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16 December 2022

Expert Panel
GPO Box 1815
Adelaide SA 5001

Dear Expert Panel Members,

Re: Planning System Implementation Review

Thank you for providing the Urban Development Institute of Australia SA (UDIA) with the opportunity to respond to the Expert Panel conducting the Planning Reform Implementation Review.

In addition to the deputation submission previously made, please find attached a full submission addressing questions of the panel and discussion paper topics. This includes a summary of *Key Recommendations* which we believe are the most critical and essential matters that must be addressed with a sense of urgency to address the current housing crisis. Further information can also be found in submissions previously made by the UDIA to the State Planning Commission (attached).

Since the expert panel review of the planning system in 2012, the subsequent introduction of the *Planning Development and Infrastructure* (PDI) *Act 2016* and the implementation of the new electronic Planning and Design Code, many significant and important enhancements have been made to ensure our state's planning system is modern, user friendly and a solid foundation for adaptive and flexible policy and assessment.

While there are many areas for improvement, we do not believe that the system is "broken" nor requires extensive changes, particularly as it relates to the interface between authorities, proponents and the community.

We do however firmly believe there is a critical imperative to consider the broader objectives in totality because without doing so, a number of the technical and detailed questions posed could conceivably result in a series of suggestions and policies that would seem worthwhile when considered in isolation, but in the broader context could have more wide-ranging unintended consequences. It is only when considering the wider context and the broader goal or "problem to be fixed" can the best solutions be identified.

While many of the Planning System Implementation Review discussion points consider the delivery of the new system, the UDIA notes that the terms of reference and much public discourse often refers to strategic planning policy and directions. We are pleased that the Expert Panel has recognised this and invited a broad range of matters where it states in the first discussion paper, "…the Panel is, of course, interested to hear about all ideas for reform that may benefit the South Australian community and encourages you to raise any matters that have not otherwise been canvassed in this Discussion Paper".

As outlined in previous UDIA submissions to the State Government and most recently in the UDIA's **Grow.Reform.Build**. document published prior to the 2022 State Election, as a membership body we are uniquely placed to see and experience first-hand what South Australian's value most about the places they live.

We also see and experience each of the different and competing interests of policy makers, agencies and levels of government, and how they are often at odds with each other. From a state-wide perspective, we see that without necessary and thorough planning, development can adversely change the character of our existing suburbs and streets. We see the impacts of a lack of investment in public transport, roads and trunk infrastructure and how this neglect can quickly lead to the same congestion and 'growing pains' being experienced interstate.

The UDIA believes that a key focus for our state now and into the future should be for South Australia to continue and unquestionably be the place where people can still achieve the great Australian dream.

Home ownership means different things to different people — for some it is in a compact denser neighborhood or apartment, for others it is a place where you can have a trampoline, trailer and a dog.

For those that can't afford to invest in purchasing a home, the certainty that comes with knowing a place to rent is affordable and available, in an area that they are attached to or familiar with, can make a significant difference to their overall wellbeing.

We know that a place to call home offers an undeniable sense of safety, security, and stability — a fundamental human need as defined in Maslow's Hierarchy of Needs — and is a proven pathway to intergenerational prosperity.

We hope that these key objectives continue to remain in the forefront of the Expert Panel's considerations.

Yours sincerely,

Pat Gerace
CHIEF EXECUTIVE

KEY RECOMMENDATIONS

Land Supply

The UDIA seeks to ensure there is a pipeline of development-ready land and has concerns relating to inadequacies in existing land supply measurements.

Our comments regarding the current framework are:

- Schedule 4(1) and section 7 of the Planning, Development and Infrastructure Act (PDI) obligates the State Planning Commission to review land supply at least once every five years and we believe the five-year review period is too infrequent.
- Land supply issues combined with changing economic circumstances have caused a housing affordability crisis and these factors make the timeframe for reviews more urgent.
- Land supply and "development ready" land reports do not adequately factor in critical delivery elements such as infrastructure delivery, approval process delays and the political decision-making process.
- The current monitoring of land supply is inefficient, and the Urban Development Institute of Australia (UDIA) proposes a different model (currently under development in conjunction with National Housing Finance and Investment Corporation).

A substantial amount of information on this matter is included in the UDIA submission to the State Planning Commission on the review of the Environment and Food Production Area (attached).

