Think
Design
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Creating a new
planning system
for South Australia

South Australia's Expert Panel

WHAT WE HAVE HEARD

on Planning Reform

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Hon John Rau MP

Deputy Premier
Minister for Planning
Parliament House
Adelaide

LETTER TO THE MINISTER FROM THE CHAIR

Dear Minister

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

The enclosed progress report summarises the views and opinions of more than 1,200 South Australians who participated in the panel's first stage of engagement—the 'listening and scoping' phase.

Community workshops and meetings, briefing sessions, an online feedback form and written submissions generated valuable ideas and comments from a wide range of people across the state—including representatives of councils, industry and business organisations, community and special-interest groups, and government agencies.

Throughout the engagement process, the panel was impressed by the passion, energy and thought-provoking views and opinions of the many people who took the time to participate. It is evident that there is strong interest in what planning can achieve across South Australia and a genuine appetite for a rethink of what the planning legislation can and should deliver.

This report marks the conclusion of the panel's 'listening and scoping' phase. Over the course of the next six months, as part of our 'exploring and discussing' phase, the panel will work with the two reference groups we have established and with other interested organisations to investigate the issues raised, undertake research and develop and test options for reform. Our aim is to produce an options report for public feedback in mid 2014.

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

Brian Hayes QC

Chair
South Australia's Expert Panel on Planning Reform

December 2013

A MESSAGE FROM THE EXPERT PANEL

It is 20 years since the South Australian parliament enacted the Development Act, the legislation that forms the basis for South Australia's planning system.

While the legislation has served the state well, progress has brought change difficult to predict in 1993—change that has had real and sometimes unforeseeable implications for the planning system and those affected by it. As a result, there are a number of ways in which the legislation has needed updating, and this has led to frequent and somewhat fragmented amendment over the years. Since the Act came into force, it has been amended 629 times through 48 separate bills.

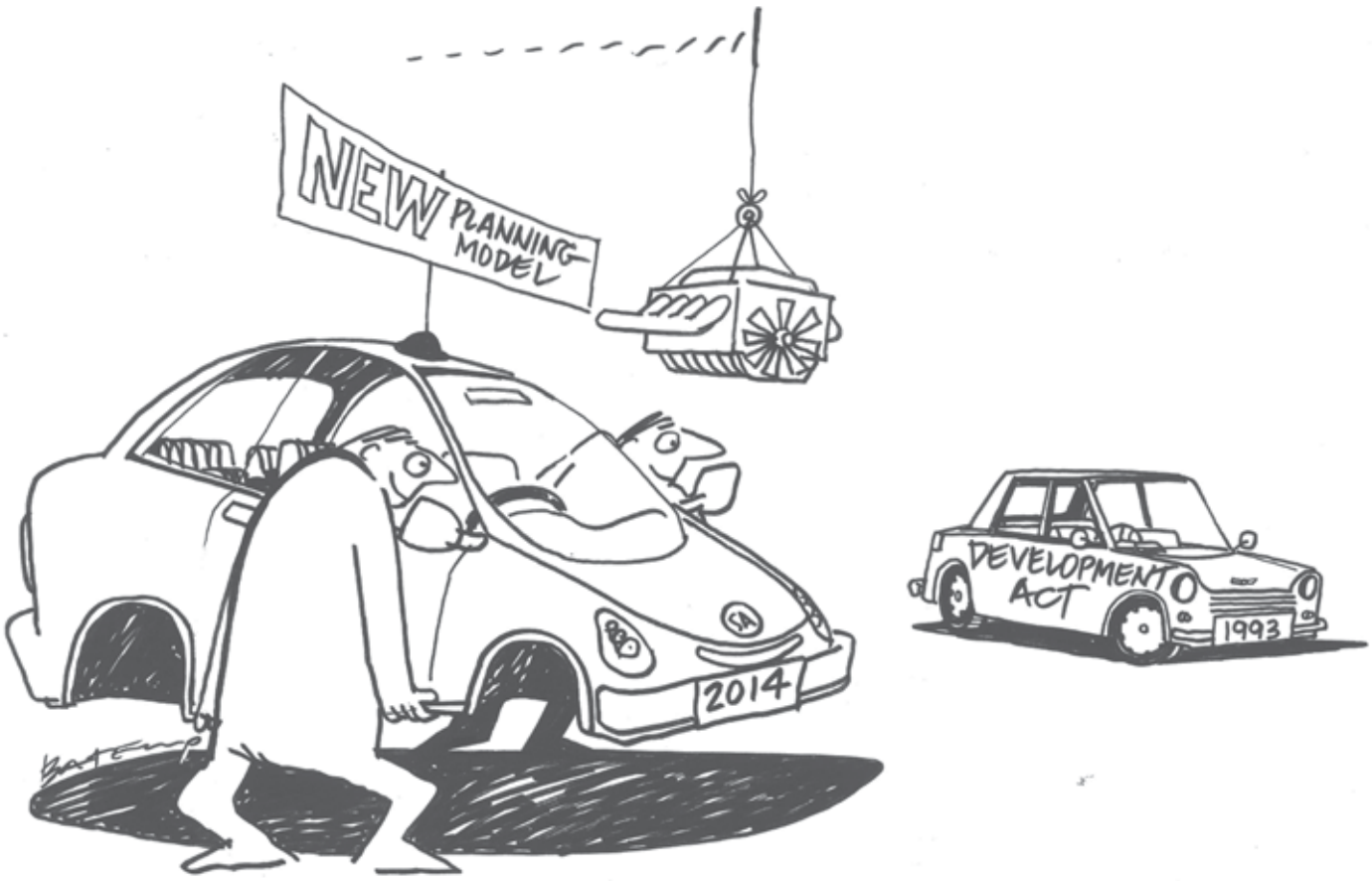
The scope of this review extends beyond simply assessing what exists and how it might be updated. Our planning system should enable us to build thriving, healthy, affordable, sustainable and vibrant cities, towns, neighbourhoods and regions for all of South Australia's communities—and many initiatives are already being taken to achieve these ends. As a panel, we have been given a rare opportunity to examine the planning system from its very foundations—to look afresh at the roles planning, urban design and urban renewal can play and to devise a legislative framework better tailored to achieve community objectives.

This is the first of two reports we will submit during the review period, before we release our final report in December 2014. Recommendations within that final report will come after 18 months of investigation, research and engagement. Throughout the process we are maximising the involvement of those most influenced by the planning system and its legislation, by seeking input and listening to comments from South Australians across the state. We would like to thank the many people who have taken time to participate in our engagement program.

Many participants told us personal stories about their interactions with the planning system and the processes established under planning and related legislation. It is clear from the engagement process that we will have many valuable ideas to consider, and although some may not be directly relevant to planning reform at this time they have all been recorded for future consideration by the appropriate areas of government.

Moreover, all feedback has helped us understand how the system currently operates, and identify issues and challenges to be addressed in the legislative framework. It is important to note that this report should not be seen as a criticism of any of those involved in the current system, whether they be councils, politicians, government departments, land owners, staff, industry members or practitioners; rather, it is a reflection of how the legislation affects the operation of the system and those involved in it.

This report outlines the range and diversity of views we heard, without prioritising or judging them or suggesting they are exhaustive. We expect other issues to emerge as we move into the review's next phase—the 'exploring and discussing' phase—during which we will investigate the issues in depth and seek



further input to fine-tune potential responses. A key focus of the next stage will be to undertake evidence-based research to test the issues and identify solutions that have worked in other jurisdictions around Australia and overseas and may be adapted for use in South Australia.

To enable more time to be spent developing and discussing options, we have adjusted our program in 2014 to dispense with the third round of consultation on our final report. This has been changed in response to feedback and in the expectation that government will undertake further consultation in developing a response to our recommendations.

Importantly, we welcome community feedback and comments at any time during this process, particularly on this report and the issues and ideas presented within it. Comments on this report can be left at our website at www.thinkdesigndeliver.sa.gov.au. We also welcome the opportunity to continue the conversation with stakeholders through specific forums and workshops in 2014.

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

December 2013

PART 1
Introduction

- Overview
- The review process
- Purpose of this report

1 INTRODUCTION

1.1 Overview

The Expert Panel on Planning Reform is conducting what Planning Minister John Rau has called a 'once in a generation' review into how planning is viewed and conducted in South Australia. The review comes 20 years after the *Development Act 1993*—itself the result of the 2020 Planning Review—was brought into operation.

The review is being conducted over 2013 and 2014. It will produce recommendations for a new legislative framework for the planning system. The recommended legislative framework will help the planning system resolve issues that have arisen over the last 20 years, and ensure that system is capable of addressing trends and issues as they emerge.

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

1.2 The review process

The key stages in the panel's review process are outlined in the diagram on the opposite page.

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

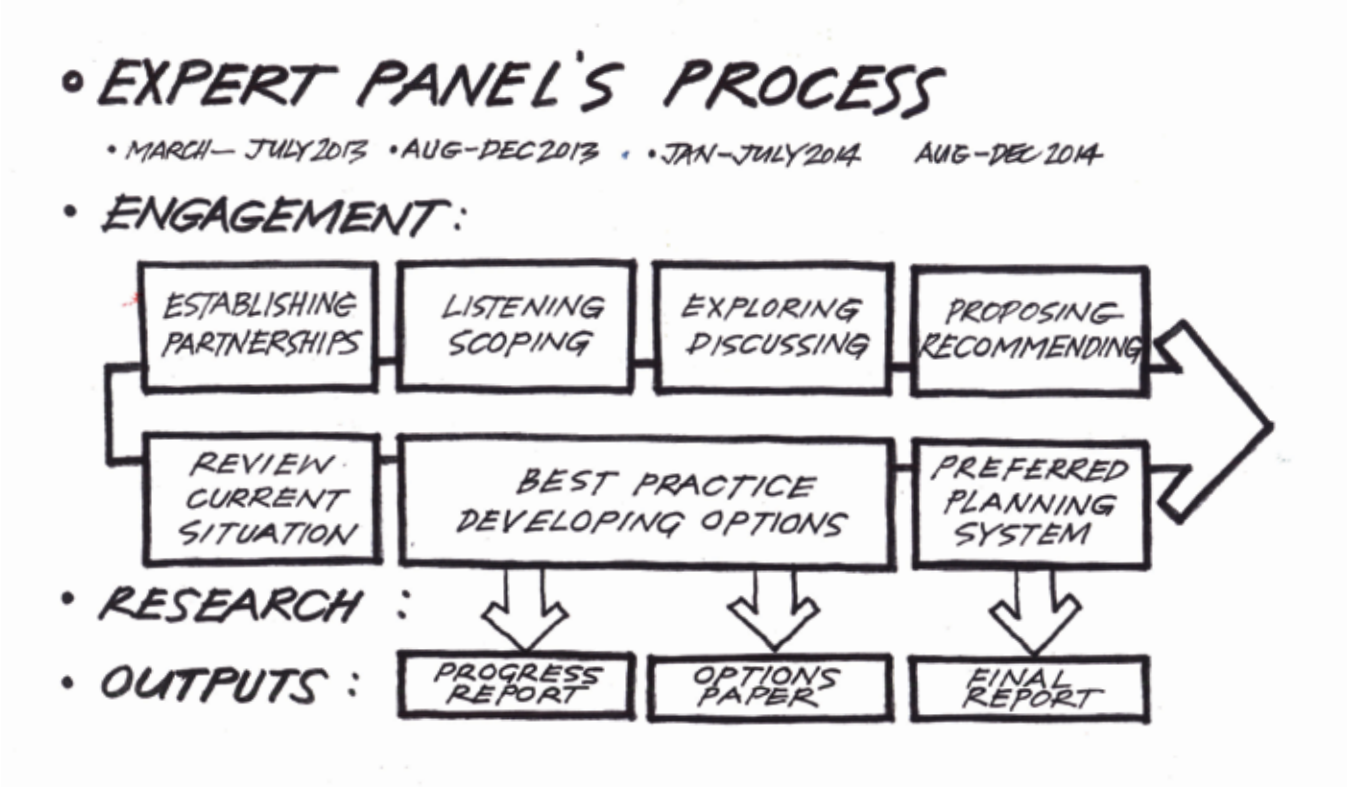
The Planning Reform Reference Group consists of community, professional and industry representative groups that are affected by and regularly use the planning system and its legislation. The Agency Reference Group comprises representatives of state government agencies that regularly interact with the planning legislation. Organisations represented on the two reference groups are detailed in **Appendix 2**.

In the 'listening and scoping' phase, the panel undertook an extensive process to gather people's views and ideas, including a lengthy series of workshops, briefings and roundtable sessions. The focus in this phase was to hear experiences and perspectives from people living and working in communities across South Australia about how the planning system works, what the key planning-related issues are and ideas for reform.

With the support of secretariat staff, the Expert Panel staged or participated in 75 community and sector-specific workshops, briefings and roundtable sessions across the state between April and November 2013. These sessions enabled the panel to hear from a cross section of individuals and groups. The panel also received a number of detailed written submissions from individuals and organisations.

Five themes were nominated to prompt and encourage considered responses at the engagement sessions and in the online and written submissions received: partnerships, integration, design thinking, urban renewal and performance. These themes outlined potential aspirations for a legislative framework for the planning system, a framework able to cater for the needs of people and communities, business and industry, and governments in forthcoming decades. In response to engagement feedback, the panel has revised these themes (see Part 5 of this report) to form important guiding principles in developing options for reform.

Details of the engagement sessions undertaken by the panel and secretariat staff and submissions received are provided in **Appendix 3**.



For those who wish to gain further insight into the feedback received, records of engagement workshops, briefings and roundtable sessions, reference group discussion records and copies of submissions are available from the panel's website www.thinkdesigndeliver.sa.gov.au.

The website also contains technical material, background resources and links to other relevant online information.

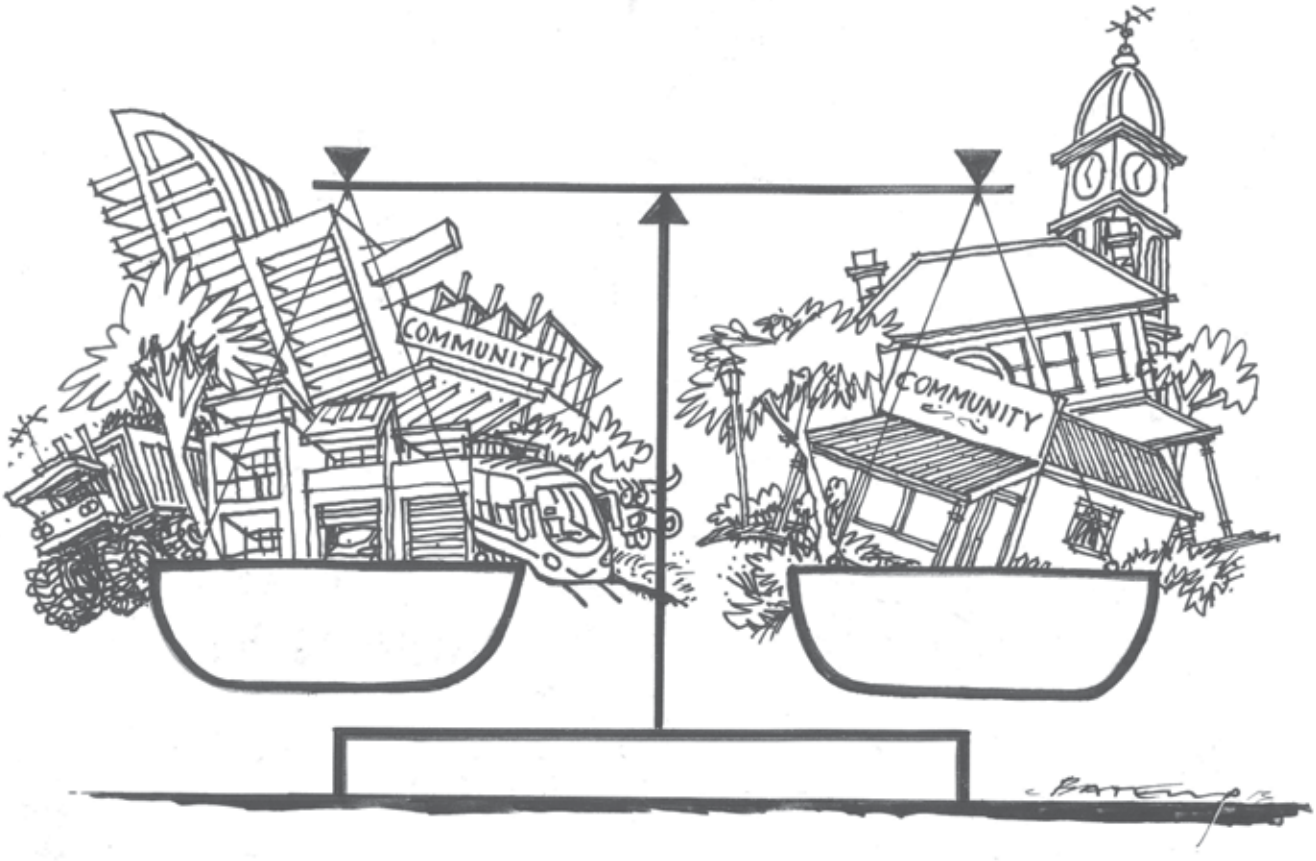
1.3 Purpose of this report

This report presents a summary of the concerns, ideas and aspirations of participants in the panel's 'listening and scoping' phase. The views in this report do not represent positions of the panel; rather, they indicate what was heard during the 'listening and scoping' phase.

The ideas and experiences discussed during the engagement process, outlined here and on the panel's website, will inform the work of the panel and assist in the formation of viable options and recommendations for a future legislative framework for the planning system. In the next stage of the panel's work—the 'exploring and discussing' phase—the panel will investigate these and other issues that may emerge and seek further input and ideas to build recommendations that support community and business expectations of planning in this state.

This report includes quotes taken directly from the many people that we engaged with. While unattributed, they were heard at workshops, through the online questionnaire and in submissions.

ISSUES AND OPPORTUNITIES


COMMUNITY
COMMUNITY

“THE SYSTEM NEEDS TO LOOK AT ENABLING DEVELOPMENT RATHER THAN CONTROLLING DEVELOPMENT.”

PART 2

Aims and expectations of planning

- Planning as an enabler
- Strengths of the current system
- Beyond development control
- Building blocks of the system
- An investment-friendly system that promotes sustainable outcomes
- Tailoring the system to different parts of the state
- Statutory objectives

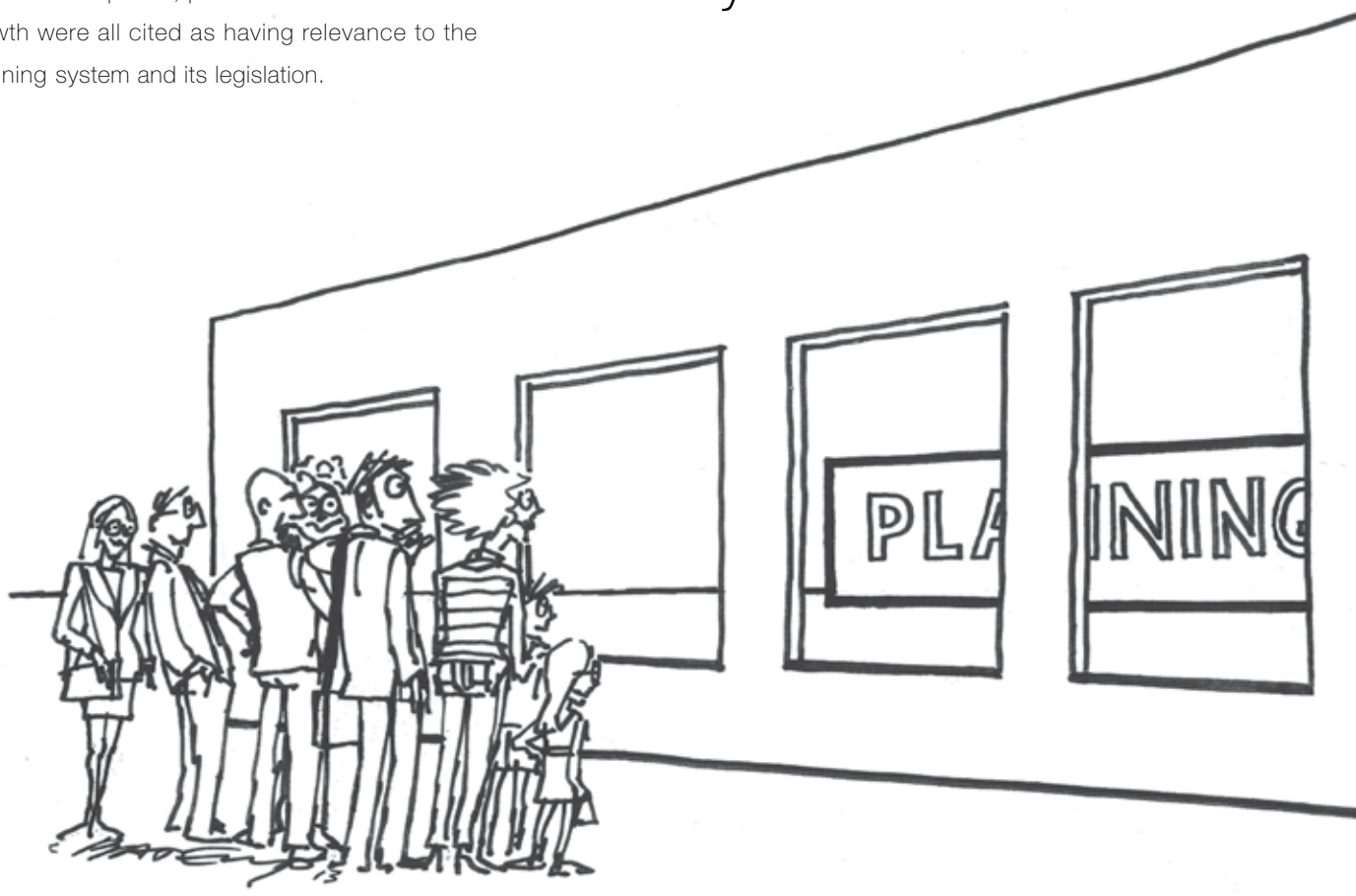
2 AIMS AND EXPECTATIONS OF PLANNING

2.1 Planning as an enabler

At the core of discussions during the panel's 'listening and scoping' phase was a debate over the purpose and goals of planning (including urban design and urban renewal), what can and should be expected of planning in general, and the role of the planning system and its legislation.

The engagement process highlighted that people look to planning as a mechanism to enable social, environmental and economic objectives to be met. Importantly, many participants pointed out that the system and its component parts were not ends in themselves but vehicles for the achievement of these wider outcomes. Diverse issues such as resource management, social change, housing affordability, cultural development, public health and economic growth were all cited as having relevance to the planning system and its legislation.

"We know what the issues are. The imperative is to act to rectify them."

