalya's portfolio spans an extensive range of projects, policy and academic work in Australia, England and Ireland.

Natalya is an innovator in her field having delivered award winning publications, street design projects and conference presentations. Natalya is a joint author of 'Link and Place: A Guide to Street Planning and Design' and 'Streets for People: A Compendium for South Australian Practice', best practice design guidance publications for street space allocation and balancing competing street demands. Natalya was instrumental in developing Adelaide City Council's integrated movement strategy, Transport for London's integrated network management planning reform, and delivering reporting and administrative reforms in the West Midlands (UK). In addition to consulting, Natalya is a committee member of Mainstreet SA and a sessional lecturer at the University of Adelaide.



APPENDICES



Simone Fogarty

Simone Fogarty is an urban and environmental planner with 26 years of experience in the planning profession and development industries. Simone has

dual qualifications in urban and regional planning and environmental science; she is a fellow of the Planning Institute of Australia, a past president of its SA division, a current member of the Development Assessment Commission and a co-chair of the Committee for Adelaide.

Simone is an employee of GHD and has previously worked for several multi-disciplinary firms in Adelaide and Perth, providing professional advice to local government, a range of government agencies, sectors of the development industry and not-for-profit organisations. Simone has considerable experience in the mining and infrastructure sectors and her experience of the strategic, policy and assessment aspects of the South Australian planning system is widely respected.



Stephen Hains

Stephen Hains was the chief executive officer of the City of Salisbury from 1991 until his retirement in May 2011. A planner by background, Stephen is a past national president

and fellow of the Australian Planning Institute, and has headed a number of economic development, planning and environmental agencies with the South Australian government.

Stephen's expertise in local government, planning, environmental policy and management is reflected in his involvement in a wide range of boards and authorities across the public and private sectors, including the board of the Environment Protection Authority, the board of the Centennial Park Cemetery Authority, director of Bedford Industries, chairman of several development assessment panels and the Stormwater Management Authority, member of the Local Government Association Governance Panel, the UDIA EnviroDevelopment Board, and as Deputy Chancellor of Flinders University. He is a past chair of the SA Planning Commission; Advisory Committee on Planning; Native Vegetation Authority; and the Coast Protection Board.



Theo Maras AM

Theo Maras is the founder and chairman of the Maras Group, formed in July 2006, following a restructure of the Mancorp Group, a well known and respected property

investment and development group which commenced business in 1980. Theo has been instrumental in shaping development in South Australia since the early 1980s. He is particularly associated with renewal of the East End and the attraction of big name operators not previously seen in the South Australian market place. Theo Maras' expertise is exceptionally broad and varied. His main skills rest in design and construction but he is also highly accomplished in issues relating to planning, leasing and management. He has been personally involved in many developments undertaken over the last 30 years or so by both Mancorp and the Maras Group.

Along with his extensive service to the South Australian property market and community at large, Theo has also been a member of the South Australian Urban Land Trust, the Development Assessment Commission, SA Planning Commission, the Joint Industry Committee on Planning, the Urban Renewal Authority and the Land Management Corporation.



APPENDICES

Appendix 3



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

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

Appendix 4

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)

Local Government Association—metropolitan representative

Local Government Association—regional representative

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)

South Australian Chamber of Mines and Energy

South Australian Council of Social Service

Urban Development Institute of Australia (SA Branch)

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 of Planning, Transport and Infrastructure

Department of the Premier and Cabinet

Department of Primary Industries and Regions

Department for State Development

Department of Treasury and Finance

Environment Protection Authority

Urban Renewal Authority



APPENDICES

Appendix 5

Engagement and consultation

The key stages in the panel's review process are outlined below.

Over the past 18 months we have met with around 2500 people, across 127 events, during two significant engagement programs and in the course of our ongoing work.

We would like to thank all the people and organisations that have taken the time to discuss our planning system, to debate our ideas, and to make valuable submissions.