Infrastructure Coordination

All of society benefits from new infrastructure. Even those far away from a new piece of major transport infrastructure may indirectly benefit, while those living, working, or investing in close proximity benefit both directly and indirectly.

- The early identification and adequate scoping of urban infrastructure is lacking
- The UDIA believes the cause is that no single or appropriate authority has been tasked with the early planning and scoping of urban infrastructure for growth areas.
- The infrastructure challenges are caused by an absence of a coordinated vision and the sharing of responsibilities between state and local government
- A lack of Government control leads to blame and responsibility being novated to the development sector
- The PDI Act and other pieces of legislation are deficient in this area, both in the identification and measurement of what is required and the different views of councils about the infrastructure they require.
- Infrastructure SA has not made this a key area of focus and is also relying on an under-resourced State Planning Commission to take the lead
- Corporatised and privatised delivery of trunk infrastructure through regulatory regimes that are governed by different legislation does not presently allow for the best coordination, pricing and efficient delivery of key infrastructure for an innovative urban development.

In the absence of a coordinated comprehensive government owned and regulated infrastructure delivery system it is appropriate that we revisit third party access rules for all essential infrastructure. If South Australia is to have a user pays system, it cannot exist in the absence of competitive alternatives to lower costs for developers and ultimately consumers.

The UDIA believes that the state government should commit to bringing all disparate interests together so that efficiencies can be unlocked and more and improved infrastructure can be delivered. The UDIA suggests:

- Include in the Infrastructure SA charter an increased focus to better recognise the relevance of urban development to the state economy and to consider a suite of infrastructure projects directly aimed at unlocking identified areas for growth.
- Create an Urban Futures Infrastructure task force comprising representation from Infrastructure SA, State Planning Commission, state government agencies, local government, utilities and the UDIA to investigate capacity analysis of essential infrastructure in the greater metropolitan areas for both infill and growth areas to unlock areas for growth.
- Develop agreed terms of reference for an independent review of competition and pricing mechanisms related to core urban development infrastructure and consider amending third party access arrangements and/or state government guidelines to increase efficiency of infrastructure delivery and improve housing affordability.

Infrastructure Schemes

The UDIA played a key role in the impetus for a new alternative in the PDI Act for the apportionment of infrastructure costs in new development areas with multiple landowners.

- UDIA's suggested provisions for infrastructure schemes and a Scheme Coordinator did not get adopted in the drafting of the PDI Act
- The UDIA strongly advocates for a Scheme Coordinator to manage infrastructure schemes and be involved in the early identification and scoping of urban infrastructure for growth areas
- The Scheme Coordinator would be a nominated person with a strong charter to be measured against to ensure appropriate performance, together with appropriate support staff and authority to resolve negotiations with other state or local government authorities, service authorities, developers and landowners.
- The UDIA suggests better planning through Infrastructure SA and a taskforce, enforceable guidelines for developer contributions, up-front funding and use of a Scheme Coordinator for infrastructure schemes to begin resolving infrastructure delivery issues within South Australia.
- A detailed UDIA submission in relation to infrastructure schemes operation and the use of development deeds was made in the recent investigation conducted by Deloitte on behalf of Planning and Land Use Services (PLUS) (attached)[1]

New 30 Year Plan

- UDIA recommends that the new 30-Year Plan for Greater Adelaide be developed by establishing a tripartite (local and state government and private developer) task group to develop terms of reference and coordinated with infrastructure capacity

[1] *UDIA Submission on Developer Deed Review and Infrastructure Schemes, 2022*

- The UDIA strongly supports the continued supply of master planned neighbourhood-type zones which provide the necessary flexibility for developments to evolve and respond to the housing market.
- UDIA's position is that strategic infill is a preferable way to increase housing density and diversity over general infill.
- The new 30-Year Plan should identify more large-scale strategic infill projects and work to unlock medium to higher density projects in appropriate areas.
- Strategic infill provides optimum opportunity to master plan the regeneration of areas, better infrastructure co-ordination and urban outcomes
- The UDIA continues to call for improved and more detailed planning, based on better data and an understanding of what people need and value, and how the market is likely to respond.
- Well planned redevelopment with scale will be more sustainable and can include open space and opportunities to upgrade infrastructure.
- The UDIA does not support the inclusion of infill-type policies (that are used to address higher densities in existing suburbs) in master planned areas as it unnecessary and counterproductive to good urban outcomes where innovation and the benefit of master planning can achieve even better outcomes
- The 30-Year Plan and PDI Act should address housing affordability by acknowledging and addressing the hidden cost of land and housing imposed by taxation, regulatory charges and development delays.