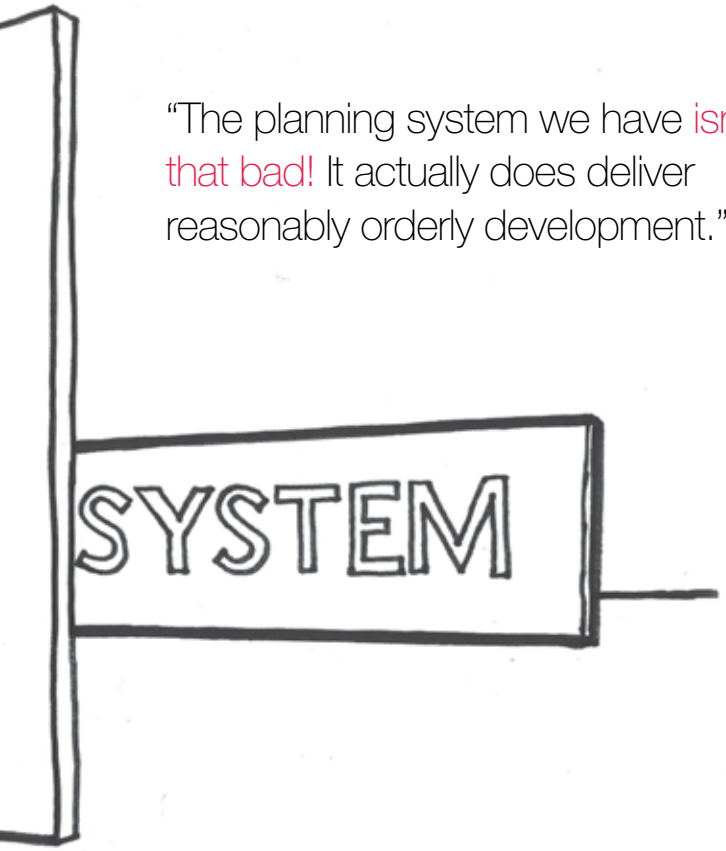


2.2 Strengths of the current system

South Australia's current planning legislation builds upon features of planning laws stretching back more than a century. Feedback suggested that many aspects of the current legislative framework were seen as strengths that should be maintained.

The panel noted that the legislation has been favourably judged by national observers including the COAG Reform Council, the Productivity Commission and various industry bodies, with the Property Council rating highly the clarity of South Australia's system in its bi-annual *Development Assessment Report Card* (last produced in 2012).

"The planning system we have isn't that bad! It actually does deliver reasonably orderly development."



Strengths of South Australia's planning system

- The straightforward legislative structure
- A focus on sustainable development outcomes
- The primacy of strategic planning
- Consolidation of development approvals under one regime
- Integration of planning and building approvals
- The 'one-stop-shop' development assessment process
- Links with other areas of legislation
- Independent assessment bodies
- The ability to undertake environmental impact assessments
- The role of professional advice
- Low-cost merit review processes

2 AIMS AND EXPECTATIONS OF PLANNING

Several submissions pointed out that there is no need to 'reinvent the wheel' when considering reform. With a range of high-level inquiries and reports into planning systems over recent years, including the 2008 review in South Australia, the panel is fortunate in having many suggestions for reform already well developed.

Some recent national and state reviews into planning systems and legislation

- Planning and Development Review Steering Committee, *Report to the Minister for Urban Development and Planning* (2008)
- Australian Government, *State of Australian Cities* (2010–2013)
- Productivity Commission, *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments* (2011)
- Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry* (2011)
- Australian Government, *Our Cities, Our Future—A National Urban Policy for a productive, sustainable and liveable future* (2011)
- Victorian Planning System Review Ministerial Advisory Committee, *Initial Report* (2011)
- COAG Reform Council, *Review of capital city strategic planning systems* (2012)
- Economic Development Board, *Major Infrastructure Funding Alternatives* (2012)
- Productivity Commission, *Performance Benchmarking of Australian Business Regulation: Role of Local Government as Regulator* (2012)
- NSW Planning System Review, *The Way Ahead: Recommendations of the NSW Planning System Review* (2012)
- Infrastructure Australia, *Infrastructure Funding and Financing Reform* (2012)
- Productivity Commission, *Major Project Development Assessment Processes* (draft report, 2013)
- Productivity Commission, *Public Infrastructure* (under way)
- Local Excellence Expert Panel, *Towards the Council of the Future* (under way)

"The system needs to look at enabling development rather than controlling development."

"There must be integration of environmental and community considerations in the planning system."

2.3 Beyond development control

While engagement revealed common support for the concept of the system as an enabler of wider policy objectives, there were differing expectations of what the system and its legislation should or could actually achieve. Practitioners were the most likely participants to see planning legislation as best focussed on development control and regulation alone. Many practitioners saw the roles of coordinating infrastructure and services and achieving environmental outcomes as beyond the scope of the system.

Community members, environmental groups and some other participants tended to regard planning as providing a foundation for a range of business and community activities—and as a result expect a legislative framework for the planning system that considers, solves or resolves a broader range of issues than development control and regulation. These groups looked for planning legislation that not only regulates development, but also helps shape and coordinate outcomes such as infrastructure, the public realm and social services.

"The current system is not well placed to reconcile competing interests."

2.4 Building blocks of the system

These views raised questions about the building blocks of the planning system and its interaction with other areas of policy activity. Feedback revealed a range of views about how the 'system' should be defined and where its legislative boundaries start and end.

For example, some suggested planning and environment laws and administration should be brought under the same policy umbrella; similar suggestions were made relating to planning, housing and infrastructure issues. Some suggested that the Development Act would be better replaced by an interrelated suite of legislation, with a range of powers beyond point-in-time development control.

Some participants noted different legislative models from other jurisdictions that may provide lessons for South Australia.

"It is a misguided notion that the only measure of an effective and credible planning system is how fast a development receives a consent."

2 AIMS AND EXPECTATIONS OF PLANNING

"The planning system should allow for and respect the challenges in attracting investment and the dynamic nature of the economy."

2.5 An investment-friendly system that promotes sustainable outcomes

A number of participants argued that the planning system is a key vehicle for investment in the state. Industry submissions called for planning legislation to provide clear mechanisms to attract investment, to be responsive to financing requirements and to be structured to maximise economic benefits through agglomeration.

However, some participants expressed concern about an overemphasis on economic issues in the system and called for these issues to be balanced against social and environmental concerns such as climate change and biodiversity protection.

The task for the panel is to respond to this feedback by designing a system that is both investment-friendly and environmentally sustainable.

With a focus on economic issues, industry argued strongly that the system should be based on a market-oriented regulatory philosophy that seeks to avoid inefficient regulation. Conversely, environment and some professional groups raised the 'precautionary principle' as being a preferable regulatory approach to managing the potential impacts of development on the environment and to minimise potential risks to human safety and health.

Balancing these two schools of thinking in the legislative framework will be a key challenge for the panel.

2.6 Tailoring the system to different parts of the state

Feedback suggested that the planning system operates very differently in different geographic parts of the state. Country councils and practitioners stated that the legislation was often seen as 'metropolitan-centric' and did not provide tools suitable for regional needs. There was a call to consider whether the legislation should operate in the same way in all parts of the state.

Similarly, some participants identified a need for better guidance as to the role of state government in parts of metropolitan Adelaide. Some felt that the planning legislation should operate differently in the city centre, for example, in recognition of its economic and cultural significance; there was also a call for the system to provide different mechanisms for the management of urban change and growth, with more structured involvement from the state in managing strategic development projects and growth areas.

"The system is too metropolitan-centric and does not adequately deal with regional planning matters and the diversity of considerations across different geographical areas."

"The legislation should be there to enable development and this should be clearly communicated to councils and staff so that they approach development proposals in a positive manner, as a facilitator not a regulator."

2.7 Statutory objectives

While there was general agreement about the role of the planning as an enabler of a range of 'triple bottom line' policy objectives, a number of submissions suggested that the existing statutory objectives do not meet contemporary needs related to these objectives.

There was some debate about the priority placed on different objectives and how the legislation should be framed to give effect to them. Environmental groups argued that the legislation's principal goal should be to support ecologically sustainable development, while industry and others argued that the legislation should be seen as underpinning housing affordability and the economic competitiveness of the state. Others pointed to liveability as a key objective.

A related matter raised was the role that the statutory objectives should play in the statutory framework, with a range of views on how they should influence different types of decision-making functions under the legislation.

"The planning system should be prompt and provide answers within timeframes to support investment decisions."

"Ecologically sustainable development principles should be incorporated across all planning policy documents and having regard to these principles should be a basic requirement of all decision makers."

‘PEOPLE FEEL THEY FIGHT REAR-GUARD ACTIONS ON LOCAL ISSUES RATHER THAN PARTICIPATING IN A DEBATE ON THE POLICY.’

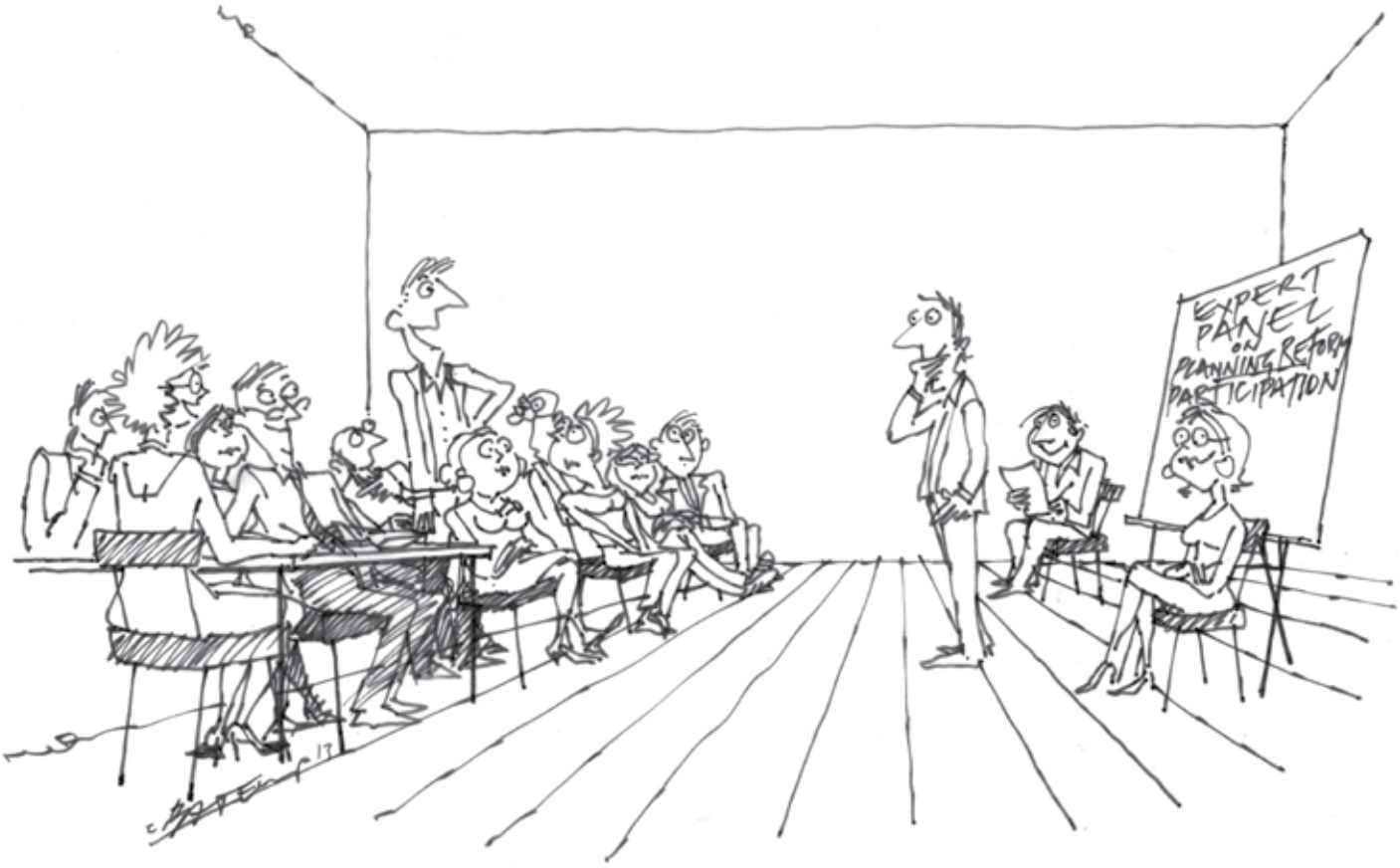
PART 3

Roles, responsibilities and participation

- Balancing state, regional and local interests
- Community inputs into planning decisions
- Inviting and enabling participation
- Political accountability and oversight
- Integrity in decision-making

3 ROLES, RESPONSIBILITIES AND PARTICIPATION

"The current system focusses on consultation rather than participation and 'buy in' from communities. Often the community is 'told' about end products or ideas but not the process involved in coming to a decision or idea."



A common thread of the panel's 'listening and scoping' phase was a desire among communities and businesses to provide meaningful input into planning decisions, and be confident that their input is considered. However, participants suggested that it can be difficult to know how and where to become involved in the planning system, particularly in relation to whole-of-state issues beyond their immediate local neighbourhoods.

Who should make planning decisions, based on what credentials and expertise, and within which sphere of government (or even outside government) were matters of discussion and debate in regional and metropolitan areas. Discussion about roles and responsibilities often led to or overlapped with debate about the desired level of community engagement in decision-making at the strategic, regional and local levels, and on individual projects.

3 ROLES, RESPONSIBILITIES AND PARTICIPATION

"A more regionalised planning system would enable a more effective use of resources and potentially improve the relationship between environmental and planning systems."

3.1 Balancing state, regional and local interests

Engagement canvassed the appropriate balance between whole-of-state priorities, regional-scale issues and the needs, desires and expectations of local communities.

Much feedback focussed on the role and relationship of the Minister, state government agencies, the Development Assessment Commission and local government in planning decisions. It pointed to a perceived lack of clarity as to which sphere of government, local or state, has what role in planning, and a desire for more collaboration at a regional level, such as through regional bodies with strategic, policy-setting and assessment functions. It was noted that for some communities close to state borders, tools for cross-border collaboration would also be desirable.

A number of local government participants highlighted the need for planning legislation that recognises and caters for the different planning needs and ambitions in country towns, suburbs and inner-urban areas. There was a view that planning in some areas of metropolitan Adelaide should be based on shared governance models between state and local government. The panel also noted suggestions that the process for adjusting local government boundaries should be linked to the planning legislation and for consideration of the role and status of local government in delivering services in ways that complement planning objectives.

As part of its engagement, the panel met with members of the Local Government Association's Local Excellence Expert Panel and noted common issues regarding state, regional and local interests in decision-making. The panel will consider this process when formalising its views on the appropriate level of regional and local involvement in the legislative framework.

See also: part 7.1 'The role of state agencies'.

Key issues raised with the panel

- The shared roles of state and local government in planning needs to be reinforced
- There is a need for a clearer delineation of state and local roles in planning legislation
- Local government wants to have greater autonomy in representing their communities, while also responding to whole-of-state needs
- The role of state agencies under the legislation is often unclear and the level of commitment varies across different portfolios
- Local government boundaries do not always align with best planning practice
- Many planning issues need to be addressed regionally, but there is a lack of effective mechanisms in the legislative framework to support regional collaboration between councils and government agencies
- Legislation does not provide mechanisms for shared governance models between state and local governments, particularly in areas of strong mutual interest
- There are few institutional spaces in the system that enable effective and ongoing dialogue among state, regional and local entities
- There are potential benefits in resource sharing that could be realised in country areas
- Government services are not always regionally aligned

"State and local responsibilities are poorly mediated—there are limited opportunities for collaboration in joint bodies where there is shared accountability."

Ideas the panel heard

- Establish targeted regional co-ordinating bodies, similar to those in New Zealand, with clear decision-making powers to allow more local changes to be made without direct state government 'sign off'
- Create legislative processes that cater for and support cross-border collaboration
- Allow local government boundary changes to be identified and acted upon through planning processes such as development plan amendments
- Establish special governance arrangements for the city area, along similar lines to the former City of Adelaide Planning Commission
- Create shared governance models in the legislation for joint state-local government involvement in managing key development projects and areas targeted for potential growth or urban renewal
- Mandate regional development assessment panels
- Introduce ways in which government services could be delivered regionally to better align with planning objectives

3 ROLES, RESPONSIBILITIES AND PARTICIPATION

3.2 Community inputs into planning decisions

The panel heard that many people across the state want to participate in discussions about planning proposals and directions, in recognition of what planning means for them, their communities, their children and subsequent generations of South Australians. However, there was a feeling that the legislation does not allow for adequate explanation of planning, its role in strategy and policy development, and the part engagement plays in various decision-making processes. This can lead to frustration for community members seeking to have their views heard.

There was agreement that public engagement and effective information provision should be central features of future planning legislation, but mixed views about the nature and extent of engagement, when it should occur, who should be included in and lead the process, and how much influence it should have. On the other hand, there was a view that an overemphasis on engagement could result in the system becoming 'log jammed'.

There was a suggestion from some community groups that statutory consultation processes, such as hearings of the Development Policy Advisory Committee, tend to invite public input when it is too late to have real impact. Some suggested that current consultation requirements—focussed on consultation on proposals that have already been developed—tended to increase, rather than alleviate, conflict.

See also: part 3.3 'Inviting and enabling participation'; part 4.4 'Who should be involved in strategic planning'; part 6.5 'Notification, consultation and representation'.

"People feel they fight rear-guard actions on local issues rather than participating in a debate on the policy."

Case study: Hearings on the Mount Barker rezoning

Community members seeking to make submissions as part of statutory consultation on the rezoning of Mount Barker reported that they found the process frustrating. The decision to identify Mount Barker as a growth area was determined through the Planning Strategy (part of a separate consultation process), so the Development Policy Advisory Committee (DPAC), which was conducting the public hearings, could not respond to those who did not want the rezoning to go ahead. Instead, the DPAC's remit, under the law, was limited to assessing whether and how the development plan amendment was consistent with the Planning Strategy.

Many people had different expectations of the statutory consultation process and wanted to have their say on why they disagreed with the strategic decision to make the town a growth area. In effect, this meant that many comments made at the public hearings could not be addressed. This reinforced a view that decisions about the area's future had already been taken, regardless of the views expressed through consultation.

Key issues raised with the panel

- There is not enough recognition that public participation is critical to successful planning outcomes
- Communities feel unable to provide input into important planning decisions under current statutory requirements
- There is a sense that statutory consultation processes tend to inflame conflict and are inherently adversarial
- Too much engagement can cause bottlenecks and create obstacles for orderly and timely development
- Opinions expressed during statutory consultation do not always reflect representative views
- Obtaining feedback early in planning stages is important, but also difficult
- The quality of engagement is often variable and can sometimes be seen as based on a 'tick a box' approach
- Community engagement can be resource-intensive
- The legislation does not provide a comprehensive statement outlining desirable of community engagement and participation processes

Ideas the panel heard

- Implement a best-practice system of community rights to participate in planning processes in the legislation, such as the NSW Community Participation Charter
- Introduce engagement early in statutory processes so it can focus on outcomes, rather than simply completing a process
- Consult with communities on different government or council plans at the same time each year to maximise public participation

3.3 Inviting and enabling participation

The panel heard that more effort should be put into finding ways to invite and enable participation in planning discussions. Many submissions suggested that the use of more innovative tools and technologies—including social and online media—would increase regular and early involvement in the formation and development of ideas and decisions. It was also suggested that to stimulate and sustain an inclusive culture, the legislation should present information about planning in clear, jargon-free language.

In addition, the panel heard that community engagement should be ongoing, easy, accessible and addressed through various channels, and that communities must be able to see how their input and feedback has affected and been incorporated into decisions. However, it was noted that care should be taken not to have unrealistic expectations of engagement, and not to assume that all those within a community speak with one 'voice'.

Some discussions raised the issues of who should be responsible for leading and undertaking engagement, in what forums, and who or what bodies should gather and consider input. Some suggested that proponent-led discussions during the early stages of a project could streamline decision-making and increase the likelihood of mutually beneficial outcomes. Some submissions pointed out that too much statutory consultation could impinge on people's aspirations for their homes, businesses and property.

See also: part 3.2 'Community inputs into planning decisions'; part 4.4 'Who should be involved in strategic planning'; part 6.5 'Notification, consultation and representation'.

"The planning system has not kept up with the community's expectations of how information can be provided."

Key issues raised with the panel

- Planning information is often difficult to access and hard to understand
- There is not enough sophisticated dialogue about planning issues across society
- Methods of public participation in the planning legislation need updating
- The legislation does not cater for the need for consultation to sometimes include more than just neighbours or local communities
- The legislation does not encourage the use of technology to foster, gather and consider community feedback
- Development proponents do not have a role in leading engagement, but are more likely to do it better for their own projects
- The legislation is too complex and the avenues for engagement are unclear
- Some issues require 'long conversations', but these can be hampered by the political cycle and legislative constraints
- The planning system does not make enough use of institutional forums and spaces to support ongoing discussion about planning issues and initiatives

"If I didn't actively look for what might be happening, I would never hear about it."

"It is very difficult to define or support community engagement in the planning system—dealing with people's expectations, but also generating interest in the process. Statutory engagement processes result in a 'tick the box' approach to engagement."

Ideas the panel heard

- Find ways to encourage greater input from social, business and research institutions into ongoing debate about planning and development matters
- Create an online planning portal, backed up by legislation, containing all relevant information about planning and development issues
- Engagement for larger-scale development applications that will have a significant impact on the surrounding areas should be more innovative
- The legislation should recognise various forms of engagement, such as design workshops, charettes and citizen juries
- Use on-site notices and information (similar to those required for liquor licensing applications) and recognise these in the legislative framework
- Provide incentives for active engagement by development proponents in legislation
- Frame legislation to provide straightforward information so community members can navigate the planning legislation and system
- Provide greater legislative recognition for the use of community engagement experts

3.4 Political accountability and oversight

The role of elected politicians—state, local and federal—in planning decisions was a topic that arose repeatedly. However, views about political involvement in and the public accountability of elected officials for planning decisions were often mixed.

Media commentary about the role of elected officials on development assessment panels (DAPs) was noted. The engagement process revealed that some participants felt that DAP decisions should be entirely apolitical, while others suggested elected representatives brought important perspectives to individual development decisions.

At what stages politicians should have influence over statutory decisions was an issue of frequent discussion, most frequently in relation to DAPs but also in other decision-making contexts. Some suggested that local and state politicians should be primarily focussed on formulating strategy and policy, rather than contributing to individual development decisions by assessment bodies.

3 ROLES, RESPONSIBILITIES AND PARTICIPATION

"Political processes do not encourage long-term vision—just short-term project delivery."

A number of submissions raised questions about the extent of statutory powers provided to the Minister—such as powers over rezoning, interim operation and major projects—and canvassed a range of alternatives. It was evident that statutory decisions by Ministers were sometimes seen as unwelcome or unwarranted interventions. There was discussion of whether all state responsibilities should lie with the Minister, or whether that arrangement presents too narrow a basis for effective, timely and transparent decision-making.

Feedback also touched on the role of parliament in scrutinising and reviewing decisions taken under planning legislation. Some regarded the current oversight requirements by parliament's Environment, Resources and Development Committee to be inadequate, while others were cautious about adding new obligations that could extend existing timeframes.

See also: part 3.6 'Integrity in decision-making'; part 5.4 'Transparent processes for changes to planning frameworks'; part 6.6 'Who should make assessment decisions'.

"I find it difficult as a professional to be able to give advice to owners/builders as you can never guess what council is going to do."