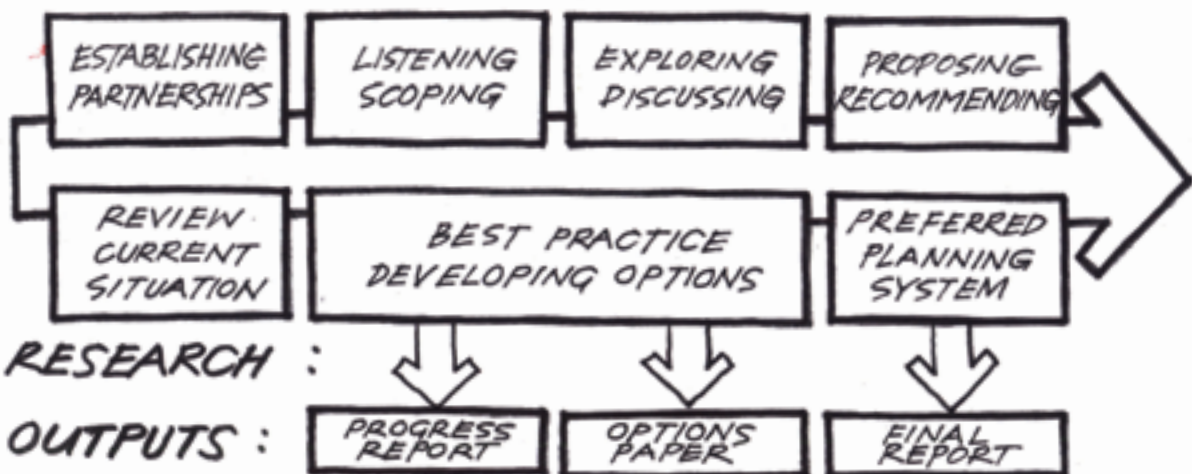
As the map overleaf demonstrates, we have held and attended events across the state, and received many submissions. The quality and value of our work is better because of this input.



• EXPERT PANEL'S PROCESS

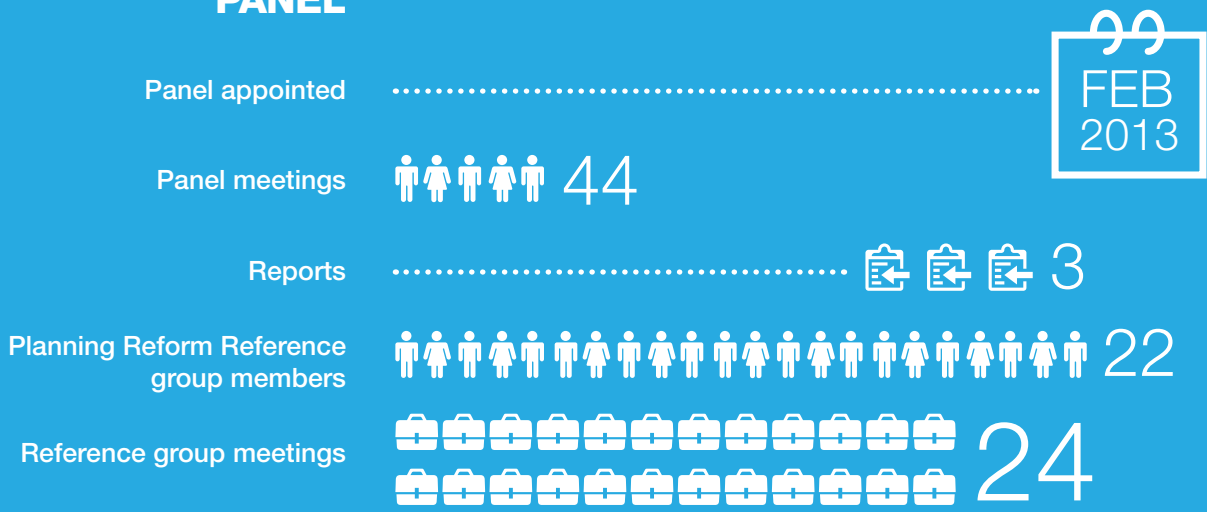
• MARCH – JULY 2013 • AUG – DEC 2013 • JAN – JULY 2014 • AUG – DEC 2014