Role of Urban Infill

- UDIA believes that without necessary and thorough planning, ad-hoc general infill development can adversely change the character of our existing suburbs and streets and note that much of the public discussion and policy questions raised in this review relates almost entirely to general infill.
- The UDIA believes that the impact of all potential policy recommendations resulting from this should be accompanied by a commensurate consideration and action to increase alternative land and housing supply measures.
- The UDIA believes there should be a reduction in general infill development and refocus on strategic infill in identified sites and this should be carried out together with a more realistic appraisal of the development ready pipeline for major greenfield developments
- Modelling should investigate what significant reductions in general infill will mean as the Government recognises considerations such as character and heritage areas, increases in rates of tree retention, and reduction of on-street parking.
- The Planning and Development Fund expenditure should be reflective and commensurate to where the contributions are coming from, so that a fairer system is in place to spend the money where it is needed. Clear and transparent reporting of all open space contributions made to the Planning and Development Fund and expenditure from it should be made annually by post code.

Development Assessment and Planning and Design Code Improvements

- A number of suggestions have recently been provided to PLUS as part of 'Miscellaneous Technical Enhancement Code Amendment' (MTECA). This submission is attached for reference.[2]
- One of the continuing concerns most often voiced by the sector is the matter of referrals and the power of 'Direction' afforded to referral agencies effectively making them a 'quasi' planning authority with the power to veto any determination of the relevant authority.
- Each agency effectively acts as a separate authority, requiring multiple approvals from multiple authorities for the one development application. The power of 'Direction' also provides significant power to agencies to 'leverage' their authority to achieve outcomes beyond the purview of the referral.
- One example are referrals related to the Environment Protection Authority (EPA). We reiterate our previous concerns that site contamination policy suite 'front loads' the assessment of site contamination to require considerable cost and delay before planning consent is issued. The UDIA seeks that Practice Direction 14's referral trigger (and potentially the regulations) put that requirement as a condition at the 'back end' once planning consent has been granted.
- Other referrals and Planning and Design Code matters requiring attention are Native Vegetation Clearances, Code Amendments and the application of Affordable Housing Overlays
- The dysfunction of these referrals and the nature of the process adds cost, reduces efficiency, and does not improve the outcomes for affordability, native vegetation etc.

[2] *UDIA Submission to the State Planning Commission on Miscellaneous Technical Enhancement Code Amendment (MTECA)*

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1. Planning and Development Legislation

1.1. Land Supply [3]

The UDIA believes that there should be and adequate pipeline of development ready land and have concerns relating to inadequacies in existing land supply measurements.

Schedule 4 of the PDI Act identifies the obligations of the Minister for Planning ('Minister') and the State Planning Commission ('Commission') to set performance targets in relation to any goal, policy or objective under a state planning policy or planning agreement. Based on the current aspirations and targets of the state planning policies and of the 30-Year Plan for Greater Adelaide, there is faculty to review the available land supply across *Greater Adelaide*, and to subsequently implement changes to accommodate population growth, and respond to housing choice and affordability.

Schedule 4(1) of the PDI Act, obligates the Commission to review, at least once every 5 years, the housing and land supply targets outlined in the state planning policies.

These are coupled with the land supply review requirements applicable to Environment and Food Production Areas under section 7 of the PDI Act.

The five-year review period is simply too infrequent. Through our observations, this is, and will continue to be, a foundational issue to the inadequacies in land supply across Greater Adelaide and prolong the housing affordability crisis.

Land supply issues and lack of affordable housing has been further exacerbated over recent years by the sharp changes in economic, social and environmental influences (national and global). In our opinion, this further exposes the lethargy of the review process and lack of legislative responsiveness. We are also of the understanding that the Commission is inadequately resourced (including dedicated staff and independent research capability), for what is arguably one of the most important roles of the State.

We also suggest that the current land supply reviews rely upon population forecasts and land use patterns across Greater Adelaide as a whole, rather than assessing sub-regions of Greater Adelaide or specific markets. We have previously raised concerns about the use of Land Supply Reports and the assumptions underpinning the reports. Whilst it is pleasing that the assumptions are in the process of being revised, the approach of assessing land supply holistically (i.e., across the entire Greater Adelaide regions) as compared to a sub-regional level remains highly problematic.