Key issues raised with the panel

- Politicians have too many, and sometimes conflicting, roles under existing planning legislation
- Elected representatives can bring valuable input into assessment decisions, but can also be seen as compromising unbiased decisions
- Politicians do not always act on the basis of recommendations and expert advice
- Elected officials sometimes have limited knowledge or unrealistic expectations of the planning system and its legislation
- The Minister is seen as having too many unfettered powers in the legislation (although some see these powers as important in breaking 'log jams')
- The processes for Ministerial decisions can be unclear and are often based on wide statutory discretions
- In smaller communities, the multiple roles of elected representatives can create tension and be difficult to discharge
- Decision-making bodies should be seen as broadly representative and should be informed by consultative forums and processes

Ideas the panel heard

- Establish an independent planning commission in the legislative framework to provide leadership and a less political role over planning, development and infrastructure
- Provide a greater role for parliament in reviewing planning decisions, particularly strategic policies, and make the process more effective
- Tighten the statutory discretions available to the Minister in relation to major projects and development plan amendments or require greater transparency in their use
- Allow for project-specific planning inquiries or advisory panels to be established, similar to the Victorian system, to conduct hearings into specific matters as required
- Establish statutory advisory forums to inform planning decisions
- Provide the Minister with the power to veto a development if it presents a social or environmental risk, but not to approve a development
- Expand the membership of the Development Policy Advisory Committee to include representatives of groups with specific needs and agendas
- Introduce or expand planning training for elected representatives
- Provide alternative ways for elected councillors to provide input into assessment decisions other than being members on assessment panels

"Political decision-making in development decisions removes certainty."

3.5 The role and influence of professional expertise

Many planning decisions are complex and rely upon expert technical assessment and advice. The panel heard that professionals from a diverse range of disciplines operating within the planning system bring valuable knowledge and experience to decision-making processes. However, the place of these professionals, and the demarcation of their roles from those of elected officials, was highlighted as being sometimes unclear under existing legislation.

Some feedback suggested professionals are not adequately empowered within existing decision-making frameworks to effectively exercise their expert judgment. In addition to assessment functions, there was a call for expert inputs as a necessary complement to evidence-based policy development; some suggested there could be a greater role in the legislative framework for professional sign-off on strategy and policy-making functions.

See also: part 3.6 'Integrity in decision-making'; 6.6 'Who should make assessment decisions'; part 7.5 'A customer-focussed culture'.

3 ROLES, RESPONSIBILITIES AND PARTICIPATION

Some professionals involved in the planning system

Academics
Acoustic engineers
Architects
Builders
Building surveyors
Demographers
Economists
Engineers
Environmental consultants
Heritage consultants
Landscape architects
Lawyers
Planners
Project managers
Public policy analysts
Researchers
Spatial analysts
Structural engineers
Surveyors
Traffic engineers
Transport planners
Urban designers

Key issues raised with the panel

- Professionals within the system feel disempowered by the decision-making culture and do not think the system makes the most of their expertise or values their input
- There is a need for more decisions to be guided by professional expertise rather than political factors
- Professional advice can be vulnerable to being overruled or questioned by politicians
- There is a need for greater delegation of functions, powers and authority to professionals within the system
- Auditing, accreditation and training of professionals all need to be improved

Ideas the panel heard

- Ensure that only appropriately skilled and qualified professionals engage in development assessment
- Establish mechanisms for professional accreditation and continuing education to be recognised in planning legislation
- Provide greater levels of delegations to staff in the planning legislation
- Expand the role of professional advice and certification in assessment decisions
- Balance the role of professionals against the role of elected representatives
- Strengthen non-political mechanisms in the legislative framework to generate expert advice to inform planning decisions
- Give permission to planners to think more creatively and work more innovatively
- Improve links to academia to support research into planning issues

"The system does not enable planning professionals to develop experience or make informed decisions truly on merit."

3.6 Integrity in decision-making

The panel heard concerns that planning decisions appear to be made 'behind closed doors', with limited access available to members of the community. The legislation does not always require or permit the rationale for decisions to be explained and this is seen to erode confidence in the decision-making process.

There was a suggestion that in regional areas, where the availability of fewer people for decision-making processes means those who do make decisions may have overlapping areas of interest—such as business and local government, or local government and community groups—there may be real or perceived conflicts of interest. For example, some councillors, particularly in regional areas, alluded to the difficulty in conducting their elected duties and serving as unbiased members of development assessment panels.

See also: part 3.4 'Political accountability and oversight'; 6.6 'Who should make assessment decisions'; part 3.5 'The role and influence of professional expertise'; part 7.5 'A customer-focussed culture'.

Key issues raised with the panel

- Perceived and real conflicts of interest can compromise confidence in planning decisions
- There is a concern about statutory planning decisions being seen to be happening 'behind closed doors'
- The system must enable matters of detail to be discussed confidentially, especially where they involve sensitive commercial or other information
- The rationale or basis for statutory decisions is often not clearly enunciated
- Professional staff in the planning system feel their integrity is often under question
- There are insufficient mechanisms to deal with complaints of bias or conflict of interest

"Public servants and planners are increasingly risk averse and there is no reward for the provision of frank and fearless advice in this constrained environment."

Ideas the panel heard

- Establish a 'planning ombudsman' to hear complaints and planning processes
- Mandate the accessibility of plans and supporting documents accompanying a development application, so that any person can access the same information as the decision maker
- Require decision makers to provide clear explanations for their decisions
- Establish within the legislative framework clear processes and guidelines for managing conflicts of interest
- Review opportunities for discretionary decision-making under existing statutory arrangements

"Pressure, influence and personal relationships often have too much impact on assessment timeframes and development outcomes."

“STRATEGIC PLANS SHOULD BE **VISIONARY** AND INNOVATION SHOULD BE ENCOURAGED.”

PART 4

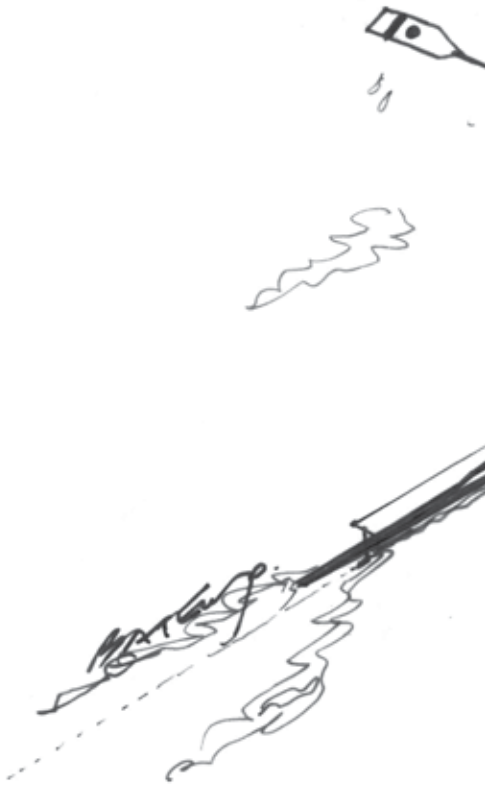
Setting directions and coordinating outcomes

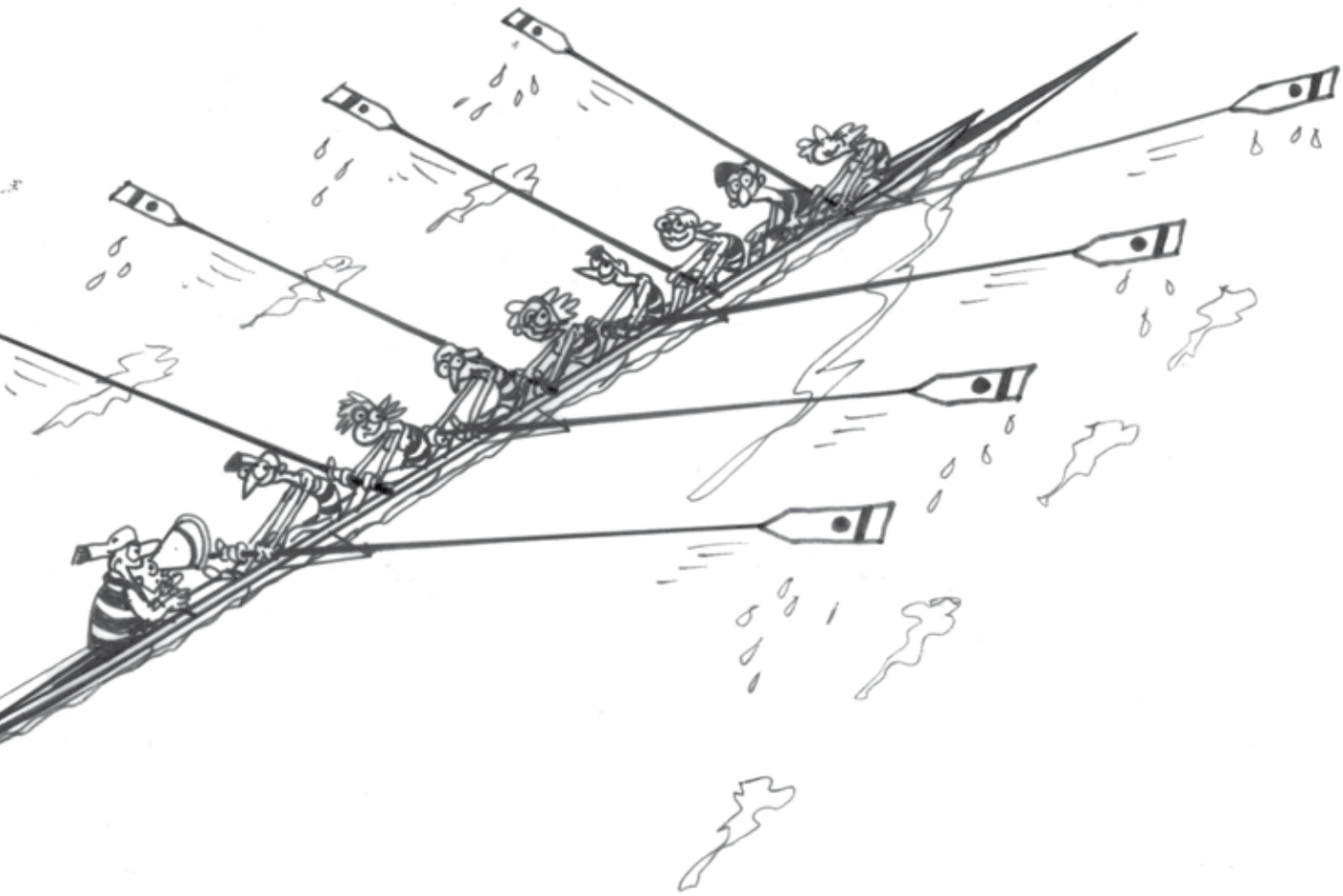
- Setting clear goals and priorities
- Triple bottom line thinking
- Linking strategic policies and directions
- Who should be involved in strategic planning
- Implementing strategic directions
- Planning and delivering infrastructure
- Understanding trends and monitoring performance

4 SETTING DIRECTIONS AND COORDINATING OUTCOMES

Planning is, by definition, a future-focussed activity that identifies, weighs and prioritises options and actions to support urban and regional development. South Australia has several strategies across government that establish social, economic and environmental ambitions; however, the panel heard that the implementation of these plans at times can cause confusion through conflicting targets and objectives. Feedback indicated a desire for continual monitoring and auditing of the progress of plans and how they support common state, regional and community objectives.

Governments have various tools to deliver spatial planning objectives at a local scale, including development plans that outline the type of development that can occur in a specific local government area. However, the provision of public infrastructure and community services in that area is also significant in achieving strategic outcomes and creating places that fulfil community needs. The funding and rollout of roads, public transport networks, utilities, schools and hospitals, and other infrastructure are critical to building and shaping communities; however, there were suggestions that planning for this infrastructure is not always apparent or clear, and that the roles and responsibilities of the private and public sector in preparing for and providing this infrastructure are not clearly recognised in legislation.





4 SETTING DIRECTIONS AND COORDINATING OUTCOMES

4.1 Setting clear goals and priorities

Strategic planning enables governments and communities to set clear, visionary goals, priorities and targets for the state and particular regions within the state.

Under the existing planning legislation, the volumes of the Planning Strategy establish broad objectives and policy directions. Volumes of the strategy have become more detailed over time, with the inclusion of increasingly specific geographic policies, targets and milestones. However, engagement indicated that the legislation does not clearly outline these emerging features and many of the practices underpinning strategic planning. It was suggested that more prescriptive legislative guidelines would provide valuable guidance for councils, agencies and practitioners.

Discussion indicated that the Planning Strategy works as a high-level statement of directions, but that councils and agencies lack guidance in translating it into action at the regional or local level, in framing policies and rules that would deliver on its directions, and in balancing statewide objectives while addressing their specific needs in different local contexts. Some considered that legislation could provide better ways for the use of targets and deadlines.

See also: part 4.2 'Triple bottom line thinking'; part 4.3 'Linking strategic policies and directions'.

"We have the lost the ability to do a simple, clear town plan."

Key issues raised with the panel

- The Planning Strategy is not implemented consistently across councils
- The Planning Strategy has become complicated and would be better broken down into a suite of interrelated instruments
- It is difficult to translate the Planning Strategy into clear local policy directions
- The evidence and assumptions required to support strategic planning decisions are not clearly spelled out in the legislation
- Strategic plans are often presented as a fait accompli, but should be more flexible in their development

Ideas the panel heard

- Keep the Planning Strategy as an expression of government policy, but provide certainty on the tools that will be used to bridge the gap between it and development plans
- Some elements of the Planning Strategy should be able to be changed more frequently by administrative means, while high-level directions should remain subject to political oversight
- Establish an independent non-political (or bipartisan) committee to ensure that long-term strategies stay intact and are implemented
- Improve spatial representation and visualisation of strategic plan objectives
- Clearly explain the differences between policies, objectives, targets and milestones in strategic planning documents

4.2 Triple bottom line thinking

A number of participants called for strategic planning to place greater emphasis on 'triple bottom line' considerations. These considerations included issues such as housing affordability and cost of living, environmental concerns, infrastructure, cultural development, economic development, employment, transport and travel patterns, health, wellbeing, recreation and social services.

Some community and environmental groups suggested that current strategic planning practice puts too much emphasis on economic outcomes at the expense of social and environmental concerns. Conversely, industry groups and regional councils argued strongly for the planning legislation to focus on facilitating economic growth and for strategic plans to operate as key economic enablers for the state.

There was also a suggestion that the legislation does not require regular analysis and modelling to inform strategic planning. There was a suggestion that impact assessment should be a requirement of strategic planning processes and that legislation should mandate the monitoring of planning objectives and impacts.

See also: part 4.1 'Setting clear goals and priorities'; part 4.3 'Linking strategic policies and directions'; part 6.10 'Assessing significant impacts'.

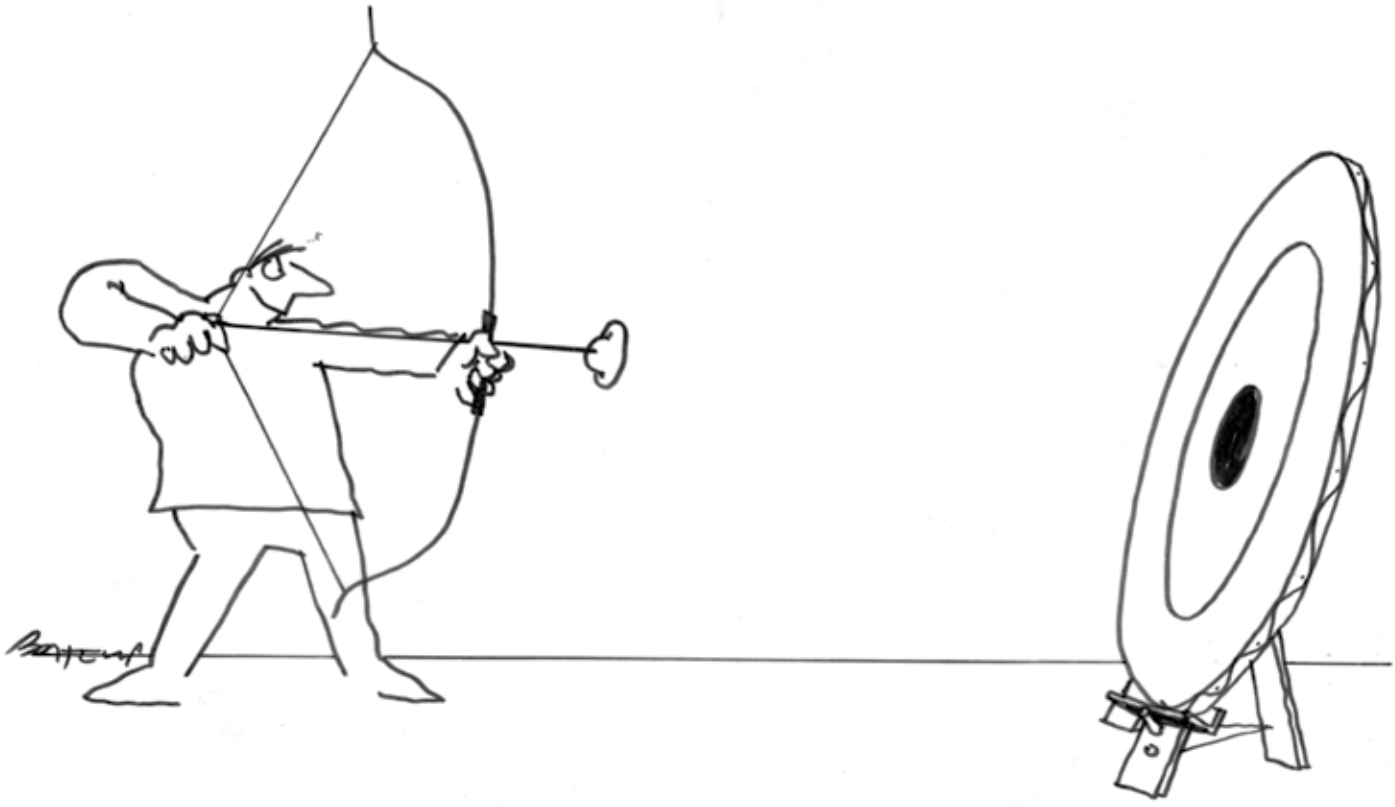
Key issues raised with the panel

- Strategic planning does not incorporate environmental or social concerns adequately
- There has been an overemphasis on economic goals, at the cost of other important community goals
- There is not enough economic awareness demonstrated in strategic planning processes
- Strategic plans should be legislatively integrated with environmental policies and infrastructure plans
- There is not enough emphasis on employment, investment and industrial development
- Housing issues such as affordability are recognised but not strongly embedded in the legislative process for strategic planning
- The legislative processes for conducting impact assessments of strategic plans is unclear and variable
- Monitoring of economic, social and environmental outcomes of strategic plans is poorly articulated in the legislative framework
- Integration of transport issues as part of strategic planning needs improvement

Ideas the panel heard

- Include impact assessment as a basic requirement for strategic planning
- Ensure that the legislative framework supports a progressive build up of information prior to the re-development of each Planning Strategy, so that the process does not start with a 'blank slate'
- Establish a single integrated regional plan, with the Natural Resources Management Plan, land use plans, transport plans, etc, forming chapters
- Improve the integration of housing, urban renewal and planning in legislative processes for strategic planning
- Improve legislative requirements for auditing and monitoring of the environmental and economic performance of strategic plans

"There has been a history where development, economic and political interests have held sway over environmental concerns."



4.3 Linking strategic policies and directions

Feedback from many councils and practitioners, and also environment-sector bodies, pointed to the absence of a clear statutory relationship between relevant state plans. Conflicting policies were cited as creating tension and confusion for councils, practitioners and agencies in delivering effective land use outcomes.

For example, people cited *South Australia's Strategic Plan* and queried how it relates to the Planning Strategy; likewise, they expressed confusion over how Planning Strategy objectives should be considered alongside the aims of other government plans such as those for natural resource management, housing, transport and infrastructure. Feedback suggested that there should be greater legislative clarity around the interrelationship between these and other government plans.

See also: part 4.1 'Setting clear goals and priorities'; 4.2 'Triple bottom line thinking'.

Legislation requiring local government to undertake strategic planning

Development Act
Dog and Cat Management Act
Environment Protection Act
Fire and Emergency Services Act
Food Act
Local Government Act
Natural Resources Management Act
Public Health Act

Government strategies and plans relevant to planning

South Australia's Strategic Plan
Climate Change Adaptation Framework for South Australia
Housing Plan for South Australia
Integrated Transport and Land Use Plan
Murray Darling Basin Plans
Natural Resources Management Plan
No Species Loss Strategy
Road Safety Plans
Strategic Infrastructure Plan for South Australia
Tackling Climate Change: South Australia's Greenhouse Strategy
Water for Good

The issues seem to be particularly acute for councils in country areas, where strategy-related legislative obligations and national layers of policy affecting councils were described by some as having become complicated and onerous. Potential solutions included greater collaboration between councils, creating policies and plans that include related objectives for a range of agencies, and establishing clear hierarchies between and within government legislation and objectives.

"Motherhood statements don't deliver policy outcomes."

4 SETTING DIRECTIONS AND COORDINATING OUTCOMES

"There would be value in the system ensuring that political influence is greatest at the strategy stage of the system and diminishes at the later stages of the system around development assessment."

Key issues raised with the panel

- Government strategies, plans and policies are poorly aligned and sometimes conflicting
- It is unclear how other strategies, plans and policies should interact with the Planning Strategy or which plan takes precedence at any point in time
- The processes by which different strategies, plans and policies are developed, approved, monitored and updated vary substantially
- Councils and communities, particularly in regional South Australia, sometimes feel 'over consulted' on government strategies and plans
- Councils are confused about how to implement some government policies and plans
- Councils feel many planning obligations to be burdensome and sense a 'silo' approach to state objectives within government agencies
- There need to be better communication and explanation of the relationship between different government policies and the planning system
- Region-based collaboration between councils and agencies, mandated by legislation, will accelerate the adoption of integrated plans

Ideas the panel heard

- Provide a statutory hierarchy of statewide plans and strategies so the relationships between them are clear
- Improve links between government agencies in strategic planning
- Review and rationalise legislative obligations on local government to undertake strategic planning
- Align statewide strategic plan consultation processes so communities can see the bigger picture and to avoid 'consultation fatigue'
- Use regional collaboration to integrate various state government plans
- Enable the Planning Strategy to be updated more easily to reflect changes in other government policies or initiatives

"A lack of a strong central vision means councils end up with very disparate policies."

4.4 Who should be involved in strategic planning

The panel heard appreciation for the positive effects of sustained public involvement in discussions about long-term, 'big picture' planning issues, but there was a noted difficulty in attracting public input in high-level strategy and policy setting. The statutory consultation requirements for strategic planning were described as vague and open-ended.

Feedback suggested that the Planning Strategy and other government plans, as high-level documents, are conceptually challenging. It was pointed out that the complexity of the material provides little opportunity for local and individual involvement in establishing the issues, or ways to address these issues, during the formation of strategy, and in understanding the implications for local neighbourhoods.

The potential for input from academics, researchers, and other independent, credible sources in developing whole-of-government strategy and policy was highlighted, as was the potential for embedding in legislation more involvement by representative bodies, business and community institutions in high-level strategic planning.