• ENGAGEMENT:



PANEL PROCESS INFORMATION

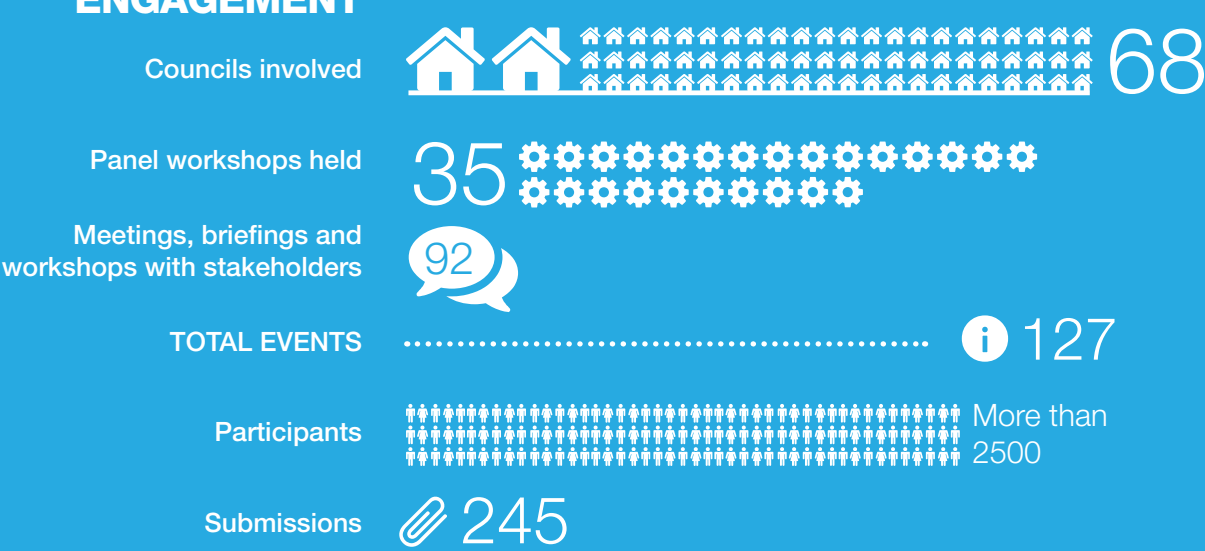
PANEL



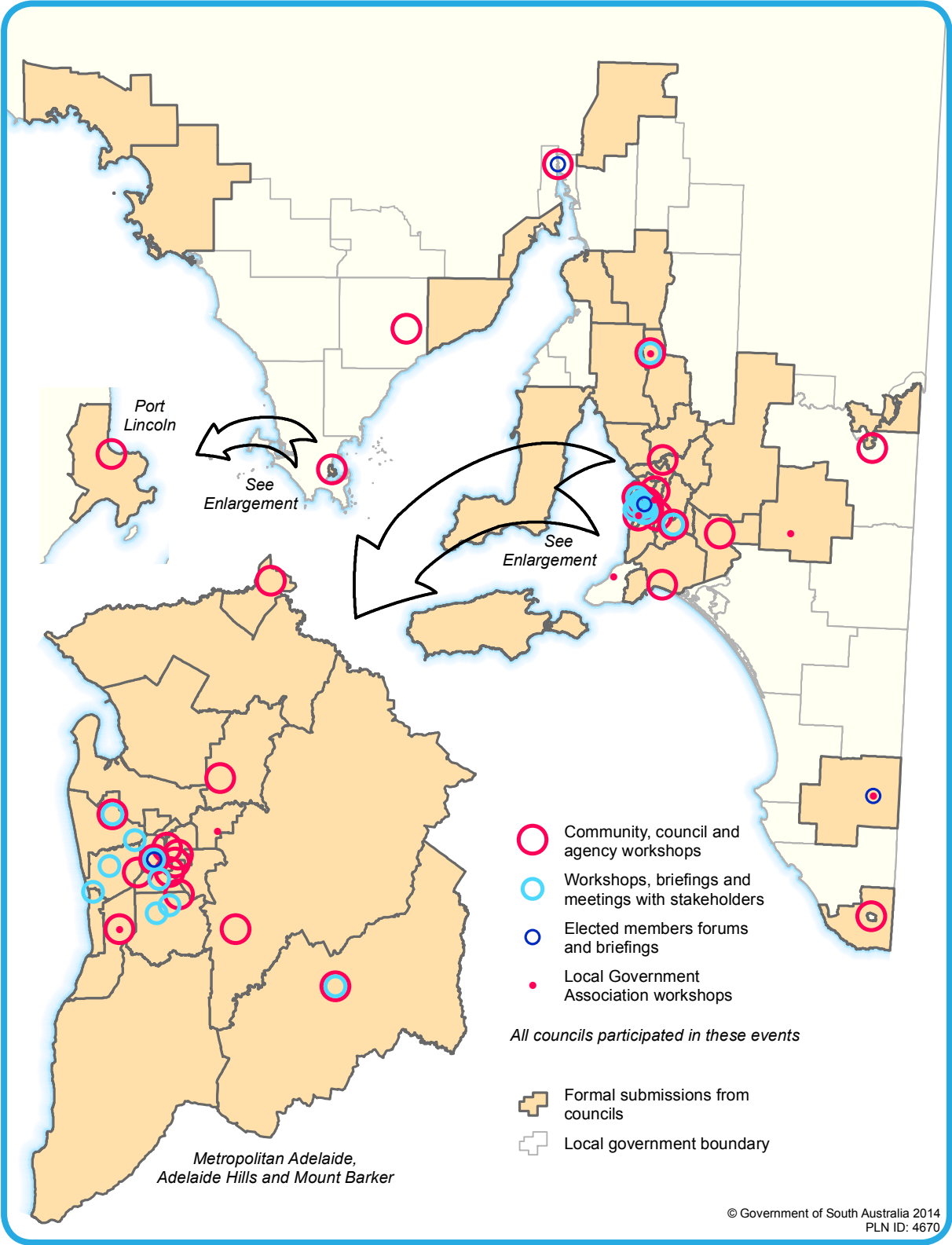
RESEARCH



ENGAGEMENT



APPENDICES



List of submissions made to the panel since the release of *Our Ideas for Reform*

NAME	ORGANISATION
Morry Bailes	Law Society
Amanda Berry	City of Salisbury
Andrew Altken	Adelaide Hills Council
Andrew C Boardman	Kangaroo Island Council
Andrew Inglis	NRM Council
Andrew Marks	Bunnings Group Ltd
Andrew Thomas	
Angus Nardi	Shopping Centre Council of Australia
Ann Ferguson	City of Mount Barker
Ashley Kellet	South East Australia Gas PTY LTD
Barry Brinkworth	Council - Berri Barmera
Becky Llewellyn	South Australian Access Consultant Network
Ben Coventry	City of Victor Harbor
Beverley Gidman	Kudla Community Inc
Bill Chandler	Onkaparinga DAP
Brendon Corby	Master Builders Association
Brian Calvert	Mount Barker Coalition for Sustainable Communities
Brian Irvine	
Bronwyn Webster (Chair)	Local Government Community Managers Network
Bruce Carter	Premier's Climate Change Council
Business SA	
Carlos Buzzetti	Council: Norwood, Payneham & St Peters
Carol Bailey	
Carol Faulkner	Cheltenham Park Residents Association
Cate Atkinson	Wakefield Regional council
Cate Kelly	
Catharine Kelly	
Catherine McMahon	
Chris Branford	Bentley Development Group
Chris Brown	Prospect Residents Association
Chris Daniels	Adelaide & Mt Lofty NRM Board
Chris Newby	City of Prospect
Christel Mex	President, Kensington Residents Association
Christopher Rankin	Air Conditioning & Mechanical
City of Burnside	City of Burnside
Colin Shearing	Executive Spokesperson, SA Independent Retailers
Craig Doyle	Light Regional Council
Craig Harrison	Council - Mitcham
Daniel Gannon	Property Council of Australia (SA Division)
Darian Hiles	
Darren Peacock	National Trust
David Cole, Principal	Environmental Compliance Advisory Service
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APPENDICES