Modelling should account for a reduction in general infill to reflect more character / heritage areas, more tree retention, reduction in on-street parking loses etc. The realistic rate of development of major land developments should also be factored into the assumptions. While an area may have over 15 years' land supply, development on the ground will take far longer due to the lengthy process of making allotments 'development ready'. Furthermore, the delivery of land in known supply pipelines can be compromised by delays in Code Amendments / approvals processes / political decisions / government infrastructure coordination. A further reduction in yield should be applied to address these factors.

Rather than shaping Adelaide in the most appropriate way to take account of new trends in living patterns or addressing affordability to maintain Adelaide's livability, it appears the reports have significant weight in the decision process for rezoning land. Incorrect assertions about excess land supply have too often been used as a reason for constraining or preventing new housing development because of the government's reluctance to invest in infrastructure, which unfortunately is at the expense of the primary driver in maintaining housing affordability, namely competitive market tension.

[3] *UDIA Submission on Land Supply Reports and State Planning Commission EFPA review.*

We note that Section 6 of the PDI Act makes provision for the Minister to establish a sub-region (including within Greater Adelaide). We are of the strong opinion that sub-regions should be established otherwise Greater Adelaide as a planning region will continue to under deliver upon the long-term strategic land supply and housing needs, based on outdated assumptions. Without the establishment of sub-regions within Greater Adelaide, South Australia will continue to face a great hurdle in being able to quickly respond to affordability challenges in the future — challenges already being experienced in many parts of Greater Adelaide.

The UDIA has been very clear that it does not support the inclusion of the Environment and Food Protection Areas within legislation. The framework is flawed and designed so that there would never be any changes. To our knowledge there has been no scientific and objective analysis of the current boundary as it relates to soil types, average rainfall, agricultural yields, or native vegetation which one could reasonably expect would be considered when implementing such a restriction. As a result, we are now faced with a situation where the supply of land and affordability of housing in certain areas is at a very significant risk as a result.

We recommend the Government devise and implement a dynamic housing demand and supply monitoring program using live data and reporting publicly on a quarterly basis in conjunction with the UDIA. This, in conjunction with the ability to amend growth boundaries for specific regions, sub-regions and townships on an as-needs basis, is the key to unlocking land supply and addressing the affordability crisis.

The UDIA strongly supports strategic infill within metropolitan Adelaide, as distinct from general infill. It is general infill which has caused considerable community angst and been a principal driver behind the Commission's implementation of overly onerous planning guidelines for infill development.

Alternative forms of infill development need to be considered in order to support housing diversity and choice and support the delivery of affordable housing. Generally, such should primarily remain within the realm of strategic infill, as we are of the view that master planned developments provide the best opportunity to manage issues of sensitivity to the community.

Identifying future infill development opportunities should be a key responsibility of the State Planning Commission, ensuring a strategic lens is applied. Many Councils are not undertaking strategic planning which has forced proponents to lead Code Amendments in order to unlock identified opportunities.

The UDIA submit that the current numerous impediments to rezoning land for strategic infill need to be addressed, as this is limiting the delivery of alternate and affordable housing forms.

1.2. Infrastructure[4]

1.1.1 Infrastructure Planning

The UDIA believes that the state government should commit to bringing all disparate interests together so that efficiencies can be unlocked and more and better infrastructure can be delivered.

All of society benefits from new infrastructure. Even those far away from a new piece of major transport infrastructure may indirectly benefit, while those living, working, or investing in close proximity benefit both directly and indirectly.

[4] *UDIA Submission on Developer Deed Review and Infrastructure Schemes, 2022*

- The early identification and adequate scoping of urban infrastructure is lacking
- The UDIA believes the cause is that no single or appropriate authority has been tasked with the early planning and scoping of urban infrastructure for growth areas.
- The infrastructure challenges are caused by an absence of a coordinated vision and the sharing of responsibilities between state and local government
- A lack of Government control leads to blame and responsibility being novated to the development sector
- The PDI Act and other pieces of legislation are deficient in this area, both in the identification and measurement of what is required and the different views of councils about the infrastructure they require.
- Infrastructure SA has not made this a key area of focus and is also relying on an under-resourced State Planning Commission to take the lead
- Corporatised and privatised delivery of trunk infrastructure through regulatory regimes that are governed by different legislation does not presently allow for the best coordination, pricing and efficient delivery of key infrastructure for an innovative urban development.