It was also pointed out that as the Planning Strategy's policies have become more detailed, the issue of who should make and be responsible for decisions has become more acute. The role of parliamentary involvement in strategic planning was highlighted as an area for further investigation.

See also: part 3.2 'Community inputs into planning decisions'; part 3.3 'Inviting and enabling participation'; part 6.10 'Assessing significant impacts'.

"Engagement should start at the strategy stage of any planning process, not the end."

Key issues raised with the panel

- It is difficult to get people involved in discussions about high-level strategy and direction-setting
- The legislative framework should require more effort in inviting public participation in strategy-setting
- There is no clear role for parliament in the Planning Strategy
- The legislation does not prescribe clear consultation requirements for strategic planning
- Under current legislation, strategic plans are largely seen as political documents
- The evidence and assumptions underpinning strategic plans can be unclear and contested
- The role of the Premier and Cabinet in strategic planning is not always clear

4 SETTING DIRECTIONS AND COORDINATING OUTCOMES

"The terminology around planning tools is continually changing (e.g. the use of 'structure plans', 'master plans' and 'precinct plans'). This causes confusion and inefficiencies and slows strategies."

Ideas the panel heard

- Parliament should have a greater role in 'owning' strategic planning directions
- There needs to be sustained dialogue with communities about strategic plans and the evidence and assumptions underpinning key directions
- Planning Strategy materials should be more engaging and visual so they are more accessible to communities
- There should be a balance between the role of strategic plans as political documents and the need for them to be based on technical advice and inputs
- Strategic plans should have long-term horizons and should be capable of spanning political cycles
- Formalise the role of the Premier in superintending strategic planning processes

4.5 Implementing strategic directions

Problems were highlighted in attempting to implement broad statewide plans, objectives and targets at a local level. Feedback suggested that there is a wide gap between the whole-of-government policies expressed in the Planning Strategy and other government strategic plans, and local development plans.

Councils and practitioners told of difficulties in translating broad policies for local use. There was also suggestion of a tendency for restrictive rather than enabling interpretation of strategic planning policies. Additionally, the impact of other statutory and non-statutory government plans was seen as a confounding factor.

Some respondents suggested that legislative tools should be introduced to bridge the gap between statewide planning policies and local plans, including giving statutory status to documents already commonly used in planning practice such as structure plans and urban design frameworks. It was pointed out that a greater range of tools would enable more effective integration of planning, housing, infrastructure and environmental policies at appropriate scales.

Interest in regional plans was particularly marked in some country areas, where there is a belief that current regional volumes of the Planning Strategy are not as detailed or as future focussed as the metropolitan volume and are regarded as a poor fit for specific community needs.

See also: part 7.3 'Aligning funding and budgets'.

Key issues raised with the panel

- The legislation does not provide sufficient tools to translate statewide strategic plans to local communities
- The legislation does not recognise many strategic planning practices that are commonly used by councils, practitioners and agencies
- There is limited statutory guidance as to the content, format or structure of various types of strategic planning documents
- There is confusion about the role and terminology of various types of strategic plans
- There is not enough emphasis on strategic planning at a regional scale in the planning legislation

Ideas the panel heard

- Create a clearer cascade of strategic and regulatory planning documents, to ensure that needs and impacts are catered for at appropriate scales
- Provide statutory recognition of structure plans, urban design frameworks, open space strategies, master plans and other similar planning documents
- Require regional plans to coordinate region-wide planning issues and provide greater guidance to councils and service delivery agencies in implementing strategic plans
- Make the Planning Strategy more focussed in its language, policies, targets and actions

"High-level principles are not sufficient to guide on-the-ground policy development."

4.6 Planning and delivering infrastructure

Feedback during the panel's 'listening and scoping' phase emphasised the importance of planning for infrastructure and services to match the development of urban land, and that such planning should predict and allow for the timeframes required to introduce major infrastructure. The panel heard from councils and practitioners that the current legislative framework provides limited direction for how different types of infrastructure—items such as pipes, ports and roads on the one hand, and social services and parks and public spaces on the other—are prepared for and delivered over time. Industry expressed concerns about the use of augmentation charges, imposed under different legislation, for servicing new development.

It was suggested that coordinated delivery of infrastructure would require the development of new funding models, with credible statutory governance arrangements—funding models requiring those who financially benefit from investment in an area's redevelopment to contribute proportionately to the costs of infrastructure and services for the community inhabiting that area. Ideas canvassed included development contributions, levies and infrastructure bonds.

4 SETTING DIRECTIONS AND COORDINATING OUTCOMES

The panel is aware of work undertaken by the Economic Development Board examining the issues relating to neighbourhood infrastructure and notes that the government has mooted, as part of its draft transport plan, value-capture funding and financing models for significant transport infrastructure. The panel will also have regard to the recently initiated national inquiry by the Productivity Commission into infrastructure funding and financing.

There was recognition that private, semi-private and not-for-profit organisations now have significant roles in planning for and delivering infrastructure—sometimes instead of government and sometimes in public-private partnerships. However, the legislative framework does not yet account for this change; submissions suggested that reform should address these increasingly common arrangements.

See also: part 7.3 'Aligning funding and budgets'.

Examples of infrastructure funding mechanisms

Development bonuses
Development contributions
General revenue—federal or state
Government loan guarantees
Improvement schemes
Infrastructure bonds
Innovative rating schemes
Parking levies
Public-private partnerships
Sale/lease of air rights
Sale/lease of surplus government land
Special rates
Tax incentives
Tax increment financing
Transferable development rights
Urban betterment levies
Value capture

Source: Consult Australia

'A fair and transparent methodology for determining infrastructure planning and funding is critical to the continued supply of land for urban development and maintaining housing affordability.'

Key issues raised with the panel

- State infrastructure and planning laws do not adequately recognise or relate to various complex national systems and laws
- First-home buyers should not bear the full costs of new infrastructure
- There is no clear obligation for government or private sector infrastructure providers to plan to support urban growth, development or redevelopment
- Lack of clear statutory policies and frameworks for infrastructure is inhibiting commercial investment and urban development
- Infrastructure funding frameworks do not provide investment vehicles for private capital
- Government's role in coordinating and delivering infrastructure is not always supported by the interaction of planning with other legislation
- Infrastructure plans do not clearly feed into state and local government budget processes
- Councils need better legislative powers to negotiate funding contributions by developers to local infrastructure
- Mechanisms to enable debt financing of infrastructure are underused and poorly designed

- There are no value-capture mechanisms within the legislative framework that could be used to fund and finance necessary infrastructure
- Legislation does not recognise the timeframes needed for effective infrastructure planning, which are typically 10–15 year horizons
- Major infrastructure projects often pay the maximum fee of $200,000 for development assessment, which is passed on to the public through bills

Ideas the panel heard

- Introduce into legislation a method for equitable, fair and proportionate sharing of funding for key infrastructure
- Infrastructure funding should be separate from, but linked to, the planning and assessment system
- Establish a high level, independent body within state government with the power to assess, plan, coordinate, fund and deliver core infrastructure to support planning and development objectives
- Plan and budget over the longer term to ensure a 15-year supply of land for urban development can be serviced in a timely manner
- Accept innovative and traditional infrastructure finance models to facilitate new projects
- Establish staging plans in legislation to organise infrastructure and incorporate a program of land release within the Planning Strategy
- Ensure service authorities provide infrastructure to new developments at minimal cost and at a price that does not disadvantage new home buyers
- Prepare and update in a timely manner a public transport plan for each growth area so appropriate transport services support future community requirements
- Recognise the structure planning process in legislation, enabling development and infrastructure to be coordinated up-front
- Develop a 'carrot and stick' approach to ensure infrastructure provision, through taxation incentives or bonus schemes
- Look at spreading the windfall from land upzoning, for example benefit taxing on rezoning
- Extend cost-recovery mechanisms available in local government legislation to include capital augmentation levies and fees on development applications
- Change the emphasis and build a joint venture culture with developers to share the costs of infrastructure requirements
- Introduce a regional services levy or a sharing of council taxes to fund community infrastructure and public realm improvements

"There needs to be a stronger link between planning and infrastructure."

4 SETTING DIRECTIONS AND COORDINATING OUTCOMES

4.7 Understanding trends and monitoring performance

It was clear that some sectors of the community are unsure of the reasons for, and doubt the evidence underpinning, some strategic planning decisions.

For example, there was reluctance by some to accept official population and demographic projections, or the evidence pointing to the implications of slower population growth on people's livelihoods and the communities in which they will reside as older South Australians. Similarly, many did not understand or have confidence in the various development scenarios, environmental analysis and transport modelling that inform strategic plans.

Feedback suggested there is also confusion in some sectors about the auditing, monitoring and revision cycle associated with strategic planning across government and in relation to the Planning Strategy. There was a call for greater scenario modelling, benchmarking of outcomes and active monitoring of policy roll-out by councils and government agencies.

The panel heard that some individuals find it difficult to access detailed background information—such as economic modelling, technical reports and the like—and there was a desire for the legislative framework to recognise the need for regular monitoring and analysis of performance and for statistical trends to be provided or verified through apolitical channels.

See also: part 6.12 'Monitoring, compliance and enforcement'.

"Strategic planning projects need to have more prescriptive guidelines to help the community understand the goals of urban development."

Key issues raised with the panel

- Legislation is silent on what evidence should support strategic planning and what frameworks should be in place to monitor trends and performance
- There is not enough environmental analysis informing strategic planning decisions
- Monitoring of housing and land supply trends is critical and should be better recognised in the legislative framework
- Legislation should improve performance monitoring of strategic plans
- There is not enough benchmarking of strategic outcomes expected under the legislation
- There is insufficient follow-through to monitor progress by councils and government agencies in the implementation of strategic directions

"A major strategic issue is the system's failure to adequately consider the cumulative environmental impacts of an individual proposal or a number of proposals over a larger geographic area."

Ideas the panel heard

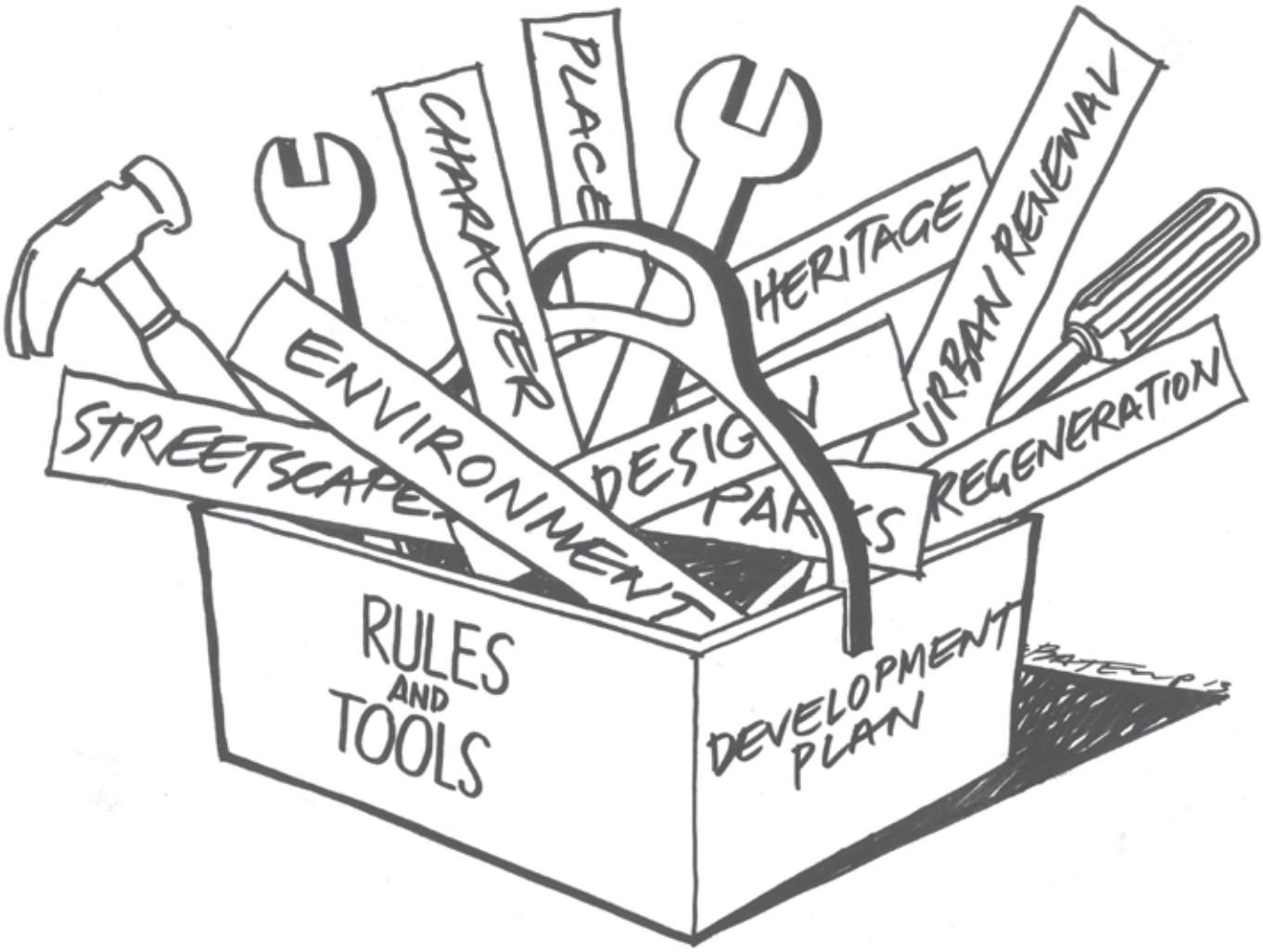
- Explore options for key data, such as population projections, to be issued by an independent bureau of statistics or independently verified outside government
- Establish an ongoing research program into planning issues, in collaboration with the university sector
- The legislation should require more scenario modelling, benchmarking and implementation monitoring of strategic directions
- Require key performance metrics for strategic plans to be identified upfront
- Provide clearly independent auditing processes for strategic plans in the legislative framework
- Create better links in the performance monitoring of strategic plans across government
- Embed housing affordability and land supply monitoring in the legislative framework

“THE PLANNING SYSTEM IS TOO COMPLICATED— IT IS TOO HARD TO UNDERSTAND, AND HAS TOO MANY LENGTHY DOCUMENTS.”

PART 5

Planning rules, tools and frameworks

- Consistent rules across the state
- Clear rules that promote certainty
- Maintaining and updating rules and frameworks
- Transparent processes for changes to planning frameworks
- Focussing on place and urban design
- Maintaining character and heritage
- Parks, streetscapes and urban greenery
- Urban renewal and regeneration



"Development plans create an 'us' and 'them' approach—those who understand them, and have contacts within the industry, and those who don't."

"The planning system is too complicated—it is too hard to understand, and has too many lengthy documents."

Entities and individuals who are required to understand the rules and policies applying to planning, development, urban design and urban renewal—including communities, councils and practitioners, and businesses and developers—criticised the current legislative framework for the planning system from their own perspectives and with different but often overlapping concerns.

The clarity of planning policy and development plans, and the consistency with which planning tools can be and are applied, were frequently addressed issues. Forums across the state highlighted frustration with multiple pieces of legislation that are seen to permit a proliferation of requirements affecting the use and development of land, infrastructure and the public realm but are not clear about how these requirements should be considered and applied.

Many considered that the legislation does not provide the 'fit for purpose' tools needed to create and shape places and neighbourhoods. The challenges of urban renewal, the role of design and place-making, and the desire for high-quality public places prompted conversations about what tools could be developed to supplement, or replace, the development plan.

5.1 Consistent rules across the state

Feedback from individuals, councils, practitioners and project proponents told of a confusing proliferation of plans, policies and zones, and about how these are apparently applied inconsistently across council boundaries.

Issues included questions of consistency of application across 72 development plans containing 22,000 pages (including maps and planning policies) and between 600 and 1,000 zones; the manner in which the policies are expressed; and confusion about the relationship between regulations, development plan policies, building rules, guidelines, advisory notices and the policies and practices of other regulators. These issues were seen to create interpretative uncertainty. While there were calls for greater standardisation of planning requirements across the state, there was also concern that the ability of councils to respond to local needs should not be compromised by overly restrictive state-led policy settings.

5 PLANNING RULES, TOOLS AND FRAMEWORKS

Some councils and practitioners reflected that the 'Better Development Plans' program (now known as the South Australian Planning Policy Library) is valued for its guidance in achieving greater consistency, but that it is hampered by a lack of legislative recognition. Others indicated that they believe planning policy should be distinct for different communities to reflect and cater for local circumstances and requirements.

See also: part 5.2 'Clear rules that promote certainty'; part 5.3 'Maintaining and updating rules and frameworks'; part 5.4 'Transparent processes for changes to planning frameworks'; part 7.4 'Using and providing for technology'.

'Better Development Plans' program

The 'Better Development Plans' program was introduced in 2002 as a good-practice guide for councils in updating their development plans. Adoption of the 'policy library' was voluntary; however, the state government encouraged councils to adopt the zones and format outlined in the program as easy to read, follow and use. Almost two-thirds of councils have adopted the policy library zones since the scheme was established, but few are up-to-date with the revised versions as each update requires a full development plan amendment.

Key issues raised with the panel

- There are too many policy variations across the state's 72 development plans
- Development plans are seen as repetitive
- Differences from one area to another can be difficult to identify
- Local need should be able to be addressed through local variations
- The wide variety of planning policies complicates timely rezoning processes
- The level of inconsistency and uncertainty negatively affects investment and housing affordability
- The notion of the development plan as a 'single point of truth' for planning policy is unrealistic
- Many local policy variations in development plans may be 'legacy' issues
- Development plans may not be the best mechanisms to help local communities shape their neighbourhoods
- Basing development plans on council boundaries has resulted in too many development plans for the state and many policy duplications
- National building rules can result in unintended consequences when applied in South Australia

Ideas the panel heard

- Standardise zoning and enable standard zones to automatically take effect
- Develop a 'master development plan' that contains standard policies across the whole state that must be adhered to
- Enable local variation to be allowed within defined parameters
- Introduce legislative incentives for councils to regionalise development plans
- Mandate the adoption and automatic updating of a central policy register to reduce the time and complexity involved in rezoning
- Use technology to improve access to complex planning and development information
- Provide flexibility for local councils to address character issues
- Provide legislative recognition of state planning policies

- Provide clear identification of local variations in development plans
- Recognise planning documents such as community master plans and urban design frameworks to address local community needs

5.2 Clear rules that promote certainty

The panel heard that development plans are viewed by some as a set of rules but, in practice, are applied as guidelines in ways that are seen as uncertain, discretionary and unclear. One participant described development plans as 'convoluted, cumbersome, complex, repetitive, confusing and contradictory'. The panel heard this can put pressure on development costs and frustrate broader land supply and housing affordability objectives.

The panel heard that the current focus of the legislative framework on applying planning policy on an 'on balance' basis means that a practitioner, when assessing an application, has to refer to and form a balanced judgment of many different policies within a development plan. The panel heard this allows for different interpretations and so can lead to an unhelpful and frustrating unpredictability in development application outcomes. It was suggested this degree of discretion enabled assessment officers or bodies to make decisions that are seen as 'petty', inflexible or unreasonable. On the other hand, many expressed the view that what was described as a 'tick a box' approach to the application of development plan policy is too restrictive to accommodate site-specific considerations.

Some contrasted this to the clarity and certainty of building rules and called for the structure and format of development plans to be dramatically reshaped by the legislation—and for a strong commitment to plain language. Industry called for many more complying standards to be a feature of planning policy; however, many councils and practitioners criticised the government's attempt to achieve this through what was seen as a poorly implemented code for residential development housed in 'legalistic' regulations.

'Development plans are open to liberal interpretation.'

Indeed, many councils and practitioners expressed criticism of the regulations, noting that they are sometimes out-of-date and not always responsive to court judgments. The fact that there had been no substantial review of the land-use definitions in the regulations during the life of the legislation was cited several times as an example of out-of-step regulations.

Case study: How the residential code was implemented

A key recommendation of the 2008 Planning and Development Review was to establish a 'residential development code' setting out complying conditions for low-risk, low-impact housing approvals. To implement the code across the system, the state government chose to house it in the Development Regulations, thereby avoiding complex and lengthy amendments to the state's 72 development plans.

However, this created a range of unforeseen tensions and interactions between development plans and the code provisions. In addition, the code provisions were housed in a number of different schedules under the regulations. Both industry and councils reported that they found the original code confusing, although a number of their issues have since been addressed.

5 PLANNING RULES, TOOLS AND FRAMEWORKS

While there was little criticism of the clarity of the national building rules, some raised questions about how the rules could be adapted more effectively to cater for local needs.

See also: part 5.1 'Consistent rules across the state'; part 5.3 'Maintaining and updating rules and frameworks'; part 5.4 'Transparent processes for changes to planning frameworks'; part 7.4 'Using and providing for technology'.

Key issues raised with the panel

- Development plans have an unclear structure and internal hierarchy
- Many people see planning policies in development plans as rules and are disappointed when they are applied more flexibly than expected
- The 'on balance' approach to interpreting and applying planning policy allows for too much discretionary decision-making and undermines certainty
- There is a need for a greater number of complying development standards
- Land use definitions are out-of-date and difficult to apply
- Affordable housing issues are poorly integrated in development plans
- The majority of low risk housing development should be able to be assessed using a 'tick a box' approach
- 'Tick a box' policies tend to ignore site-specific issues
- Planning policies should be expressed more like the building rules, with clear objectives, performance measures and deemed-to-satisfy techniques
- The regulations and development plan policies are often contradictory, creating ambiguity and uncertainty
- Planning policies often use jargon and do not use plain language
- Lack of consistency in planning policies can frustrate land supply, housing affordability and investment certainty

'You need legal training to understand development plans—they don't use plain English.'

Ideas the panel heard

- Development plans should prioritise the key principles for compliance
- Recognise planning practice circulars or advisory notices in the legislation to guide the interpretation of planning provisions and keep planners informed of legal decisions
- Require development plans to be simpler and easier to understand
- Provide greater legislative capacity for development plans to provide incentives, such as for affordable housing
- Rewrite development plans to remove ambiguities and legacy features that are no longer relevant
- Express planning policy more like the building rules, with clear performance measures and clear design techniques that can be easily applied
- Review and update land-use definitions
- Develop statutory instruments to include complying standards
- Revisit the 'on balance' test by including clear decision criteria in the legislation

‘Legislative patches to the system have exacerbated a sense of complexity and difficulty in navigating the system; the system is seen as opaque and hard for non-experts to engage in.’

5.3 Maintaining and updating rules and frameworks

There were many complaints about the time it takes to have development plans varied or amended and the complexity of the current legislative processes. A range of causes was proffered, including perceived delays in obtaining Ministerial approvals, extensive input by agencies, and the complexity of ‘statements of intent’. There was a call for changes to the process so that minor amendments could be handled without Ministerial involvement, and a suggestion that greater community involvement in strategic planning, whether at a council or regional scale, would ultimately lead to accelerated deliberations on changes to statutory plans. It was also suggested that changes to the structure and format of planning documents could simplify the process.

Various views were expressed about who should initiate changes to development plans—Ministers, government agencies, councils, or individuals in the community. Councils, in particular, indicated a preference for local control over local policy. However, there was also suggestion that some aspects of rule- and plan-making processes might better be considered on a statewide or regional scale. Industry suggested that, subject to appropriate statutory criteria and oversight, land-owners should be given the opportunity to fund or initiate changes to planning policy and that this reality should be clearly recognised in the law.