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Troy Olds	Australian Institute of Building Surveyors
Tuesday Udell	Heart Foundation
Viktor Jakupc	ALDI Stores
Warren Godson	



Briefings and meetings with stakeholders

DATE	PLACE	EVENT
6 August	Adelaide	Information session with Australian Institute of Urban Studies members
6 August	Woodville	Briefing for City of Charles Sturt planning staff
7 August	Adelaide	Information session with Urban Development Institute of Australia (SA) members
8 August	Adelaide	Presentation to Normal Waterhouse Local Government Conference
12 August	North Adelaide	Briefing to Planning Institute of Australia SA Division Committee
13 August	Adelaide	Briefing for LGA Metropolitan Chief Executives
14 August	Adelaide	Information session for Property Council members
18 August	Oaklands Park	Workshop with Local Government Association members
19 August	Adelaide	Briefing for the Environment Protection Authority board
19 August	Hackney	Information session for Planning Institute of Australia (SA) members
20 August	Adelaide	Briefing for the Development Policy Advisory Committee
20 August	Naracoorte	Workshop with South East Local Government Association members
20 August	Adelaide	Consultants roundtable hosted by Planning Institute of Australia (SA)
21 August	Adelaide	Workshop with Planning Institute of Australia (SA) members
21 August	Rostrevor	Workshop with Local Government Association members
21 August	Port Augusta	Reform Testing Workshop with invited guests
22 August	Yankalilla	Workshop with Southern and Hills Local Government Association members
22 August	Adelaide	Information session with Community Alliance members
25 August	Adelaide	Reform Testing Workshops with invited guests
27 August	Adelaide	Briefing for Department of Planning, Transport and Infrastructure assessment staff
27 August	North Adelaide	Briefing for National Trust Cultural Heritage Advisory Committee
27 August	Rose Park	Briefing for URPS consultants
28 August	Keswick	Briefing for Heritage Council
28 August	Waite	Workshop with Department of Environment, Water and Natural Resources staff
28 August	Stirling	Briefing for Mt Lofty Ranges Planners Group
28 August	Eastwood	Briefing for Adelaide and Mt Lofty Ranges Natural Resources Management Board
28 August	Adelaide	Workshop with Engineers Australia (SA) members
29 August	Adelaide	Reform Testing Workshops with invited guests
2 September	Karoonda	Workshop with Local Government Association members
4 September	Adelaide	Briefing for Local Government Association executive
4 September	Waite	Workshop with Natural Resources Management peak bodies
4 September	Adelaide	Workshop with Planning Reform Reference Group
5 September	Cleve	Workshop with Eyre Peninsula Local Government Association members
5 September	Clare	Information session for Country Planning Officers Group
8 September	Adelaide	Briefing for Department of State Development staff
8 September	Adelaide	Meeting with SA Independent Retailers
9 September	Adelaide	Briefing for Primary Industries and Regions SA staff
11 September	Adelaide	Meeting with Community Alliance
12 September	Clare	Workshop with Central Region Local Government Association
17 September	Adelaide	Workshop with Planning Reform Reference Group
18 September	Adelaide	Briefing for Leedwell Property consultants