In the absence of a coordinated comprehensive government owned and regulated infrastructure delivery system it is appropriate that we revisit third party access rules for all essential infrastructure. If South Australia is to have a user pays system, it cannot exist in the absence of competitive alternatives to lower costs for developers and ultimately consumers.

The UDIA believes that the state government should commit to bringing all disparate interests together so that efficiencies can be unlocked and more and improved infrastructure can be delivered. The UDIA suggests:

1. Include in the Infrastructure SA charter an increased focus to better recognise the relevance of urban development to the state economy and to consider a suite of infrastructure projects directly aimed at unlocking identified areas for growth.
2. Create an Urban Futures Infrastructure task force comprising representation from Infrastructure SA, State Planning Commission, state government agencies, local government, utilities and the UDIA to investigate capacity analysis of essential infrastructure in the greater metropolitan areas for both infill and growth areas to unlock areas for growth.
3. Develop agreed terms of reference for an independent review of competition and pricing mechanisms related to core urban development infrastructure and consider amending third party access arrangements and/or state government guidelines to increase efficiency of infrastructure delivery and improve housing affordability.

1.2.2 Infrastructure Schemes

Developer contributions require enforceable guidelines so that contributions are fit for purpose, fair and relate to the development project in question. The process and expenditure must be clear and transparent, reviewed, reported and audited.

Various infrastructure funding models including value capture, infrastructure levies and the mechanics of developer contributions can have an effect on housing affordability and the first home buyer in new developments. Infrastructure levies / developer contributions are ultimately a tax on the first home buyer in new developments (costs are generally transferred from developer to purchasers), with other taxes compounding (e.g., stamp duty). Increases, mismanagement or over-pricing of these levies/contributions strikes at the heart of affordability for new home buyers.

The UDIA played a key role in the impetus for a new alternative in the PDI Act for the apportionment of infrastructure costs in new development areas with multiple landowners. Unfortunately, during creation/drafting of the PDI Act, and subsequent legislative amendments, much of the UDIA's suggested provisions for infrastructure schemes and a Scheme Coordinator, were watered down due to political pressure from other interest groups that were vehemently opposed to any form of developer or landowner contributions.

The UDIA does not believe that any wholesale reform is required, rather the knowledge and real-life experience gained in past developments such as at Mt Barker can be used to modestly refine the methodology for infrastructure deeds with more successful outcomes.

The early identification and adequate scoping of urban infrastructure is sadly still lacking. The UDIA believes this is largely because no single or appropriate authority has been tasked with the early planning and scoping of urban infrastructure for growth areas.

A detailed UDIA submission in relation to infrastructure schemes operation and the use of development deeds was made in the recent investigation conducted by Deloitte on behalf of Planning and Land Use Services (PLUS) (attached)[5]

The UDIA strongly advocates for a Scheme Coordinator to manage infrastructure schemes and be involved in the early identification and scoping of urban infrastructure for growth areas. The Scheme Coordinator would be a nominated person with a strong charter that they could be measured against to ensure appropriate performance, together with appropriate support staff and authority to be able to resolve negotiations with other State or Local Government authorities, service authorities and developers/landowners.

Despite having the largest balance sheet and ability to source funds at cheaper rates then other parties, there has been a reluctance for Government to fund infrastructure up front. Having no up-front capital or funding to commence the construction of infrastructure is impractical and inefficient as it results in the need to wait for the receipt of development contributions to then fund infrastructure.

Investment in infrastructure needs to be made up-front, with the developer contributions to follow later. The timing and outlay of infrastructure can still be managed appropriately so it is completed sensibly and efficiently. Early creation of infrastructure unlocks greater development potential, which generally translates into earlier receipt of developer contributions from more active development.

It is important for SA to have a range of tools available to manage developer contributions and infrastructure delivery. For instance, for very large Government land parcels specific negotiated indentures can be the most effective, as was used for projects like Mawson Lakes or Golden Grove. For growth areas with multiple land holdings and infrastructure traversing across the various land holdings, the infrastructure deeds can be effective when set-up and managed appropriately. Infrastructure schemes envisaged by the UDIA could also be effective. For smaller, simpler projects an individual Council Separate Rate could be the most efficient method.