A number of statutory boards and government agencies, especially in environment, infrastructure and resource management fields, expressed frustration in seeking amendments to statutory planning documents to support wider whole-of-state policy objectives. Some suggested that the updating of technical or scientific information should be simpler, for example by using cross-referenced codes or other legal instruments. While there were limited comments on the national building rules, some considered the annual update process as having merit for the planning system.

See also: part 3.4 ‘Political accountability and oversight’; part 5.1 ‘Consistent rules across the state’; 5.2 ‘Clear rules that promote certainty’; part 5.4 ‘Transparent processes for changes to planning frameworks’; part 7.4 ‘Using and providing for technology’.

Key issues raised with the panel

- The process of amending development plans takes far too long
- Statements of intent are complex and over-engineered
- There are too many Ministerial approvals required to update development plans under current legislative arrangements
- There is insufficient attention on strategic planning to inform changes to development plans
- There should be more opportunities for land owners and government agencies to initiate changes to development plans
- Government agencies experience bottlenecks in getting state policies incorporated into development plans

- There is a lack of clarity about privately funded development plan amendments
- Rezoning delays can mean investment opportunities are lost, particularly in regional areas
- Some state policies affecting development have not been updated or reviewed for many years

Ideas the panel heard

- Introduce three tiers for development plan amendment proposals—minor, moderate and significant—and require different levels of investigations and approval processes for each
- Allow government agencies and regulators to undertake development plan amendments
- Simplify the structure and format of planning documents
- Combine the concepts of a 'non-complying' application and a rezoning in one statutory process
- Make statements of intent one-page documents in line with council strategic directions reports
- Enable landowners to apply for rezoning directly
- Restrict the number of development plan amendments that a council can have in the system
- Introduce legislative provisions that specifically enable councils and the Minister to receive funds or in kind inputs towards a rezoning
- Impose statutory timeframes on amendment processes and allow the Minister to lapse amendments that have not progressed
- Allow environmental, infrastructure and resource-sector agencies to update policies in development plans
- Use land capability overlays to address environmental issues

"The development plan system is too slow to effect zone changes in response to changing economic and residential requirements and cannot resolve anomalies quickly."

5.4 Transparent process for planning changes

A number of groups criticised the transparency of legislative processes for effecting change to development plans. A number of participants criticised the Development Policy Advisory Committee process; the committee was seen by some as a 'soft' accountability measure and lacking transparency. Some flagged the parliamentary oversight provisions for amendments to development plans as being weak and requiring strengthened operation.

Concerns were also raised about the use of powers available to the Minister to bring development plan amendments into interim operation ahead of public consultation. Others pointed to how the process of initiating development plan amendments, before they are reviewed by parliament, tends to make such scrutiny ineffective. There were also strong views that parliamentary oversight should not add delays to rezoning processes already regarded by some as among the longest in the nation.

See also: part 3.4 'Political accountability and oversight'; part 5.1 'Consistent rules across the state'; 5.2 'Clear rules that promote certainty'; part 5.3 'Maintaining and updating rules and frameworks'; part 7.4 'Using and providing for technology'.

"Development plan amendments are behind the eight ball—by the time land is rezoned developer interest is lost."

"There is a lack of transparency in what the Development Policy Advisory Committee has recommended and how that has informed the Minister's decision."

Case study: use of interim operation for the River Torrens footbridge

Various community groups criticised the use of interim operation provisions to enable planning policy changes that allowed the construction of a footbridge over the River Torrens. Concerns were expressed that these interim provisions effectively removed the opportunity for the public to provide input.

The converse view suggested that the fact that a development plan amendment was required to allow the state government to build a footbridge (even with the support of the local council) indicated overly restrictive planning policy, particularly given that the construction of a footbridge was identified in park management plans that were previously the subject of public consultation.

"We live with the outcomes of development plan amendments for a long time so we need to take some time to get them right."

Key issues raised with the panel

- The statutory consultation process for changes to development plans is clumsy
- There is a lack of transparency in the use of interim operation powers by the Minister
- Parliamentary review of changes to development plans is weak
- Increased parliamentary scrutiny could further politicise rezoning processes
- The Development Policy Advisory Committee should be more transparent and representative
- The use of interim powers is an important mechanism to overcome perceived bottlenecks
- High-priority changes do not receive the right level of scrutiny
- Oversight of the amendment process should not result in further delays in rezoning

Ideas the panel heard

- Require development plan amendments to be subject to parliamentary scrutiny before adoption
- Develop criteria for the use of interim operation provisions and require any use to be subject to parliamentary scrutiny
- Require the publication of reports by the Development Policy Advisory Committee
- Time updating of development plans to an annual cycle
- Minimise the need for 'spot rezoning' through adaptive mixed-use zoning policies
- Make amendment processes more streamlined by simplifying the content, structure and format of development plans

5 PLANNING RULES, TOOLS AND FRAMEWORKS

5.5 Focussing on place and urban design

Many participants advocated for high-quality design outcomes—buildings, public spaces, infrastructure and urban form—that add to the physical and aesthetic value of their living environments. Engagement canvassed discussion of how design should be used to ensure new development is contextual, aligns with and is respectful of existing character, is inclusive and promotes accessibility, and contributes to the creation of a desired future character that is high quality and reflects community aspirations.

However, there was concern that the existing legislative framework does not give enough emphasis to design, whether in the public realm, built structures or infrastructure. Examples were given where people considered the implementation of high-quality design principles would have improved the 'fit' of projects within their surroundings. Similarly, some submissions raised concerns about infrastructure that might compromise high-quality design outcomes for places and neighbourhoods. In this context, some cited streetscape design as an important area for further exploration.

There was a call for a legislative framework that recognises design as an essential feature of planning processes; however, there was also concern that design criteria and appraisal may be too subjective for inclusion in the planning legislation. Discussions of zoning raised the suggestion that zones be based on mixed-use principles rather than separated land uses, with built form as one way in which design features could be emphasised in the legislative framework.

Practitioners and industry pointed to a need for the legislative framework to provide greater allowance for, and recognition of, universal design principles and design innovation to address issues such as sustainability, walkability, accessibility and housing affordability. The panel is aware of the state's disability reform agenda, which canvassed the need for universal design principles to be embedded in planning, building and infrastructure frameworks.

See also: part 5.6 'Maintaining character and heritage'; part 5.7 'Parks, streetscapes and urban greenery'; part 5.8 'Urban renewal and regeneration'; 6.3 'Elements of assessment'.

Key issues raised with the panel

- Design is not incorporated early enough in processes under the planning legislation
- Planning policies do not provide enough guidance about built form and design
- The legislation is largely silent on the design of the public realm and how this interfaces with private development
- Design review is not sufficiently incorporated in planning legislation
- Mixed-use zoning is not sufficiently underpinned by the need for high-quality design as a way of mediating land-use conflicts
- Place-making is often supported by planning practices, such as urban design frameworks and master plans, which the planning legislation does not adequately recognise
- There is a lack of commitment in the legislative framework for the planning system to integrate place-based urban design
- Public realm and infrastructure standards inadequately reflect universal design principles

- Design and character are intimately linked but poorly defined in planning legislation
- Design processes should not be used to cause blockages or delays in decision-making
- Design is too subjective for inclusion in legislation
- Development plans are inadequate to ensure good streetscape design
- There is insufficient emphasis on design guidelines and exemplars
- The legislative framework does not recognise or reward innovative design
- There is limited emphasis on urban design and place-making in strategy documents

"Development plans are too prescriptive and don't support innovation and design."

Ideas the panel heard

- Use form-based codes based on urban design principles to replace current zones based on separation of land uses
- Encourage design innovation to achieve housing affordability
- Establish a separate design assessment route into the development assessment system, and streamline assessment applications that have undergone a design review process
- Make it compulsory to incorporate good design principles into development plans, and review them to ensure consistency and clarity
- Recognise design practices such as urban design frameworks and master plans in the legislative framework for the planning system
- Bring design considerations forward to the strategy and development plan amendment phase of the planning process
- Make the planning process more design-led
- Encourage innovative design through pilot programs and incentive schemes
- Incorporate universal design principles into the planning legislative framework

"Place-making doesn't receive adequate effort or investment."

5.6 Maintaining character and heritage

The panel heard that communities expect planning legislation to support the creation of places that reflect local identity, and decision-making that builds local character.

Many groups and individuals highlighted the importance of ensuring any new project or development suit local character. However, it was also apparent that 'character' means different things to different people; there were calls for the legislation to provide clear guidance about where maintenance of existing character should be prioritised and what elements of built form should be considered significant in considering character. Whether desired character statements were the best way to envisioning future character was also raised.

Similarly, there were varied and often opposing views on how the heritage aspects of today's built environment should be retained or updated for long-term economic and cultural value. Feedback suggested that there is a poor statutory delineation between 'character' on the one hand and 'heritage' on the other.

5 PLANNING RULES, TOOLS AND FRAMEWORKS

Concerns were also raised about the process of listing potential heritage and significant zones and places, and how significant structures, items and places that are not heritage listed—such as historic or iconic building facades, memorials, trees and other valued townscape or landscape assets—should be treated. A number of submissions suggested that there are inconsistencies between state and local heritage-listing processes, and that the evolution of heritage tools over time has led to complications and confusion.

The notion of adaptive reuse was raised, with submissions indicating that some planning and building requirements make it difficult to effectively reuse older building stock (whether or not heritage-listed). Suggestions such as incentives, innovative financing models, and improved flexibility to accept trade offs were suggested as worthy of further examination.

See also: part 5.5 'Focussing on place and urban design'; part 5.7 'Parks, streetscapes and urban greenery'; part 5.8 'Urban renewal and regeneration'; 6.3 'Elements of assessment'.

Key issues raised with the panel

- Character includes issues such as built form, urban greenery and the public realm, but is poorly defined or articulated within the legislative framework for the planning system
- Heritage is perceived as causing impediments to development
- Legislation does not place sufficient emphasis on adaptive reuse of existing built structures
- There are inconsistencies between state and local heritage processes in current legislation
- There is a concern that heritage is often trumped by new development
- There are few mechanisms in planning legislation to recognise significant landmarks, townscape or landscape features
- There is not enough rigour or consistency in local heritage listing processes
- Desired character statements tend to be lengthy and confusing
- There are concerns about the independence of heritage-listing processes that are dependent on Ministerial approvals
- It is difficult to get approval for innovative adaptive reuse proposals
- National building rules can sometimes hinder adaptive reuse of older building stock

"Once something has been identified as having 'environmental character', it becomes untouchable."

Ideas the panel heard

- Provide greater concessions, such as rate rebates, to support the re-use and management of heritage-listed buildings
- Bring heritage into the planning legislation and provide a single point of heritage assessment
- Use design to better define character issues in planning legislation
- Give more flexibility to local councils to determine local character
- Provide a clearer definition of character in the legislation

- Replace desired character statements with different tools to envision future character
- Include provisions in the legislation to enable adaptive reuse to be encouraged and rewarded
- Review building requirements to ensure they do not hinder adaptive reuse of older buildings
- Explore innovative financing arrangements, such as building upgrade finance and tradeable development rights, to support heritage and adaptive reuse
- Provide alternatives to heritage listing for the recognition of important cultural landmarks or environmental assets contributing to character and value

"The local heritage-listing process is inconsistent and can lack transparency."

5.7 Parks, streetscapes and urban greenery

Many individuals and community groups indicated that the legislative framework for the planning system should provide greater guidance to the design, use and management of public space, including parks, streetscapes, urban greenery and other public places.

Industry, councils and practitioners often focussed their comments on their frustrations with the current open space contribution scheme (first introduced in 1929), suggesting it was no longer suited to contemporary needs. The panel heard that people in various regional and urban areas found the scheme too restrictive, with some in regional areas preferring funding contributions rather than additional open space assets to manage, while in urban areas the main issues seemed to be the desirable mix and quality of spaces.

Additional concerns were raised about the strategic management of parks and public realm crossing council boundaries. It was also suggested that governance and funding models and design guidelines for urban parks and public spaces should be further explored. The role of streets as major public realm assets and the need for stronger statutory guidelines for streetscape design were also raised.

Some participants also raised concerns about the erosion of regulated tree controls in urban areas, while others suggested that tree controls were not appropriate for development control legislation. Concepts such as 'green infrastructure' were raised by several participants as offering potential for an alternative method of providing for urban greenery in the legislative framework.

See also: part 5.5 'Focussing on place and urban design'; part 5.6 'Maintaining character and heritage'; part 5.8 'Urban renewal and regeneration'; 6.3 'Elements of assessment'.

Key issues raised with the panel

- There is no recognition of strategic open space planning in the legislation
- Management of parks and public spaces is governed by diverse and sometimes conflicting legislation
- There is limited legislative guidance on the provision of parks and green spaces as part of urban development
- Tree controls are inappropriate for development control legislation
- The current open space contribution scheme is out-of-date

5 PLANNING RULES, TOOLS AND FRAMEWORKS

"Open space provisions in the Development Act focus on quantity, not quality."

- Urban greenery is being eroded by a lack of effective statutory tools and commitment
- Streetscape design is uncoordinated and lacks a systematic approach
- There is no single agency in government with clear accountability for urban parks policy
- Available funding for streetscape improvements is divided across several portfolios
- There is a lack of emphasis in the legislative framework on the value that trees and plants bring to urban environments
- Many landscape design and open space management practices commonly used by professionals are not recognised in the legislative framework
- Cycling and walking networks are poorly linked to planning legislation
- Public realm design should be accessible and inclusive

Ideas the panel heard

- Provide legislative encouragement to green-roof and green-wall infrastructure in higher-density areas
- Clarify the guidelines that outline how public spaces can be planned, funded and maintained
- Establish governance and funding models to support improvements to the metropolitan parks network
- Review legislation relating to parks to ensure alignment with planning legislation
- Recognise open space planning practices as part of the legislative framework
- Link open space provision to urban form and urban design principles
- Recognise cycling and walking networks in the legislative framework
- Adopt a 'green infrastructure' approach to promoting and managing urban vegetation
- Adopt a 'link and place' approach to support effective streetscape design

"There is a need to improve the quality of public open spaces and other green community infrastructure."

"Moving to more infill and more intensification of Adelaide is a major culture change. There will naturally be tensions. How it is managed and how the public are engaged will be key."

5.8 Urban renewal and regeneration

The panel heard that challenges posed by urban renewal are difficult to address within the current legislative framework, which provides tools too inflexible to support urban renewal. Development plans were regarded by some as poorly suited to cater for the level of coordinated planning and delivery necessary for many urban renewal projects.

Feedback suggested that new tools, such as the precinct planning process outlined in the government's urban renewal legislation, should be developed to drive and cater for urban change. In the absence of clear legislative tools, some felt confused by the various delivery mechanisms, such as concept plans, structure plans, precinct plans and related terminology.

Some participants pointed to the scale and intensity of regeneration projects and queried the criteria and governance models that would justify a project's 'exiting' the normal planning processes. In this context, some suggested that tools for urban renewal must cater for differences in scale; it was also considered important that legislation provide investment or procurement vehicles for consolidating small lots into larger parcels capable of supporting strategic redevelopment and renewal at scale.

Conversations about urban renewal included a suggestion for more effective tools to support activation of buildings and places over the long term and to stimulate growth and investment in renewal areas. Place-management governance models were raised as worthy of investigation and linkages to infrastructure funding and value capture mechanisms were noted as important to successful urban renewal projects.

See also: part 4.7 'Planning and delivering infrastructure'; part 5.5 'Focussing on place and urban design'; part 5.6 'Maintaining character and heritage'; part 5.7 'Parks, streetscapes and urban greenery'.

"It is important that we tackle urban sprawl and move to more infill in existing areas where there are already existing services, public transport and shops."

Key issues raised with the panel

- Development plans are not always adequate tools to manage urban renewal and redevelopment
- There are limited options for innovative governance arrangements for urban renewal projects
- There are few tools to allow for effective ongoing management of regenerated places
- Current community engagement and participation mechanisms and practices are insufficient or poorly managed for effective urban renewal
- Urban renewal tools do not adequately allow for operation across a variety of scales
- There is confusion about urban renewal terminology

5 PLANNING RULES, TOOLS AND FRAMEWORKS

"In other places around the world where the benefits of density are discussed early and well with communities (such as in Vancouver) the community can choose surprising amount of density."

- There are few legislative powers crafted to support urban renewal
- The criteria for using special legislative powers for urban renewal are unclear
- Urban renewal schemes do not adequately link with funding models to provide for upfront investment in catalytic improvements, such as infrastructure, social services or public realm improvements

"Bowden is a good example of urban renewal, because it was specifically targeted and is the subject of a staged master plan."

Ideas the panel heard

- Require master planning of renewal and infill sites that include social infrastructure provisions and pleasant streetscapes
- Have specified areas covered by master plans with development controls assessed against the master plan rather than the development plan
- Strengthen community engagement models for urban renewal
- Include design review in urban renewal processes
- Develop statutory guidelines for how urban renewal powers should be exercised
- Explore place management models, such as neighbourhood corporations and business improvement districts, to support urban activation and regeneration
- Use design competitions for urban renewal to help inspire confidence and interest
- Link public transport to effective urban renewal through value capture models

"Public transport lacks integration with land use and service levels are often inadequate for new developments as a result."

"Creating a sense of community is important for renewal and infill."

“I SHOULDN’T HAVE TO EMPLOY A PLANNING LAWYER TO UNDERSTAND THE DOCUMENT THAT WAS PUT IN MY LETTERBOX.”

PART 6
Development pathways and processes

- Pathways to development
- What needs to be assessed
- Elements of assessment
- Timeframes, information and advice
- Notification, consultation and representation
- Who should make assessment decisions
- Facilitating development outcomes
- Managing development outcomes
- State significant developments and infrastructure
- Assessing significant impacts
- Appeals and reviews
- Monitoring, compliance and enforcement

6 DEVELOPMENT PATHWAYS AND PROCESSES

Reflecting the reality that most people's interactions with the planning system occur when they seek development approvals, the biggest proportion of comments the panel received during its 'listening and scoping' phase related to development assessment processes. Feedback indicated a need for improvement in many areas of the current legislation.

The panel heard calls for a less adversarial process, better alignment of effort with impact and risk, and more clarity in the roles of politicians and professionals in decision-making. More effective review, monitoring and enforcement mechanisms were called for, along with more enabling statutory processes.

6.1 Pathways to development

The current legislation provides for three principal assessment pathways—complying, merit and non-complying—and a number of special assessment processes. Feedback suggested that these categories do not sufficiently cater for the varying levels of impact or risk that different development proposals may present.

Submissions called for legislation that demands more effort from assessment bodies on those developments with potentially greater impacts on the surrounding environment and communities, and less effort in lower impact cases. A large number of submissions called for the adoption of the six assessment categories or 'tracks' proposed by the Development Assessment Forum as best-practice principles, several of which are not currently available in South Australia's legislative framework.

See also: part 6.2 'What needs to be assessed'; part 6.4 'Timeframes, information and advice'; part 6.5 'Notification, consultation and representation'; part 7.4 'Using and providing for technology'.

Development Assessment Forum assessment tracks

Exempt—for developments that have a low impact and do not require development approval

Prohibited—for developments that are inappropriate, so neither proponents nor consent authorities waste time or effort on proposals that will not be approved

Self-assess—for developments that will be approved if clearly specified criteria are met, enabling self-assessment (or assessment by a certified person) to occur, and with no opportunity for review of a decision

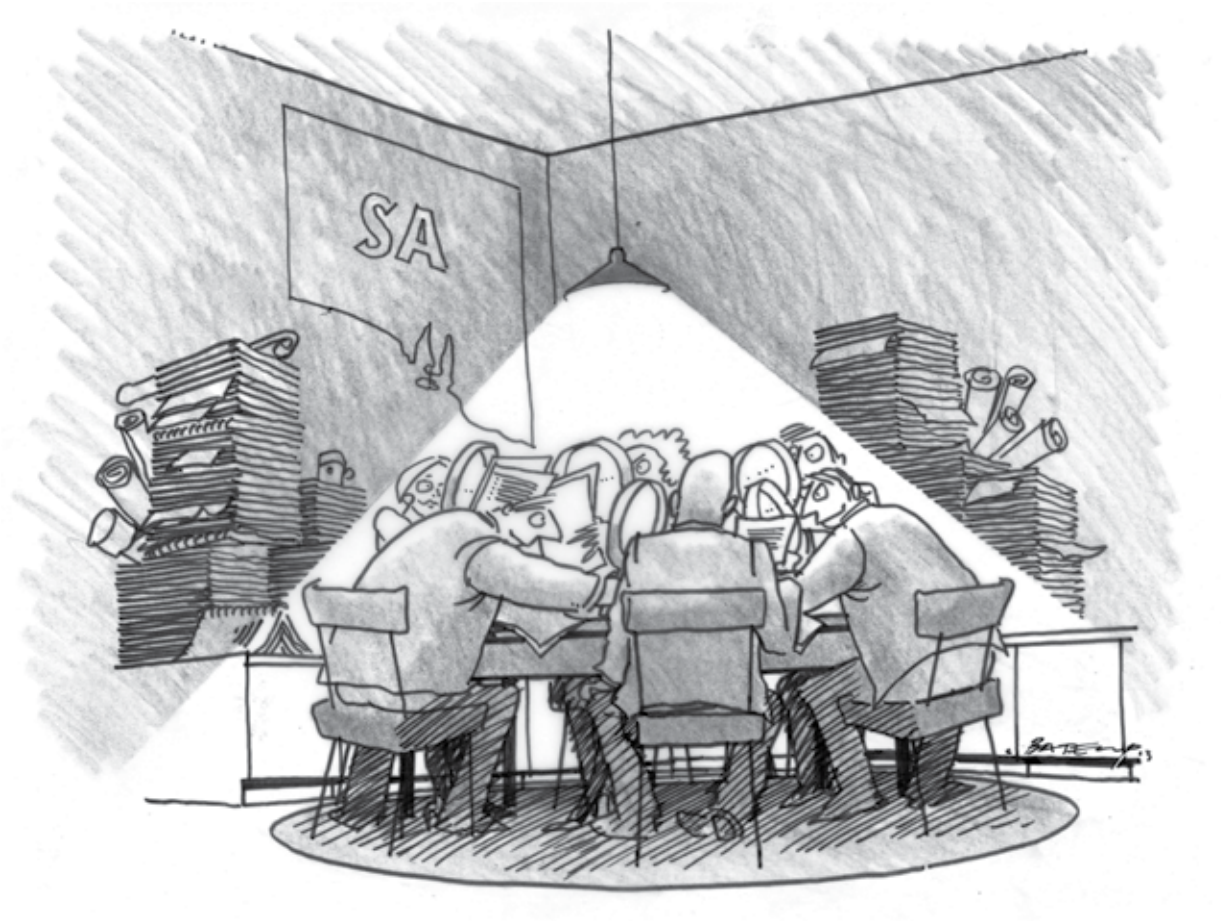
Code assess—for developments that are more complex but still able to be assessed against objective criteria by a certified person, with the opportunity for review of a decision

Merit assess—for complex developments that need assessment against complex criteria or where the application raises a policy matter (or where competing policy objectives apply), and where consent may be conditional on meeting certain conditions

Impact assess—for larger developments that may have a significant and uncertain impact on amenity or the environment

Source: Development Assessment Forum

"Minor development applications take too long. One application for a sign took 18 months—by which time the business had closed down."