APPENDICES

Appendix 6

Acknowledgements

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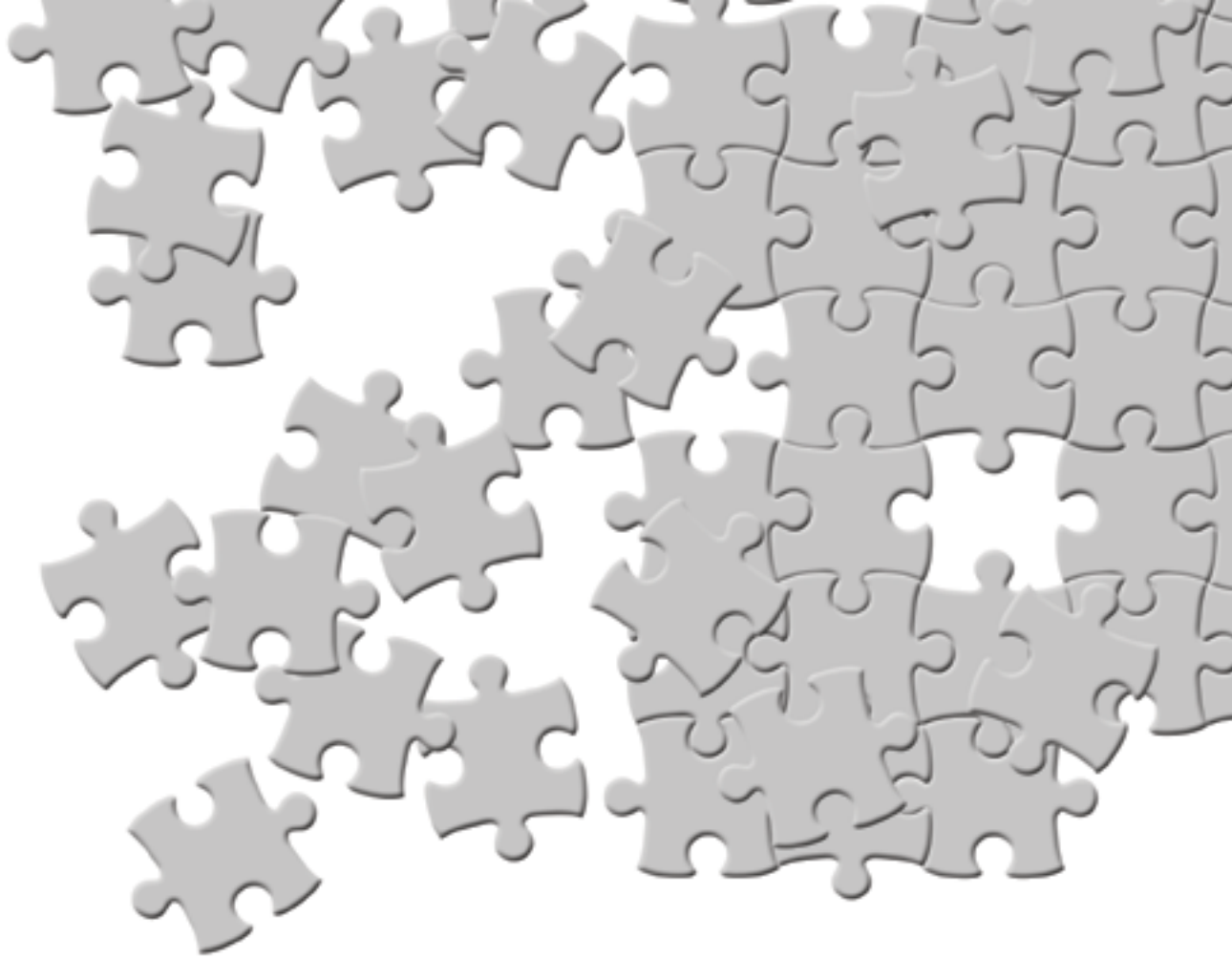
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