The establishment of Joint Planning Boards under section 36 of the PDI Act and the use of the *Urban Renewal Act 1995* are other options to consider.

1.2.4 Vesting of open space and roads

The present planning system enables councils to control, block or take leverage over land division developments by withholding consent to the vesting of roads and open space, including in circumstances

[5] *UDIA Submission on Developer Deed Review and Infrastructure Schemes, 2022*

where the council is not the relevant planning authority for the development.

The PDI Act contains a number of provisions relating to applications for the division of land and associated matters such as the provision of land for open space purposes (and/or a monetary contribution in lieu of the provision of open space land).

These provisions of the PDI Act have been relied upon by certain councils to frustrate developments by refusing to consent to the vesting of roads and open space, or only consenting to the vesting upon particular conditions.

Various assertions have been made about the operation of these provisions, including that:

- councils retain absolute discretion about whether or not to accept the vesting of roads and open space, and on what terms;
- the decision on vesting is to be made independently to the grant of planning consent and land division consent;
- the decision on vesting may be a decision capable of being exercised by the elected members, or other arms of a council than its Assessment Panel and planning staff, taking the decision outside of the planning system altogether;
- the decision on vesting is largely unconstrained by the Planning and Design Code or any particular planning policies or objectives;
- the State Planning Commission (and SCAP as its delegate) lacks the power to ultimately determine the configuration of roads and open space in a land division for which it is the relevant authority; and
- the decision on vesting may not be appealable to the ERD Court and the ERD Court may lack the jurisdiction to determine the issue in the course of a planning appeal.

Issues relating to vesting are being experienced by a number of developers and appear to be increasingly utilised by councils. In some cases, there are real concerns that the provisions are being used for ulterior purposes.

The interpretation being adopted by some councils fundamentally undermines the ability of a relevant authority (including Council or Regional Assessment Panels, SCAP, the Minister and potentially the ERD Court) to determine land division applications.

This has led to circumstances where a relevant authority (such as SCAP) has granted planning consent, upon, amongst other things, being satisfied with the provision of open space, only for a council to purport to decline to have the open space vested in the council. Councils are taking the position that by declining to consent to the vesting of open space (and other land) they are capable of frustrating the planning consent granted by the relevant authority.

This interpretation has the potential effect of rendering the planning decision of the relevant authority futile pending the attitude of the council to the proposed development.

The issue is capable of being fixed through relatively simple amendments to sections 102 and 198 of the PDI Act.

1.2.5 Model Bonding Agreements

Bonding Agreements and Infrastructure Agreements with councils are commonly used by developers to secure the release of new certificates of title in a land division before the associated civil works are fully complete. However, the process of negotiating Bonding Agreements can in itself be a source of

additional cost and delay for developments. It is not uncommon to see councils seek to require that developers continue to maintain public reserves well after a development is completed.

For well over 20 years the planning system in South Australia has provided the ability for the Minister to publish a model bonding agreement for use by developers and councils across the State. That power, which is currently found in Regulation 87(3) of the PDI (General) Regulations has never been acted upon.

The UDIA would support discussion around the creation of a model bonding agreement for use across the sector.

Infrastructure Schemes

1. What do you see as barriers in establishing an infrastructure scheme under the PDI Act?

   A key barrier to establishing an infrastructure scheme is that they require up-front funding in order to ensure the early provision of infrastructure. The current system does not provide any certainty when key infrastructure will be delivered, noting that the responsibility for delivery often includes developers, state agencies and Councils.

2. What improvements would you like to see to the infrastructure scheme provisions in the PDI Act?

   A Scheme Coordinator is essential to the delivery of infrastructure schemes. A Scheme Coordinator would act as a facilitator and final arbiter of the terms of agreement for infrastructure schemes for recommendation to the relevant Minister.

   The Act could also be amended to formally require strategic urban infrastructure planning to be undertaken and integrated with Regional Plans and preferably at a Sub-regional level. Timeframes for delivery need to be identified and reinforced. Such provides greater stakeholder certainty and confidence in the planning process.

   Ultimately, the Government needs to find a way to ensure the up-front funding is available to build infrastructure, with the receipts from developer contributions to follow. The establishment of a State Fund and associated provisions around the use and allocation of this fund, together with a model for developer contributions should be explored.

3. Are there alternative mechanisms to the infrastructure schemes that facilitate growth and development with well-coordinated and efficiently delivered essential infrastructure?