Key issues raised with the panel

- Current classifications are too limited to cater for the range of developments the system needs to cope with
- The term 'non-complying' is misunderstood by some people as meaning 'prohibited'
- Assessment processes is not sufficiently linked to risk and impact, and effort should be proportionate
- There is no prohibited category of development

6 DEVELOPMENT PATHWAYS AND PROCESSES

"Many of the more contentious matters I have been involved with were in fact not really planning issues but neighbour disputes. This is clogging up the system in some councils."

Ideas the panel heard

- Simplify assessment criteria for minor, low-impact developments
- Direct resources to prioritise the assessment of complex, high-end developments
- Develop an alternative development assessment pathway for applications that are more substantial than usual non-complying applications, but are not significant enough to be major projects
- Adopt the Development Assessment Forum's best-practice principles for development assessment, including the six 'track-based' development categories
- Ensure the bulk of development applications are dealt with without requiring a full merit assessment

"Too many applications end up defaulting to merit assessment. It appears that the Development Act has too many 'band aids' and has lost a sense of focus and function."

6.2 What needs to be assessed

Feedback during the engagement process suggested a need to review the definition of 'development' within planning legislation, and whether the regulation of 'development' by assessment processes should be the only mechanism to shape development outcomes. It was suggested that there should be greater use of self-assessment, the use of statutory duties on land-owners (similar to environmental laws), or neighbourhood dispute-resolution processes to address lower-risk development issues. Conversely, some raised concerns that the current definitions do not allow for adequate scrutiny of important design considerations, such as building materials or finishes, fencing or landscaping, particularly in areas of significant character.

In addition, there was a call to review the application of 'change of use' principles, including building classification rules, to remove unnecessary regulatory barriers; it was suggested by some that current restrictive interpretations could result in urban blight by making redevelopment of land uneconomic. It was noted that changes to building classifications would be best pursued at a national level.

See also: part 6.1 'Pathways to development'; part 6.4 'Timeframes, information and advice'; part 6.5 'Notification, consultation and representation'; part 7.4 'Using and providing for technology'.

Key issues raised with the panel

- The current definition of development is not responsive to urban development needs
- There is too much effort spent on full merit assessment of minor matters
- Not enough development can be self-assessed
- Minor developments take too long to be assessed
- Assessment of 'change of use' can delay turnover of commercial sites leading to urban blight
- In character areas, more issues should be assessable than are currently provided
- Developers often use encumbrances to address matters outside of current legislation

Ideas the panel heard

- Base assessment on land use—for example, proposed residential use on residential-zoned land should receive automatic approval
- Introduce an ability to self-assess minor matters, subject to planning and design guidelines
- Establish a neighbourhood-based dispute resolution process, similar to fences legislation
- Establish statutory duties on land owners rather than assessment requirements
- Reintroduce the 'other' category for building rules assessment, to cater for new industries such as high-tech horticulture
- Review building rules classifications to enable continuing economic uses of older building stock

6 DEVELOPMENT PATHWAYS AND PROCESSES

"How can straightforward, low-risk applications find a simple path through the system?"

6.3 Elements of assessment

A number of comments suggested a need to revisit the basic structure of development consents. Presently, the legislation provides for development plan consent, land division consent and building consent; in addition, there is the potential for conditions and reserved matters to be determined at the discretion of assessment bodies.

The development industry called for greater staging of consent processes, which would enable development proponents to choose the pace at which their application proceeds, and pointed to how this would provide the 'bankable certainty' necessary to support project finance. For example, some cited the potential for an 'in principle' planning consent, subject to the submission of detailed design approvals later.

Another related suggestion was for an environmental consent, potentially linked to approvals and permits required under other laws. Some community groups and design practitioners called for a more explicit requirement in the consent process that a proposal meet certain design criteria.

For complex projects, industry called for more flexibility to negotiate assessment processes in a way tailored to suit investment and financing of projects.

See also: part 6.1 'Pathways to development'; part 6.2 'What needs to be assessed'; part 6.4 'Timeframes, information and advice'; part 6.5 'Notification, consultation and representation'; part 7.2 'Regulatory overlaps and referrals'; part 7.4 'Using and providing for technology'.

"Time represents real cost to the community, yet there's no monitoring of time limits on council deliberations."

Key issues raised with the panel

- There should be more opportunities for developers to stage development assessment and approvals
- Conditions and reserved matters tend to be at the discretion of assessment bodies, not applicants
- Design issues are not adequately incorporated into the assessment process
- There is not enough flexibility to allow developers to secure an 'in principle' consent, subject to the development of a more detailed design
- The assessment process does not adequately incorporate environmental licences
- Minor matters should be able to be dealt with after key 'in principle' details, such as land use and building envelope, have been addressed
- There are limited opportunities to negotiate assessment process for more complex projects

Ideas the panel heard

- Introduce mechanisms that allow applicants to stage consents, or to stage particular elements of a development assessment process
- Formalise the use of staged approvals to encourage investment, similar to the iterative certainty approach used in the United Kingdom
- Introduce the use of building envelope plans to assist in the provision of small lot products and give certainty to assessment following land division consent
- Provide for design to be considered as a separate stage of the consent process
- Allow for minor operational works to be dealt with closer to construction works
- Give applicants the option of selecting integrated assessment or staged assessment (to avoid excessive detail being demanded upfront, which would bog the system down)

6 DEVELOPMENT PATHWAYS AND PROCESSES

6.4 Timeframes, information and advice

Industry and practitioners expressed concerns about assessment periods and suggested the introduction of measures such as mandatory timeframes and deemed approvals if timeframes are not met. The panel heard that requests for unnecessary information, technical advice and referrals may affect whether developments can proceed.

Concern was expressed that assessment bodies often seem to ask for too much information upf ront (and often make repeated calls for information during assessment processes), or at inappropriate stages in the assessment process, noting that this tends to increase the upfront costs of lodging applications. This concern also extended to assessment officers' 'risk averse' requests for complex technical reports before decisions are made. Some related this to a sense of 'objectives overload' in planning policy; it was noted that this tends to increase reliance on technical advice from state agencies or others, particularly in country areas where assessment staff may have less access to information.

While the concept of a 'one-stop-shop' assessment process continued to be strongly endorsed, and was regarded as a distinct competitive advantage of the South Australian planning system over its interstate counterparts, feedback suggested that the legislation is not currently meeting this objective.

See also: part 6.1 'Pathways to development'; part 6.2 'What needs to be assessed'; part 6.5 'Notification, consultation and representation'; part 7.4 'Using and providing for technology'

South Australia's 'one-stop-shop' assessment process

The Development Act has been designed so that it can readily incorporate the development control functions of the 100 or so other Acts of Parliament that now control one or more aspects of development. The general development control system has been designed so that it:

- Has a single point of entry for the applicant
- Is user friendly
- Is based on integrated legislation as far as possible
- Separates development control functions from ongoing land and environment management functions
- Integrates procedures and administration of development control as far as practicable
- Refers to clearly defined criteria
- Eliminates unnecessary differences in procedures under various Acts; and
- Reduces to a minimum the number of alternative procedures.

Source: 2020 Planning Review Steering Committee

Key issues raised with the panel

- Assessment bodies request too much detailed information up-front
- Smaller councils find it difficult to obtain technical advice from state government agencies
- Timeframes are regularly exceeded in the development assessment process
- Decision-makers are often 'risk averse' and request unnecessary information from applicants
- The use of paper-based systems in the system tends to slow down assessment processes
- Some operational matters need not be dealt with up-front in assessment processes

6 DEVELOPMENT PATHWAYS AND PROCESSES

Ideas the panel heard

- Require all questions from a development authority to be asked within a defined period, e.g. four weeks
- Make assessment bodies and referral agencies accountable for timeframes—addressing real time needs for different applications
- Provide penalties where deadlines are consistently not met
- Introduce a deemed approvals mechanism, similar to Queensland
- Grounds for refusal should be identified early in the development assessment process to avoid long waiting times just to get a 'no'
- Expand the role of private certification as an alternative to council-based assessment
- Use technology to speed up assessment processes

"While South Australia has the shortest minimum timeframe for development assessment (14 days), it also has the longest maximum timeframe (up to 196 days)."

"Notification processes are impersonal and confronting, and can cause panic and angst towards the proposal."

6.5 Notification, consultation and representation

Some people are dissatisfied with what is perceived by some as an unreliable system of notifying and consulting with neighbours in relation to development proposals. Conversely, some expressed concern that the legislation requires too much consultation on developments with minimal impact, and that this compromises the rights of land-owners to the reasonable use of their property and, more generally, the ability of the legislation to respond to social and economic change.

It was also apparent that there is confusion regarding the differing functions of notification, consultation, access to information and rights of appeal. Councils and practitioners pointed to ambiguity about the notification categories in the current legislation and indicated that substantial time and effort is often consumed determining appropriate categories. Feedback from some communities indicated that it is important to ensure residents are not given false expectations about the influence of their input and views.

Engagement also highlighted a desire for the use of more accessible forms of communication, such as searchable online registers and notices fixed to properties. How representative bodies, such as residents and business groups, might be informed of key development proposals was also flagged as an issue for exploration.

It was suggested that development proponents should take more accountability for engagement with affected neighbours and that the legislation should find ways to recognise the efforts of development proponents who undertake consultation before lodging their applications. There was a sense from councils and some practitioners that proponents outsource dealing with the community to assessment bodies, which then bear the brunt of negative feedback and are then expected to approve regardless.

See also 3.2 Community inputs into planning decisions, 3.3 Inviting and enabling participation, and 7.4 Using and providing core technology

Key issues raised with the panel

- The rationale for notification of development applications is unclear
- People engaging in feedback may have false or unrealistic expectations of the influence of their submissions
- There are limited opportunities for residents, environment and business groups to be notified of development proposals
- Public registers of development applications are not always accessible
- There is a need for better use of technology to make development information more readily available

"I shouldn't have to employ a planning lawyer to understand the document that was put in my letterbox."

Ideas the panel heard

- Provide incentives or require developers to speak to neighbours before the lodgment of a development application
- Clarify the role of notification and explain its intent
- Use a sliding scale—the notification process should be related to the scale and impact of a proposal
- Introduce new ways of communicating development proposals, such as fixing notices to properties or using online registers
- Supply a single-page document with every property sale with information about the property's zone and explaining permissible activity
- Limit matters that may be appealed or reviewed to a core range of contestable issues
- Representative bodies should be given a role in the notification and consultation process

6.6 Who should make assessment decisions

The panel heard a wide range of views regarding the selection, role and expertise of assessment decision-makers. Debate focussed particularly on the role and composition of development assessment panels, with divergent views about the role of elected councillors and independent members. Some suggested that elected representatives bring important local input into assessment decisions, while others were concerned that they might be inappropriately swayed by the 'public gallery' or were inconsistent in their approach. It was noted, overall, that the introduction of development assessment panels with mixed independent and elected membership had been an improvement over previous models.

6 DEVELOPMENT PATHWAYS AND PROCESSES

"Even though elected members don't have the majority on a development assessment panel, the debate they generate can be very damaging and traumatising for applicants."

It was noted that, particularly in country areas with small numbers of qualified people, it was often difficult to fill independent positions on panels, and that elected councillors often found it difficult to balance their political and assessment roles, given the closer networks in smaller communities.

There was also a wide variety of views regarding the role of planning and building professionals, whether as private sector employees or working within state or local government. Some called for an expanded role for private certification, while others called for it to be scaled back or to be subject to more rigorous auditing and oversight processes. One suggestion was to disband panels as standing bodies and bring them together only for contestable matters.

See also: part 3.4 'Political accountability and oversight'; part 3.5 'The role and influence of professional expertise'.

"Development assessment panels are a fantastic addition to the planning system as they take the politics out of decision-making."

"The current composition of development assessment panels is not working well. Councillors represent the community and should have control over development decisions."

Key issues raised with the panel

- The influence of politicians in assessment decisions can introduce uncertainty
- There is insufficient opportunity for private-sector involvement in assessment decisions
- There is concern that allowing decisions to be taken out of the hands of councils will result in poor local development outcomes
- There is concern regarding the ability of some councils to stay objective and apolitical in assessment processes
- There is not enough emphasis on region-based assessment processes
- There is a need for greater training of assessment body members

"A council planner told me: 'Some planners are facilitators; others are gate keepers. You just got unlucky.' An effective system should not be up to the attitude of individual planners."

Ideas the panel heard

- Mandate regional development assessment panels or regional subcommittees of the Development Assessment Commission
- Remove councillors from development assessment panels (including former councillors)
- Retain councillors in assessment bodies, but on a more limited scale
- Remove the Minister from assessment decision-making roles
- Increase and improve training for members of assessment bodies
- Introduce measures to increase the opportunity for input from independent experienced technical advisers
- Expand the role of private certification to include more planning matters
- Review all assessment bodies regularly to monitor their performance
- Require prescribed qualifications for all members of assessment bodies
- Have the Minister and councils make joint appointments to assessment bodies
- The composition of assessment bodies should rotate among a pool of qualified members, allowing for specialist skills to be matched to particular development proposals

6.7 Facilitating development outcomes

Feedback from individuals, community groups, development proponents and practitioners highlighted concern that assessment officers and bodies often seem unable or unwilling to provide advice about the application of planning requirements, not wishing to second-guess outcomes or the views of development assessment panels.

Industry strongly supported the need for pre-lodgement and similar processes to be recognised in the statutory framework, to provide greater opportunities for facilitation, negotiation and discussion; the role of design review was generally supported as part of effective pre-lodgement processes.

Importantly, industry called for assessment bodies to be obliged to offer pre-lodgement processes and for referral agencies to be obliged to participate in them. In addition to pre-lodgement, some practitioners raised alternative models for consideration in the statutory framework such as 'outline approvals'.

See also: part 5.8 'Urban renewal and regeneration'; part 6.9 'State significant developments and infrastructure'; part 7.5 'A customer-focussed culture'.

"Too often the Development Act is used in a negative way to stop or hinder development rather than facilitate appropriate development."

6 DEVELOPMENT PATHWAYS AND PROCESSES

Key issues raised with the panel

- Councils and referral agencies can be non-responsive in facilitating development
- There is a conflict between economic development imperatives and the need for assessment processes to be seen to be fair and transparent
- Negotiated outcomes can often result in higher quality development
- Links between assessment bodies and pre-lodgement processes are unclear
- Pre-lodgement processes should be conducted transparently, but can be perceived as 'behind closed door' negotiations

Ideas the panel heard

- Ensure that the legislation focusses on facilitating orderly and sustainable development and growth
- Recognise pre-lodgement processes in the legislative framework
- Require assessment bodies and referral agencies to participate in pre-lodgement processes
- Introduce options to negotiate assessment process, such as the outline planning approval process in the United Kingdom
- Require assessment bodies and staff to provide advisory services in response to public inquiries
- Require documentation of pre-lodgement processes

6.8 Managing development outcomes

A number of participants questioned the limited capacity of development controls to address matters other than through a 'point in time' approval and called for options to enable better management of development outcomes over time.

Discussion referred to the potential for more temporary approvals (both on a planning or a building basis); a need for clarity and consistency around the use of conditions, reserved matters and land management agreements; and a suggestion that licensing schemes (such as environmental licenses), by-laws and powers under other legislation be better linked to the planning system.

Councils and practitioners pointed to problematic or potentially unenforceable conditions being requested or imposed by referral agencies as illustrating how the development control system is forced to manage issues it is not designed for. A lack of clarity about the responsibility for enforcement of such conditions was also cited as a cause for concern.

See also: part 7.2 'Regulatory overlaps and referrals'; part 7.4 'Using and providing for technology'.

Key issues raised with the panel

- Approval conditions are often convoluted
- Referral agencies often demand unenforceable conditions
- Land management agreements are complex and difficult to enforce
- Licences and approvals outside the planning system may be more effective in managing development outcomes

- There needs to be a better correspondence between by-laws and development approvals
- There are limited opportunities to seek temporary approvals under current planning legislation, which tends to exclude generational changes of land use
- Insufficient or simply no resources to enforce conditions, especially those imposed by referral agencies

Ideas the panel heard

- Identify currently separate classes of consent for integration into the legislation
- Examine by-law making powers and find ways to integrate them more closely with planning decisions
- Define the extent to which conditions may be used to manage development outcomes
- Make land management agreements more effective and easy to use

6.9 State significant developments and infrastructure

The current planning legislation provides a number of methods by which development regarded as being of wider significance—such as public benefit through increased economic activity or job creation—can be subject to special assessment processes. These include proposals relating to major projects, Crown development and related infrastructure approvals, and the appointment of the Development Assessment Commission as the assessment body.

While there was general agreement that the legislation should cater for significant development, a range of concerns was raised about the use of current mechanisms. For example, environmental and residents groups expressed concerns that the use of the 'major projects' powers accorded to the Minister or the appointment of the Development Assessment Commission as an assessing body could be seen as marginalising local council and community input. On the other hand, some pointed out that major project declarations are the only existing mechanism to ensure significant developments are subjected to environmental impact assessments or assessed according to their statewide benefits.

Similarly, engagement highlighted the increasing use of agency sponsorship of private sector projects as Crown development. Some suggested that the use of Crown development processes for infrastructure approvals was outmoded in an era when substantial infrastructure is provided by the private sector. Others suggested that elected governments should be able to build infrastructure consistent with strategic planning directions. Some expressed a desire for a new infrastructure-specific assessment pathway, including improved strategic infrastructure planning and upfront design guidance.

Suggestions included tightening the criteria to determine what constitutes a 'major project', and separating the assessment function from the decision to grant 'major project' status; also, that a regional body could be empowered to undertake the impact assessment of major projects.

The panel also noted the current inquiry by the Productivity Commission into major project assessment processes and will have regard to its findings when it reports.

See also: part 4.6 'Planning and delivering infrastructure'; part 5.8 'Urban renewal and regeneration'; part 6.10 'Assessing significant impacts'; part 7.3 'Aligning funding and budgets'.

6 DEVELOPMENT PATHWAYS AND PROCESSES

"There isn't enough rigour in the assessment of major projects."

Key issues raised with the panel

- The statutory criteria for declaring a 'major project' are too loose
- The role of the Minister in both declaring and assessing a major project (with advice) is seen as problematic
- Major projects are the only way developments can be subject to environmental impact assessment
- Sponsorship of 'Crown development' has been used for too many private sector projects
- There is no significant role for councils in major project declarations
- There is a perception that major project powers are a way of by-passing councils
- There is no clear process for infrastructure approvals, other than through Crown development processes
- Electricity infrastructure approvals are clumsy and do not work
- The standard approval timeframes of one year to commence and two years to complete do not work for major infrastructure which may be constructed over five to 10-year timeframes
- The rationale for appointing the Development Assessment Commission to assess certain developments is not always clear
- Large-scale infrastructure projects are poorly catered for in the assessment process
- There are no joint assessment processes for significant developments

Ideas the panel heard

- Create regional bodies to undertake impact assessment of major projects
- Set clear statutory criteria for major projects and establish an alternative, politically impartial approval mechanism
- Make processes for Crown development and public infrastructure consistent with standard processes, including public consultation and environmental assessment
- Provide a special infrastructure assessment pathway, based on strategic assessment of infrastructure needs and with longer timeframes for construction
- Establish more joint assessment functions for matters of state or regional significance

"Major projects use a mechanism that compensates for the planning system's failure to deal with significant projects."

6.10 Assessing significant impacts

A number of environmental groups expressed concerns that the current environmental impact assessment process is not always rigorous enough, while others suggested the process is too complex and can be onerous. Alignment with national environmental laws was also raised, with mixed views expressed by various groups.

The panel heard that more rigorous strategic-level assessments could make downstream decisions more efficient by creating a context for future major developments or infrastructure proposals and providing up-front guidance on critical environmental and design issues. It was also suggested that the impact assessment process should be broadened to include social and economic considerations on a more routine basis.

Environmental groups were concerned that the impact assessment process does not include the right balance of criteria and is not transparent enough. Some suggested that the core criterion should be a rigorous 'improve or maintain' environmental outcomes test with a focus on key environmental values such as biodiversity, native vegetation, water catchment health, climate change, pollution and sustainability.

Other suggestions included ensuring that environmental capabilities should be assessed first to provide an early 'green light' or 'no go'; appointment of the environment minister to undertake all environmental impact assessments; requiring reasons for decisions to be published; and more parliamentary oversight of impact assessment processes.

Community and environment groups also raised concerns about the exclusion of mining projects from planning system processes and suggested this resulted in different standards of assessment. There is also confusion about the connection between the mine proper and how supporting infrastructure such as roads and ports should be assessed.

Key issues raised with the panel

- The environment impact assessment process is too onerous
- There is not enough emphasis on environmental values in the decision-making criteria for impact assessments
- There should be more rigour and transparency in the impact assessment process
- Impact assessment processes should include social and economic impacts
- There is a conflict in having the planning and mining ministers approving environmental impact assessments
- There is a perception that the separate legislative regime for environmental impact assessments gives mining favorable treatment
- The legislation does not encourage strategic impact assessments that could minimise unnecessary impacts, such as multiple ports for mining operations that could be served by shared infrastructure
- The legislation should not prohibit court appeals on major project decisions

6 DEVELOPMENT PATHWAYS AND PROCESSES

"A strategic assessment should be accredited. To be accredited, an assessment should ensure ongoing maintenance or improvement of environmental values."

Ideas the panel heard

- Transfer environmental assessment of applications to the environment portfolio departments to ensure integration, transparency and accountability in decision-making
- Set clear criteria for major projects, and establish an alternative, approval mechanism seen to be free from political influence
- Require publication of reasons for decisions
- Bring mining environmental impacts under the same umbrella as major projects
- Identify targets for environmental outcomes as part of impact assessments
- Focus impact assessments on biophysical impacts to reduce time delays
- Align state and national environmental impact assessment processes
- Expand impact assessments to include social and economic issues
- Adopt a two-stage environmental impact assessment process, with a focus on environmental issues up-front
- Establish a regime for strategic impact assessments to minimise unnecessary environmental impacts and ensure areas are reserved for development and environmental protection
- Require environmental impact statements to be re-visited if proposed developments increase in size
- Require rigorous monitoring of environmental performance of major projects
- Remove the prohibition of appeals on impact assessment processes

6.11 Appeals and reviews

Feedback indicated that while the Environment, Resources and Development Court was established to be a low-cost forum for resolution of disputes, it is no longer perceived as that. Rather, councils, industry and practitioners expressed concern that it has become overly legalistic and that the low costs involved in lodging an appeal tend to put councils and industry to considerable expense in defending assessment decisions. Conversely, residents and environmental groups expressed concern that the court process is more suited to parties with 'deep pockets'. Discussion highlighted the importance of

"There is a perception that the Development Assessment Commission requires less information than development assessment panels, which places pressure on developments to be assessed as major projects."

early intervention and the ability of the system to respond quickly to appeals. However, it was also noted that the vast number of appeals are resolved through mediation without the need for a formal hearing.

There was suggestion that a court might not be the best place for appeals and merit reviews to be heard. Some suggested that the mooted South Australian Civil and Administrative Tribunal could have a role in hearing merit reviews, along similar lines to other states. Another idea was for regional development assessment bodies to have merit review powers (perhaps involving additional members), so that people have access at a regional level to the equivalent of a local circuit court (noting that there is already some ability for the current court to do this). The ability to have reviews heard regionally was considered particularly important as an 'access to justice' issue for country residents and businesses.

The panel heard that in cases of procedural errors arising during an assessment process, such as a mistaken classification of a development, the only remedy available is to appeal to the court and this is seen as counterproductive and expensive. It was suggested that administrative options for more immediate review of procedural issues should be explored.

See also: part 6.12 'Monitoring, compliance and enforcement'.

Key issues raised with the panel

- Court processes are expensive and time-consuming
- There are no administrative options for merit review of planning decisions
- It is difficult to have procedural errors corrected quickly
- There is a need for access to regionally-based merit review mechanisms
- Complaint-handling processes about assessment decisions are unclear
- Time limits for appeals can limit representation of public interest groups
- It is difficult for courts to consider cumulative issues, even though they may be highly relevant to planning and development

Ideas the panel heard

- Establish review processes at a regional or local scale through existing bodies or by instituting regional visits by court officers
- Establish a 'planning ombudsman' to deal with complaints and procedural issues
- Consider the proposed South Australian Civil and Administrative Tribunal as a body that can hear merit reviews and provide mediation services
- Review appeal time limits to make appeals more effective, timely and accessible
- Legislate to enable parties acting in the public interest to be joined in appeal processes

6 DEVELOPMENT PATHWAYS AND PROCESSES

"Experiences with the Environment, Resources and Development Court indicate it has become legalistic, far from user-friendly and a vehicle for frustration of development rather than a helpful low-cost dispute resolution forum."

6.12 Monitoring, compliance and enforcement

The engagement process highlighted that current compliance and enforcement processes are often not viewed as suiting their intended purposes. Sanctions for non-compliance were often seen as inadequate in deterring people from undertaking unauthorised development. Feedback from councils called for additional enforcement powers or sanctions better suited to achieving compliance, perhaps modelled on innovative compliance-enhancing sanctions available under other legislative regimes such as workplace safety or consumer protection law.

"The Environment, Resources and Development Court is overused, with cheap and easy processes promoting litigation."

A related issue examined the purpose of enforcement. People asked whether the system should be upended so that lower-risk projects reach the notice of planning officials or the appeals process only if a third party raises an objection. This reflected a common view that many minor matters dealt with in the development control system might best be resolved through neighbourly negotiation. It was suggested that civil remedies and dispute resolution models could be considered as alternatives to an enforcement-driven approach.

Examples of sanctions from other legislative arenas

- Product safety notices
- Improvement notices
- Disciplinary notices
- Embargo notices
- Substantiation notices
- Expiation notices
- Public warning notices
- Enforceable undertakings
- Injunctions
- Adverse publicity orders
- Remedial action orders
- Training orders
- Civil penalty orders
- Corporate penalties
- Commercial benefit penalties
- Compensation orders
- Attachment orders
- Sequestration orders
- Prohibition/disqualification orders

"Courts do not view cumulative infrastructure impacts as relevant planning issues when making decisions on development applications."

In addition, discussion pointed out that the legislation does not always accurately identify the person most responsible when it attributes liability—that is, while the landowner is liable, it could be that another individual or entity is primarily at fault. There were calls for a greater role for consumer protection agencies and professional bodies in administering sanctions through licensing, accreditation and auditing arrangements.

Greater clarity was sought in the roles of state and local governments in enforcement issues. It was generally agreed that the state government should monitor system performance, but there was criticism of the 'system indicators' monitoring program introduced to do so. Councils and industry pointed out that publication of data was inadequate; some industry feedback suggested that the program should enable government to address underperformance by individual councils.

Some submissions suggested greater state involvement in enforcement through coordinating enforcement strategies, setting guidelines and procedures for enforcement, and undertaking certain enforcement functions (such as building enforcement) as in some other states. Local government highlighted a concern about cost shifting through incremental changes to enforcement processes and obligations.

See also: part 6.11 'Appeals and reviews; part 7.2 'Regulatory overlaps and referrals'.

Current system monitoring initiatives

Since 2005, councils have been required to complete quarterly returns to the planning department, including various data relating to assessment performance. Data captured includes application numbers, development value, development categories and assessment timeframes. The data is also used to provide comparisons with the performance of other state planning systems.

This 'system indicators' data aims to provide an overall picture of development assessment performance in the Minister's annual report to parliament on the administration of the planning legislation. However, data is not always complete due to issues such as different council record systems.

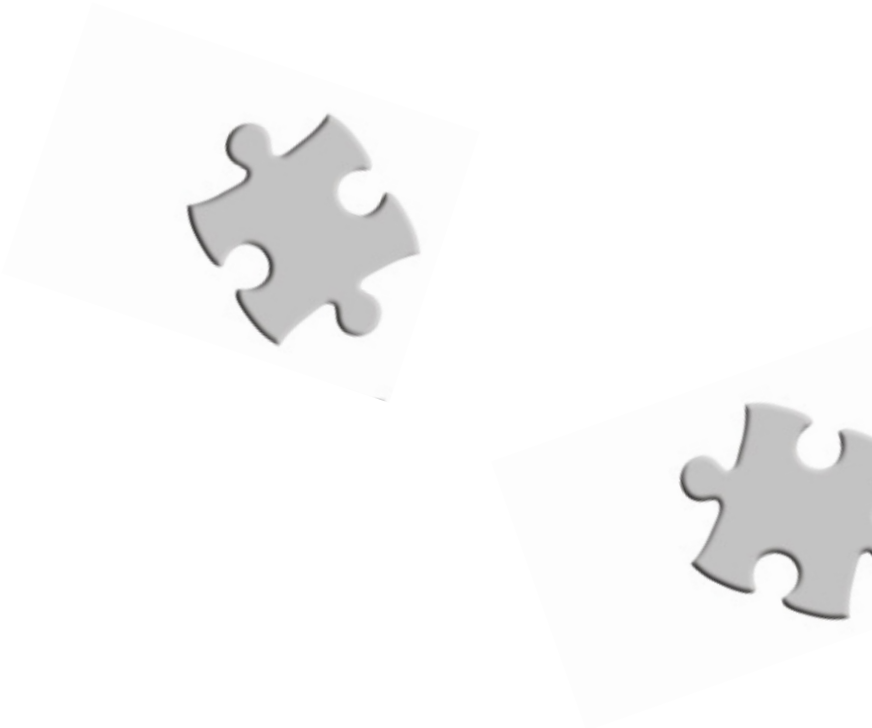
6 DEVELOPMENT PATHWAYS AND PROCESSES

Key issues raised with the panel

- The role of compliance functions in the system is contested
- Current legislative sanctions are insufficient to deter non-compliance
- The legislation attaches liability to land owners, when often builders and other professional should share responsibility
- System monitoring is inadequate and irregular
- The legislation does not link well with occupational licensing frameworks
- Incremental changes to enforcement policies can increase cost burdens on councils
- The state does not undertake enough of a role in overseeing enforcement activity

Ideas the panel heard

- Streamline enforcement action provisions by creating more administrative options such as expiation notices
- Measure performance by recording disputes and capturing data state-wide
- Link offences to land and development rather than people or businesses
- Emulate the building compliance system for planning
- Develop an audit and benchmarking process for planning processes and decisions
- Develop more innovative compliance sanctions by reviewing other legislative schemes
- Link enforcement options with council by-laws



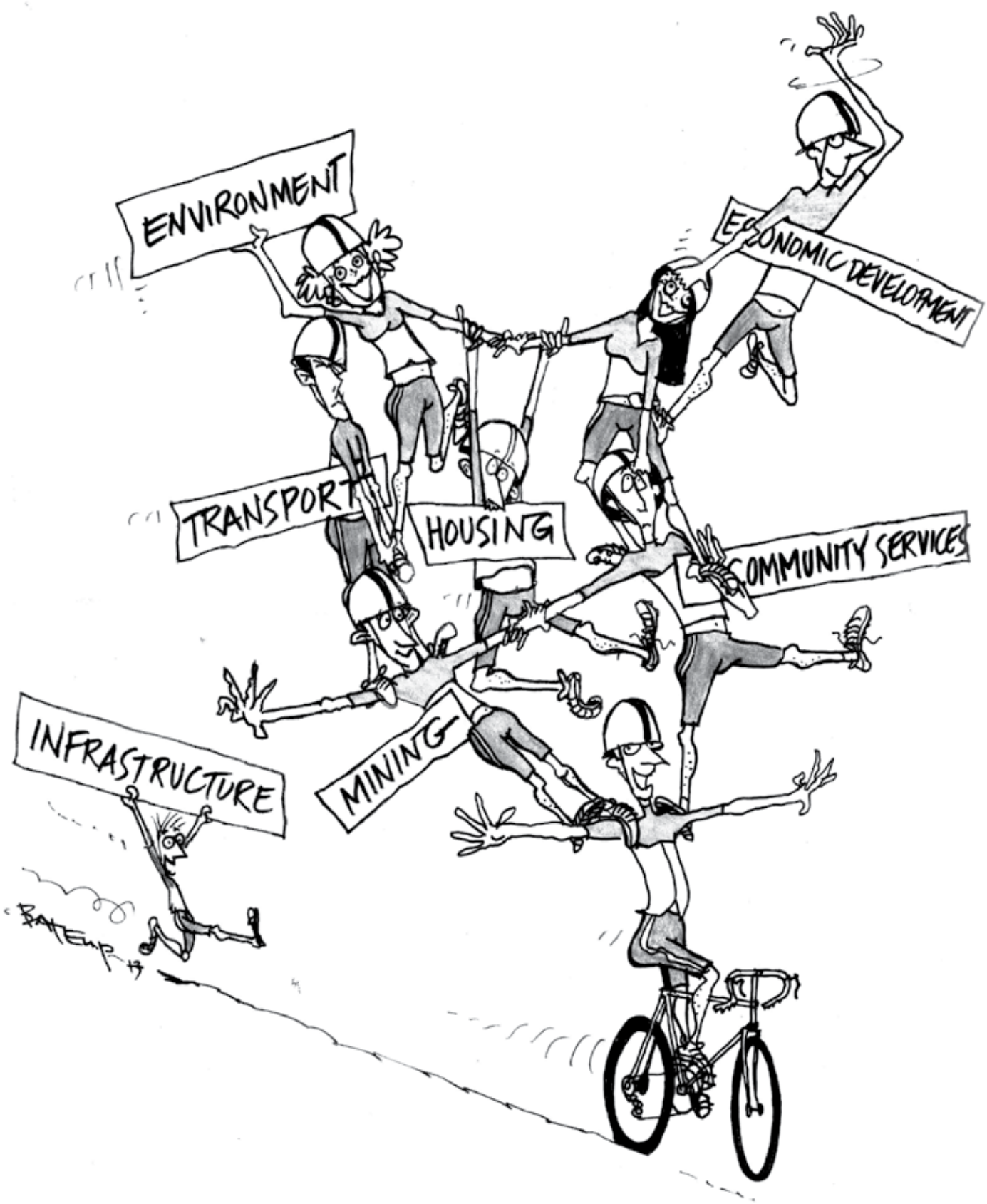
"There's inadequate monitoring of compliance."

“THERE IS A GAP BETWEEN THE INTEGRATION EXPECTED OF THE PLANNING SYSTEM, AND THE CAPACITY OF GOVERNMENT DEPARTMENTS TO PROPERLY CO-ORDINATE TO DELIVER THIS.”

PART 7
Alignment, integration and culture

- The role of state agencies
- Regulatory overlaps and referrals
- Aligning funding and budgets
- Using and providing for technology
- A customer-focussed culture

7 ALIGNMENT, INTEGRATION AND CULTURE



Within South Australia there are three spheres of government at work, along with a range of sector- and issue-specific agencies that report to or are linked to different elected bodies. There is inevitable overlap in roles, responsibilities and priorities, but the engagement process highlighted perceived duplication of effort, ambiguity over hierarchy and inadequate communication between and within agencies.

Feedback also suggested that the culture of the system as a whole, and the agencies, councils and professionals operating within it, is risk-averse and focussed on processes rather than outcomes. Many submissions called for a more responsive, facilitative culture to be developed and suggested the system should make greater use of technology as a platform for delivering integrated outcomes.

7.1 The role of state agencies

Feedback from various quarters indicated frustration that decisions made by state government agencies (such as those managing transport and infrastructure, industry development, environmental conservation and other state objectives) do not integrate well with the planning system or can cause 'log jams' that hamper effective decision-making. Examples referred to problems relating to insufficient collaboration early in the planning for a project, or during referrals that may be required during development assessment. Representatives of some agencies and groups expressed frustration with legislation that seemed only to respond to development issues related to economic objectives.

Some agencies, authorities and officials involved in the planning system

- Adelaide Cemeteries Authority
- Adelaide Metro
- Adelaide Park Lands Authority
- Aquaculture Advisory Committee
- Attorney-General's Department
- Capital City Committee
- Coast Protection Board
- Commissioner of Highways
- Country Fire Service
- Department for Communities and Social Inclusion
- Department for Education and Child Development
- Department for Environment, Water and Natural Resources
- Department for Health and Ageing

7 ALIGNMENT, INTEGRATION AND CULTURE

"Infrastructure is controlled by multiple bodies, leading to a complexity of coordination and a lack of integration."

- Department for Manufacturing, Innovation, Trade, Resources and Energy
- Department for Premier and Cabinet
- Department of Primary Industries and Regions
- Economic Development Board
- Environment Protection Authority
- Essential Services Commission
- Government Architect
- Liquor and Gambling Commissioner
- Metropolitan Fire Service
- Native Vegetation Council
- Natural Resource Management Council and boards
- Ombudsman
- Power Line Environment Committee
- Premier's Climate Change Council
- SA Tourism Commission
- SA Water
- South Australian Police
- South Australian Heritage Council
- South Australian Housing Trust
- Stormwater Management Authority
- Urban Renewal Authority (Renewal SA)
- Zero Waste SA

The engagement revealed a perception that the state government has many 'voices' and that councils and communities find it difficult to consider various needs and objectives. Councils suggested that while the legislation requires them to communicate with different agencies about different aspects of the same planning issues, often those agencies do not appear to communicate fully with each other.

At a broader level, there was a strong call for a clear statutory hierarchy that outlines how different agencies' strategic plans link to each other, and which ones take precedence. Some called for an integrated regional planning document that brings together transport, infrastructure, land-use planning and natural resource management.

See also: part 3.1 'Balancing state, regional and local interests'; 'part 7.3 'Aligning funding and budgets'.

Key issues raised with the panel

- State government agencies often do not see themselves as being part of the 'planning system'
- Many government agencies maintain policies or administer programs that can conflict with land-use planning objectives and legislation
- Government agencies do not get involved early enough in strategic planning and policy development
- There is a perception that government does not speak with one voice
- Government agencies tend to respond to statutory consultation from a 'silo' perspective
- There is a lack of legislative clarity around how different government policies, plans and strategies relate to each other and to the planning system

Ideas the panel heard

- Strengthen cross-government coordinating bodes, such as the Government Planning Coordination Committee, by providing them with clear functions in the legislation
- Establish a single point for the coordination of whole-of-government advice on council development plan amendments
- Include signposts in policy-making and budget-setting processes to ensure planning issues are adequately addressed
- Rationalise selected government strategies, plans and policy frameworks through integrated regional plans
- Establish a clear statutory hierarchy of state government plans and strategies
- Review departmental arrangements to ensure key land-use functions are integrated within one portfolio

"There is a gap between the integration expected of the planning system, and the capacity of government departments to properly co-ordinate to deliver this."

7.2 Regulatory overlaps and referrals

Community feedback focussed on the non-alignment of strategic and regulatory policies with land-use planning, leading to conflict in how policies are implemented on a daily, case-by-case basis. Areas of particular tension included various environmental laws, heritage, mining, infrastructure, transport, land titling, housing, local government, and liquor and gambling licensing. The following list summarises opinions expressed about key areas of regulatory overlap.

Environmental laws

- The relationship of environment protection laws and the planning legislation can be problematic
- Natural resources management, native vegetation and coastal protection laws should be more closely integrated with planning legislation
- There are concerns that planning legislation ignores or discounts environmental policies
- Some environmental policies are out-of-date and tend to inhibit development outcomes
- Site contamination issues require clearer integration with planning legislation

Mining laws

- Mining approvals should not be dealt with separately from the development control system
- Special indenture legislation for mining undermines the integrity of planning legislation and processes
- Mining legislation should integrate mine management with development and environmental issues

7 ALIGNMENT, INTEGRATION AND CULTURE

Infrastructure laws

- Infrastructure legislation does not provide clear linkages to the planning legislation
- Design standards for infrastructure tend to focus on engineering and safety concerns, but not urban design
- Infrastructure providers have no statutory obligations to plan for urban development
- Lengthy development approvals processes can frustrate effective infrastructure roll-out
- Planning legislation is not adequately connected to long-term infrastructure planning

Heritage laws

- Aboriginal heritage laws need closer integration with planning legislation
- There are inconsistencies between state and local heritage-listing processes
- Heritage powers should be reviewed to make them more relevant and 'fit for purpose'
- The role of accredited professionals in heritage issues should be addressed in legislation
- Lack of clear heritage management plans can impede development approval processes

Transport laws

- Public transport laws do not link with planning objectives and legislation
- There is a need for a clear hierarchy of movement networks linked to urban development outcomes
- Road safety laws sometimes ignore important urban design issues such as walkability
- Transport laws and practices should cater for high-quality streetscape design

Land titling laws

- There are inconsistencies in land tenure requirements and development assessment processes
- Land division processes could be streamlined and duplications removed
- There is a need for community titles legislation to be reviewed and better aligned with the planning legislation
- Alignment of spatial data processes between the land titling system and the planning legislation should be addressed

Local government laws

- By-law making powers should be more clearly linked to the legislative framework for planning
- Strategic planning functions under differing legislation should be better aligned
- Parks and streetscapes management and design should be more closely linked to planning legislation
- Innovative rating arrangements and place management schemes should be explored to support urban renewal
- Local government permits should be integrated with planning legislation
- There should be better linkages between planning changes and potential local government boundary changes

Licensing laws

- Liquor and gambling licenses tend to duplicate requirements in the building rules
- Amenity issues are best addressed through planning and building requirements

Housing laws

- There is an overlap between various housing laws and planning and urban renewal legislation
- There is a need to develop a better legislative framework for the delivery of affordable housing
- The relationship of the Housing Trust and the Urban Renewal Authority requires greater legislative clarity

The planning legislation includes a process of referrals to relevant state government agencies for their input into development applications. The referral process aims to ensure approvals are provided as a streamlined 'one-stop-shop' process, helping boost the state's competitive advantage. However, experience suggests that referrals are not achieving this objective, but often include time-consuming delays that counter other efforts designed to increase investor confidence.

Outside the formal referral process, a range of other pieces of legislation administered across government has implications for the planning legislative framework that the panel heard are often poorly understood or acknowledged. Examples included mining legislation, native vegetation and Aboriginal heritage. Industry raised concerns that the lack of links to these other statutory approvals can result in development approvals being ineffective because land-use related approvals are later delayed or refused under other legislation.

See also: part 6.3 'Elements of assessment'; part 6.4 'Timeframes, information and advice'.

"Referral agencies give poor, unhelpful responses and often recommend that invalid conditions be imposed."

"There is insufficient integration between planning policy and environmental matters—which flows to development assessment."

Key issues raised with the panel

- Many state government agencies are not well integrated into the legislative framework for the planning system
- While the 'one-stop-shop' concept is supported, referrals are often time-consuming and unhelpful
- Some areas of legislation are poorly integrated with the planning legislation
- Many referral agencies take the full time to respond and then provide standard advice
- There are too many referrals in the system
- Many agencies' policies are not aligned with the planning framework
- Referral agencies sometimes request unenforceable conditions on development
- The number of referrals could be minimised by developing clear planning requirements that address the issues of referral agencies' interest
- Some regulatory regimes seem to duplicate or contradict planning frameworks
- Lack of integration of approvals can create investment uncertainty

7 ALIGNMENT, INTEGRATION AND CULTURE

"There is a current lack of forward planning in regard to mining explorations and developments, where rezoning may need to occur but mines are administered under different legislation."

Ideas the panel heard

- There should be an audit of legislation to address areas of overlap with the planning legislation
- Introduce new classes of consent that would allow additional matters to be included in the development assessment process
- Environmental permits and licenses should be incorporated into the development assessment process
- Referral agencies should be required to maintain assessment guidelines and make this information available to development proponents
- Referrals should be tied directly to planning policy decision criteria
- Timeframes for referrals should be tightened
- Referral agencies should be required to indicate if they intend to make a comment within a few days of receipt
- There should be a focus on reducing the number of referrals by developing detailed planning policies to address referral issues
- Referrals should be abolished

7.3 Aligning funding and budgets

Many comments discussed the role of budget setting and revenue streams as highly relevant to the achievement of broader planning objectives. There was a sense from some that budget priorities often did not adequately align with strategic planning directions, delaying necessary capital expenditures and undermining planning outcomes for new or changing communities.

There was a sense that budget-setting priorities can result in a mismatch between demand and timing of delivery of important infrastructure and services and may also frustrate access to private-sector capital and federal government funding. It was highlighted that planning for infrastructure to service urban development needs to be undertaken over 10–15 year horizons to meet land supply needs, and that the state budget-setting process should be calibrated to meet these needs.

There were also comments about the interaction between state and council revenue streams and the effects this might have on the commerciality of development projects. There was some suggestion that the way state taxes and council rates affect development and land supply should be considered within funding models for infrastructure delivery.

See also: part 4.6 'Planning and delivering infrastructure'; part 7.1 'The role of state agencies'.

Key issues raised with the panel

- State government budgets do not provide certainty about infrastructure commitments
- There is no clear long-term pipeline for infrastructure and service delivery to support development
- State taxation, council rates and levies can work against development outcomes
- Upfront costs of new infrastructure often drive budget decisions, rather than wider or long-term benefits

Ideas the panel heard

- Establish a clear infrastructure funding pipeline in the legislative framework
- Explore innovative funding models for infrastructure
- Review taxes, levies and rates to ensure optimal support for urban renewal and development objectives
- Value-capture models should be used to bridge costs and benefits and drive financing of catalytic capital investments
- The budget process should have a clear focus on long-term urban growth directions

7.4 Using and providing for technology

The 21st century has brought ever-increasing use of information technology in all areas of government activity. In the planning system, the increasing use of online platforms supported by information technology is generally referred to under the term 'e-planning'.

There was much discussion about how the planning legislation can and should use emerging technology to make the system more accessible, transparent and accountable. However, South Australia's current planning legislation is largely silent as to how digital technologies might be used to collect, store, manage, analyse and process information, or to monitor performance.

Feedback from councils and industry pointed to the potential benefits of using interactive, real-time virtual technologies to enhance planning services, boost community satisfaction with planning processes and outcomes, and support new investment.

See also: part 3.3 'Inviting and enabling participation'; part 5.1 'Consistent rules across the state'; part 5.2 'Clear rules that promote certainty'; part 5.3 'Maintaining and updating rules and frameworks'; part 5.4 'Transparent processes for changes to planning frameworks'; part 6.5 'Notification, consultation and representation'.

"Current planning processes require an excessive amount of paperwork—they need to be more electronically structured."