   There are numerous successful examples of infrastructure agreements being established through a traditional deed and associated land management agreement. The schemes in place at Two Wells and Roseworthy are good examples. Such are examples where:

   - Infrastructure investigations were comprehensive;
   - Trigger points for infrastructure provision were clearly established;
   - A funding mechanism was established;
   - A third-party managing authority was established;
   - Responsibilities for infrastructure provision were clearly identified;
   - A dispute resolution process was established with provision for an independent expert to make determination.

1.3 New 30-Year Plan for Adelaide (Regional Plans)

The UDIA strongly believes that the new 30-Year Plan for Greater Adelaide must be developed by establishing a tripartite (local and state government and private developer) task group to develop terms of reference and coordinated with infrastructure capacity.

Regional Plans and any Sub-regions should be premised on multiple scenarios and build in appropriate growth opportunities in locations which are sought by the market. They must address the over reliance in housing supply of single dwelling subdivisions and instead proactively and urgently increase land supply in market responsive locations including greenfield and large-scale brownfield areas.

It is the UDIA's position that strategic infill is preferred over general infill as this provides optimum opportunity to master plan the regeneration of areas, resulting in better infrastructure co-ordination and development outcomes. Such can assist in optimising the urban tree canopy, on-street car parking provision and the like.

A new 30-Year Plan could recognise more large-scale strategic infill projects and work to unlock medium to higher density projects in appropriate areas. Better planned and more sustainable developments can include open space and provide for suitable infrastructure upgrades. Similarly, there should be a more strategic commitment to revitalising the City of Adelaide with more residents.

The 30-Year Plan and PDI Act must address housing affordability. Our housing market is the third least affordable nationally — falling behind Brisbane and Perth. The two largest contributors to this problem from a state perspective is the failure to plan for growth and the hidden cost of land and housing.

The major reason for diminishing affordability is the hidden cost of land and housing imposed by taxation, regulatory charges and development delays which reduce feasibility and increase the purchase price. Historical underinvestment by State and local governments is funded by the next generation of homeowners who are already facing tougher home ownership conditions than their parents ever did. There must be a continuing requirement for a State Government review of the cost impact of all policy decisions on construction and development standards. The Government must create focus on housing affordability and ownership by considering appropriate amendments to the PDI Act and associated regulations.

There is opportunity for Regional Plans and Sub-regions to consider open space planning with consideration to the areas that are experiencing high degrees of infill but have inadequate public open space. The Planning and Development Fund expenditure should be reflective and commensurate to where the contributions are coming from, so that a fairer system is in place to spend the money where it is needed and in the suburbs from which it has been collected. Clear and transparent reporting of all open space contributions made to the Planning and Development Fund and expenditure from it should be made annually by post code.

The new Regional Plans should be dynamic and consider various growth scenarios so that they can adapt to market conditions and changing environments. Housing affordability must be a key priority.

Strategic Planning

1. What are the best mechanisms for ensuring good strategic alignment between regional plans and how the policies of the Code are applied spatially?

   Regional plans are by nature a high-level strategic document, whereas the zones applied through the Code are at a more refined level.

One step to ensure greater strategic alignment would be for sub-regional plans to be established which would provide a higher level of detail as compared to the Regional Plan.

Within identified growth areas, there is a potential need for Structure Plans and/or Concept Plans to be established in order to:

- identify key infrastructure obligations which are either planned or required;
- facilitate improved infrastructure planning by all stakeholders, including utility providers and Councils;
- provide greater understanding and confidence to all stakeholders in respect to infrastructure provision;
- reduce reservations associated with the rezoning of land to accommodate future growth.

Infrastructure co-ordination is also a key issue in respect to infill development. Stormwater infrastructure, typically the responsibility of Councils, is a frequent impediment to infill development as there has been an underinvestment in assets over many years.

A critical element for the success of our recommendation is the adequate resourcing and commitment to implement the relevant infrastructure.

2. What should the different roles and responsibilities of State and local government and the private sector be in undertaking strategic planning?

Under the Development Act, Councils were responsible for preparing Strategic Directions Reports which aimed to ensure that local Development Plans aligned with the Regional Plan.

This obligation did not carry through into the new system, in essence due to the introduction of the Code, where the State Planning Commission is responsible for its preparation and maintenance - s.65(2). This is coupled with the Commissions responsibility for the establishment of the various Planning Instruments as prescribed in Part 2, Division 2 of the PDI Act.