"Spatial information is a key component to help interpret planning policy."

7 ALIGNMENT, INTEGRATION AND CULTURE

"The Electronic Land Division Lodgement Site (EDALA) online system works well and it would be beneficial for all applications to use a similar electronic system."

What e-planning can do

- Improve public participation in important planning decisions
- Provide access to information in a consistent and user-friendly manner
- Support simple and effective ways to monitor system performance
- Enable individuals to lodge development applications online
- Integrate planning information and transactions with other government processes
- Improve information exchange between councils and government agencies

Key issues raised with the panel

- Current planning processes use a lot of time and generate a lot of paperwork
- Current legislation does not recognise the growing use of geographic information technologies in many businesses, councils and agencies with land-related interests
- There is potential for digital technology and electronic systems to play a significant role in the future planning system and to be recognised and supported in the legislation
- Current legislation does not provide a framework for an e-planning approach
- The system should be technology-enabled, but technology should not be the 'tail that wags the dog'
- The legislation should be flexible enough to cater for and take advantage of rapidly changing information technology
- Many of the issues raised about consistency, certainty, consultation and timeframes could be addressed through an effective e-planning system
- The use of technology should integrate with other e-government platforms

Ideas the panel heard

- There should be a clear e-planning governance model within the planning legislation, backed by mandated legislative standards
- Use Geographical Information Systems (GIS) to underpin the online delivery of spatial information
- Allow for referral information to be exchanged electronically between assessment bodies and government agencies
- Allow land owners to download information about zoning policies applying to their property from an easy-to-access website
- Use digital modelling software to provide new ways to engage with the public on development proposals and strategic planning
- Allow applications for development proposals to be lodged online
- Integrate spatial data across government into one online platform

7.5 A customer-focussed culture

The panel heard from individuals, industry and community groups serious concerns about the overall culture of the planning system. Councils, state agencies and their staff involved in the system were often seen as avoiding decisions or acting in a risk-averse manner, and seemed more focussed on processes than outcomes. For example, the panel heard that assessment staff are often reluctant to provide advice to land owners before a development application is lodged, even when such advice could help facilitate a better development outcome.

Professionals working within the system reported feeling disempowered by the political micro-management of planning decisions. However, it was also suggested that aspects of the system culture could also be related to the training, mentoring and career prospects within each discipline. Continuing professional education, accreditation and rotation across the system were mooted as options to address these matters.

The panel heard that the planning profession itself in many cases views development assessment as a 'training ground' for the least experienced practitioners, with roles in policy and strategy seen as promotions in the professional career path. As a result, there is an undervaluing of the significance of development assessment roles.

See also: part 3.5 'The role and influence of professional expertise'; part 6.7 'Facilitating development outcomes'.

How the system culture should change

Current planning values/focus	Reformed planning values/focus
Rules →	Intent
Compliance →	Facilitation
Stopping the 'wrong' things →	Unlocking the 'right' things
Process →	Outcomes
Detail first always →	Principle first, detail later
Resist change →	Embrace change
Scope creep →	Scope limits
Risk elimination →	Risk management
Raising issues →	Finding solutions

Source: adapted from submission

7 ALIGNMENT, INTEGRATION AND CULTURE

"In South Australia different parties often know each other and will work together to negotiate an outcome. This is a positive about the culture of South Australia."

Key issues raised with the panel

- There is a risk-averse culture within the system that is compounded by 'silo' thinking and poor internal culture within some professions
- The system culture is focussed on micro-management of planning decisions
- Development assessment is not valued as an important skillset in its own right
- There is a tendency to look for ways to say 'no', rather than provide responsive service
- Professionals working in country areas can feel isolated from policy-making
- The system culture is often focussed on processes rather than outcomes

Ideas the panel heard

- Reliable performance data should be collected and presented for all planning authorities
- Underperforming authorities should receive sanctions that ultimately lead to the loss of planning powers
- The State Ombudsman's powers should be extended to comment on decision-making culture as well as administrative matters
- There should be greater continuing training and education for planning staff
- Rotation of staff across councils and state government agencies should be explored
- Providing advisory services should be a requirement for all assessment bodies

"Even large developments can break down over a council counter if the response and the assistance is poor."

“A PLANNING SYSTEM THAT IS COHESIVE AND BASED ON REAL RELATIONSHIPS AND THAT CAN PROVIDE A PLATFORM FOR THE FREE EXCHANGE OF VIEWS AND INFORMATION.”

PART 8

Aspirations for a new planning system

8 ASPIRATIONS FOR A NEW PLANNING SYSTEM

As the Expert Panel began its work it identified five themes to promote discussion about potential reforms to the legislative framework for the planning system.

These themes—partnerships, integration, design thinking, urban renewal and performance—posed useful lenses for considering opportunities for system reform. They also focussed conversations with the many individuals, practitioners, and representatives of public and private organisations that participated in the panel's 'listening and scoping' stage.

Participants provided the Expert Panel with their views of what the legislative framework for the planning system should achieve, and what they regarded as the hallmarks of a robust planning system and its legislation. Accordingly, the panel has revised these themes, which will form important guiding principles in developing options for legislative reforms in the next stage of the panel's work.

Partnerships and participation

An easily understood planning system that establishes meaningful connections between all people and bodies engaged in it

"A planning system that is cohesive and based on real relationships and that can provide a platform for the free exchange of views and information."

"A system that makes it easier for the community to understand and engage with planning policy and decisions."

"A planning system in which decisions and policies are made at the level closest to those who are affected by them, while balancing wider community needs."

"A planning system in which decisions and policies are made at the level closest to those who are affected by them, while balancing wider community needs."

Integration and alignment

A planning system that balances social, environmental and economic needs, and enables an integrated approach to both high-level priorities and local policy and decision delivery

"A planning system that balances all considerations and conflicting aspirations."

"A planning system that integrates better with other relevant legislation and approval processes."

"A planning system that ensures a flow of information from strategic to the local level, and from the local to the strategic level."

"A planning system that integrates social and physical infrastructure as well as environmental considerations."

Design and place

A planning system founded on the creation of places, townships and neighbourhoods designed to fit the needs of the people who live and work in them

"Planning legislation that promotes social and healthy connections through a strong sense of place and public realm."

"A system that encourages and fosters a sense of community."

"A system that rewards good design outcomes."

"A system that enables the delivery of quality, healthy places and spaces."

8 ASPIRATIONS FOR A NEW PLANNING SYSTEM

Renewal and resilience

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

"A planning system that enables planning authorities and investors to adapt to changing environments and circumstances."

"A planning system that is more responsive to changing economic and social circumstances, that supports and moderates development."

"A system that balances good development outcomes with the needs of the environment."

"A planning system that is more outcome-focussed and that facilitates innovation."

Performance and professionalism

A planning system that is consistent, transparent, navigable, efficient and adaptable, that supports clear decision-making and encourages investment within a culture of facilitation

"A planning system that is simple but not simplistic—is easy to understand, contains clear rules and processes, and provides simple answers to simple proposals."

"A planning system that is trusted, consistent and fair, understood by local communities and respected by investors."

"A system that achieves a balance between certainty (for routine matters) and flexibility (to future-proof the system and remove barriers to innovation)."

"A system that is prompt, and provides answers within certain timeframes to support investment decisions."

These aspirations reflect the high expectations of South Australians who are engaged with the planning system and its legislation. These expectations do not set an easy standard to meet, but they will be invaluable for the Expert Panel as it develops options for legislative reform.

PART 9

The way ahead

- Next steps
- Feedback on this report
- Conclusion

9 THE WAY AHEAD

9.1 Next steps

This report presents a summary of the key issues and ideas raised and aspirations highlighted by participants in the panel's 'listening and scoping' phase.

In the next 'exploring and discussing' phase the panel will analyse the detailed results and feedback and work closely with the two reference groups and other stakeholders to investigate these issues, develop and test options, and seek additional input and ideas. The panel intends to supplement the two reference groups with additional working groups (including regional representation), input from academia and further engagement with councils.

In mid 2014 the panel will release an options report that will set out a range of potential directions for a future legislative framework for the planning system; the options report will seek to address many of the issues raised during the panel's 'listening and scoping' phase, as well as other matters that further research and discussion may uncover. Feedback on this options report will help inform the delivery of the panel's final report, which will set out a recommended model for the future legislative framework for the planning system, in December 2014.

9.2 Feedback on this report

The panel welcomes feedback on this report. It is particularly keen to hear:

- If there are issues this report does not include, but that should be addressed
- Evidence and research that can help the panel to assess the issues and claims that have been raised
- Any additional ideas for reform that should be explored

Please visit the website to make a comment or provide a further submission.

Feedback on this report

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

9.3 Conclusion

An enormous number of considered, passionate, provocative and direct views was put to the Expert Panel during its 'listening and scoping' phase.

These views reflected a multitude of experiences across every aspect of South Australia's current planning system and its legislation. While many people voiced aspirations for planning and its role in the state's future, there were varied views on how the legislative framework for the state planning system can meet these standards.

The Expert Panel will continue considering the many issues and ideas summarised in this progress report, and how they might be addressed. Its main challenge now is to transform these into viable options for reform that will achieve lasting outcomes for South Australian communities.

The panel has been impressed by the enthusiasm and energy evident in the views put by participants in this initial stage of engagement and is anticipating continued engagement with community groups, local government, business, the professions and government agencies in the year ahead.

Importantly, although this first phase is complete, the panel encourages people interested in this reform process to stay in touch, continue the debate in the wider community and offer further ideas or input during the process.

Stay connected

You can stay connected to the panel's work.

Log on to the panel's website **www.thinkdesigndeliver.sa.gov.au** and subscribe to our email database.

Appendix

- Terms of reference
- Reference group members
- Engagement consultation

A. APPENDIX

A.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
   (b) review the role and operation of all other legislation that impacts on the planning system
   (c) review statutory and non-statutory governance and administrative arrangements for the planning system
   (d) propose a new statutory framework, governance and administrative arrangements for the planning system, and
   (e) consider any matters referred to the Panel by the Minister for advice.

3. Recommendations of the Expert Panel must have regard to the vision for:

   (a) a vibrant inner city for Adelaide—including the city centre, park lands and inner suburbs
   (b) liveable, affordable and healthy neighbourhoods, and
   (c) thriving, sustainable regional communities as outlined in The 30-Year Plan for Greater Adelaide and the new strategic plans for regional areas of the state.

4. The Expert Panel is required to:

   (a) consult widely with the community, industry, councils and parliamentarians
   (b) review interstate and overseas planning systems and urban renewal legislation, and
   (c) consider relevant public reports and academic research relating to planning, urban design and urban renewal.

5. The Expert Panel must provide a final report outlining recommendations for a new planning system by no later than the end of December 2014.

6. The Expert Panel may provide such interim reports or other advice to the Government as it thinks fit, including advice on any matters that can be acted upon ahead of its final report.

7. Draft legislation will be developed by the Government, with the assistance of the Expert Panel. The Government will consult with parliamentarians in drafting legislation.

Hon John Rau MP
Deputy Premier
Minister for Planning
February 2013

A.2 Reference group members

Planning Reform Reference Group

Dr Michael Llewellyn-Smith (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 SA (Inc)

Housing Industry Association (SA Branch)

Mainstreet SA

National Environmental Law Association

National Trust of South Australia

Planning Institute of Australia (SA Division)

Primary Producers SA

Property Council of Australia (SA Division)

Local Government Association—metropolitan representative

Local Government Association—regional representative

Urban Development Institute of Australia (SA Branch)

South Australian Chamber of Mines and Energy

South Australian Council of Social Service

Agency Reference Group

Attorney-General's Department

Department for Communities and Social Inclusion

Department of Environment, Water and Natural Resources

Department for Health and Ageing

Department for Manufacturing, Innovation, Trade, Resources and Energy

Department of Planning, Transport and Infrastructure

Department for the Premier and Cabinet

Department of Primary Industries and Regions

Department of Treasury and Finance

Environment Protection Authority

Urban Renewal Authority

A. APPENDIX

A.3 Engagement and consultation

Locations of council, agency and community engagement workshops

20 August 2013	Port Lincoln	Community workshop—afternoon
		Council, assessment panels and agencies workshop—afternoon
		Community workshop—evening
26 August 2013	Murray Bridge	Community workshop—afternoon
		Community workshop—evening
27 August 2013	Clare	Community workshop—afternoon
		Community workshop—evening
28 August 2013	Adelaide	Community workshop—afternoon
29 August 2013	Loxton	Community workshop—afternoon
		Community workshop—evening
4 September 2013	Goolwa	Community workshop—afternoon
		Community workshop—evening
5 September 2013	Marion	Community workshop—afternoon
		Community workshop—evening
9 September 2013	Adelaide	Council and agencies staff workshop—afternoon
11 September 2013	Woodville	Community workshop—afternoon
		Council, assessment panels and agencies workshop—afternoon
		Community workshop—evening
19 September 2013	Gawler	Council, assessment panels and agencies workshop—afternoon
		Community workshop—evening
19 September 2013	Norwood	Community workshop—evening
26 September 2013	Modbury	Community workshop—evening

Elected members forums and briefings

16 March 2013	Adelaide	Briefing for parliamentarians
6 August 2013	Naracoorte	Briefing for elected councillors
8 August 2013	Port Augusta	Briefing for elected councillors
15 August 2013	Adelaide	Briefing for elected councillors
11 September 2013	Adelaide	Briefing for Environment, Resources and Development Standing Committee—morning
		Briefing for parliamentarians—afternoon

Workshops. briefings and meetings with stakeholders

12 April 2013	Adelaide	Briefing to staff of the Department of Planning, Transport and Infrastructure
16 May 2013	Adelaide	Roundtable hosted by Lynch Meyer Lawyers
23 May 2013	Hindmarsh	Briefing and discussion with Housing Industry Association Planning Subcommittee
21 June 2013	Clapham	Workshop hosted by Natural Resources Management Council with environment portfolio statutory boards
1 July 2013	Adelaide	Briefing and discussion with the Development Policy Advisory Committee
3 July 2013	Adelaide	Briefing to staff of the Department of Planning, Transport and Infrastructure
8 July 2013	Adelaide	Workshop hosted by the Conservation Council of South Australia
9 July 2013	Adelaide	Briefing and discussion with the Adelaide City Council
9 July 2013	Woodville	Workshop hosted by the Planning Institute of Australia
10 July 2013	Adelaide	Roundtable hosted by the Property Council of Australia
12 July 2013	Clare	Presentation to the Country Planning Officers Group Annual Conference

A. APPENDIX

16 July 2013	Adelaide	Workshop hosted by the Planning Institute of Australia
17 July 2013	Hindmarsh	Workshop hosted by the Housing Industry Association
18 July 2013	Adelaide	Briefing and discussion with the Urban Development Institute of Australia Planning Committee
18 July 2013	Adelaide	Workshop hosted by the Community Alliance SA
25 July 2013	Adelaide	Briefing and discussion with the Development Assessment Commission
25 July 2013	Adelaide	Briefing and discussion with the Environment and Conservation Portfolio Planners Meeting
30 July 2013	Adelaide	Briefing and discussion with the Master Builders Association
5 August 2013	Mount Barker	Briefing and discussion with the District Council of Mount Barker
13 August 2013	Adelaide	Workshop hosted by the Australian Institute of Architects and the Australian Institute of Landscape Architects
14 August 2013	Adelaide	Briefing and discussion with the Local Government Association's Metropolitan Chief Executive Officers Group
15 August 2013	Adelaide	Briefing and discussion with staff of the Department of Environment, Water and Natural Resources
17 August 2013	Adelaide	Briefing and discussion with the Elected Members Residential Seminar
26 August 2013	Adelaide	Briefing and discussion with the board of the Urban Renewal Authority (Renewal SA)
3 September 2013	Adelaide	Briefing and discussion with staff of the Department of Manufacturing, Industry, Trade, Resources and Energy
11 September 2013	Adelaide	Briefing and discussion with the Australian Institute of Architects

13 September 2013	Adelaide	Briefing and discussion with the Local Government Association's Mayors and Chairpersons Residential Seminar
13 September 2013	Adelaide	Briefing and discussion with staff of the Department of Treasury and Finance
20 September 2013	Adelaide	Briefing and discussion with the Agribusiness Council
23 September 2013	Adelaide	Workshop hosted by the Active Living Coalition
26 September 2013	Adelaide	Briefing and discussion with the Environmental Defenders Office SA (Inc) Annual Conference
26 September 2013	Adelaide	Roundtable hosted by the Australian Institute of Building Surveyors
30 September 2013	Adelaide	Briefing and Discussion with the Board of the Surveying and Spatial Sciences Institute (Land Survey Commission) and the Surveyors' Board of South Australia
8 October 2013	Unley	Briefing and discussion with elected councillors and staff of the City of Unley
15 October 2013	Mitcham	Briefing and discussion with the council of the City of Mitcham
23 October 2013	Glenelg North	Briefing and discussion with the Provincial Cities Association
23 October 2013	Adelaide	Briefing and discussion with the Community Engagement Board
25 October 2013	Adelaide	Briefing and discussion with the South Australian Heritage Council
8 November 2013	Adelaide	Briefing and discussion with the Planning and Development Working Group of the Economic Development Board
14 November 2013	Adelaide Airport	Briefing and discussion with the Adelaide Airport Planning Coordination Committee
19 November 2013	Adelaide	Roundtable hosted by the Surveying and Spatial Sciences Institute
25 November 2013	Adelaide	Briefing and discussion with the Fairmont Group

A. APPENDIX

Submissions received

Adelaide and Mt Lofty Ranges Natural Resource Management Board

Adelaide City Council

Adelaide Hills Council

Cr Graham Bills, City of Burnside

Ms Sue Bennett

Dr Stephen Bourn

Mr Clyde Buttery

Blind Citizens Australia

Campbelltown City Council

D Caramail

Mr Simon Chappel

Mr Laurie Collins

City of Burnside

Mayor Felicity-ann Lewis, City of Marion

City of Onkaparinga

Coalition for Planning Reform

Coast Protection Board

Community Alliance SA

Community Centres SA Inc

Conservation Council of SA

Commonwealth Department of Communications

District Council of Ceduna

District Council of Karoonda East Murray

District Council of Mt Barker

Eastern Regional Alliance

ElectraNet

Mr and Mrs A & E Emerson

Environmental Defenders Office (SA) Inc

Eyre Peninsula Community Mine to Port Consultative Committee

Mr Russell Fink

Cr Stuart Ghent, City of Charles Sturt

Mr Peter and Mr John Hartley

Ms Kathy Hennessy

Ms Alex Hodges

Housing Industry Association

International Council on Monuments and Sites

Mr Tim Kelly

Kensington Residents' Association

Local government planning staff

Mr Michael Lohmeyer

Mr Paul Manning

Cr John Mant, City of Sydney

Mr Brian Menadue

Mr Muller Menz

Mr A Mudge and Mr P Wilson

Mt Barker Coalition for Sustainable Communities

Natural Resource Management SA Murray Darling Basin

Natural Resources Management Council

Mr Michael Nietschke, chairman, Surveyors Board of South Australia

Northern Areas Council

Parks and Leisure Australia

PBS Australia

Port Pirie Regional Council

Provincial Cities Association

Regional Planning Directions

Renewal SA

Mr Matthew Romaine

Rural City of Murray Bridge

SA Tourism Commission

Mr Andrew Schulz

Mr and Mrs Nick and Julie Smales

South East City Residents' Association

South West Residents' Association

Telstra Corp

The Bunnings Group

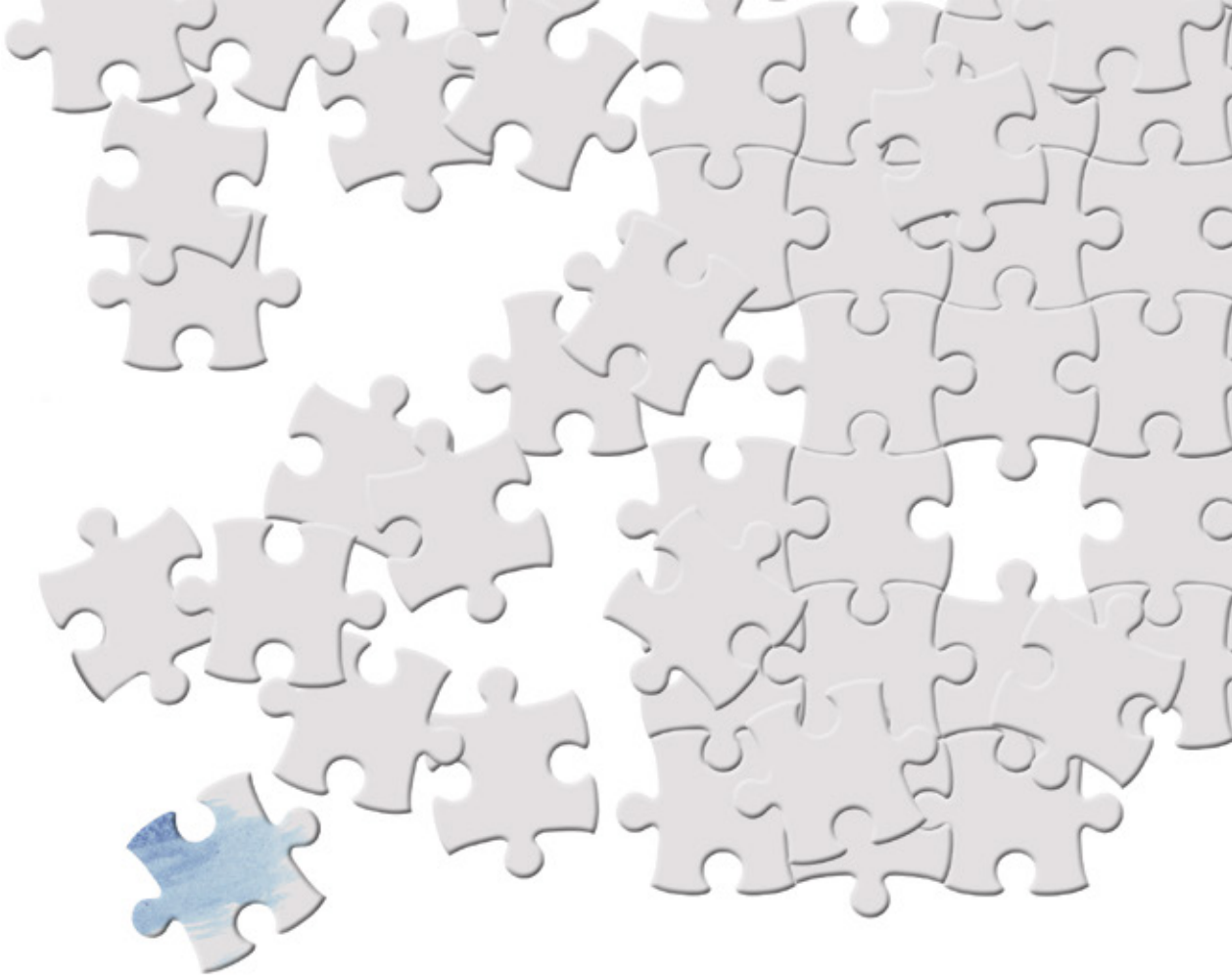
The Law Society of South Australia

Urban Development Institute of Australia

Waste Management Association of Australia

Mr David Watkins

Ms Sarah Whitcher



Government
of South Australia