As a consequence of the above, legislatively Councils have no apparent obligation to undertake strategic planning. This presents an issue given Councils are the owner of key assets which support urban growth, including but not limited to roads, public open space and stormwater networks. This creates a disconnect between land use planning and infrastructure planning.

We note that the Act makes provision for Joint Planning Agreements to be entered into. A Joint Planning Board can also be established in conjunction with any such Agreement.

We see this as a potential tool to manage planning at a sub-regional level, for the key purpose of improving the integration between regional planning strategy, infrastructure provision and the spatial application of the Code.

We understand that Joint Planning Agreements and associated Joint Planning Boards are not mandatory. Consideration could be given to formalize such a process where sub-regions and associated joint planning agreements and boards are required to be established.

We see this as a model to enforce improved infrastructure planning and integration with land use planning.

A key to the success of such a model would be for all relevant infrastructure providers such as SA Water (water and sewer) and DIT (roads) to be a party of the Joint Planning Agreements.

In earlier responses we noted the benefit of appointing an Infrastructure Scheme Co-ordinator for the delivery of infrastructure schemes. Such a role could be expanded as an Infrastructure Co-ordinator with broader powers to interface with any Joint Planning Agreement/Joint Planning Board arrangements.

The above are all recommendations to assist with improved infrastructure planning.

The UDIA considers that the private sector needs to retain a key role in the procurement and delivery of infrastructure. The sector is often able to deliver infrastructure faster and cheaper than the relevant agencies.

There is much merit in allowing developers to deliver the key infrastructure on their land parcel. It is attractive to developers to be able to construct key infrastructure in advance of a later delivery date by the relevant authority. However, the developer should be appropriately reimbursed for taking on the associated procurement and finance risks.

Early concept designs for infrastructure are required to allow this to happen. But early concept designs should be undertaken early in any case to enable appropriate calculation of costs of infrastructure, securing of finance, scheduling for implementation and fair apportionment of development contributions.

Contestability of all infrastructure works should be a requirement, to encourage the private sector to deliver infrastructure on a competitive bid basis.

1.4 Development Assessment

As part of the Phase 3 Submissions to the Draft Code, the UDIA raised concerns that under the PDI Act, there are a total of 24 Referral Triggers and 22 of these allow Referral Agencies to have the power of 'Direction' (i.e., the Agency can direct a decision (refusal)). There are two (2) referral triggers under the new system where the Agency can only provide advice to the Relevant Authority who must have 'Regard' to this advice.

The UDIA supports the changes made under the PDI Act that comments of Referral Agencies must be contained to 'matters for which a referral was made' and the referral Agency will be accountable to defend an appeal against a decision directed by that Agency.

Whilst we support the Referral Authority limiting their comments to matters for which the referral was made and we support referral authorities being accountable to defend determinations that have been directed by that authority, we reiterate our concerned regarding the 'veto' power of Referral Authorities that have the power of 'Direction.'

The UDIA takes this opportunity to again express concern in relation to the power of 'Direction' afforded to referral Agencies effectively make an Agency a 'quasi' planning authority with the power to veto any determination of the Relevant Authority. Each Agency effectively act as a separate authority – effectively requiring multiple approvals from multiple authorities for the one development application. The power of 'Direction' also provides significant power to Agencies to 'leverage' their authority to achieve outcomes beyond the purview of the referral.

To challenge a referral Agency would also involve considerable time (6-12 months) and money ($50K-$100K) for an applicant to initiate an appeal through the Courts. In most cases, this time and cost imposition would be beyond the threshold of feasibility of most development projects which would limit

the real opportunity for an applicant to appeal and overturn a determination of a Referral Agency. Further, an applicant appealing to the

Environment Resource and Development (ERD) Court would be challenging the weight of evidence and authority of a State Agency, which is likely to also limit an applicant's appetite to seek a successful resolution through the courts.

The UDIA recommend an amendment such that referrals allow for a Regard comment as opposed to mandatory Direction. If the status quo remains, then the assessment process will become cumbersome and compromised. If the planning authority does not follow the comments made by the referral agency, then the application could be sent to SCAP for concurrence, similar to the previous *Development Regulations 2008* requirements for State Heritage matters in Schedule 8 of the Development Regulations.

Ultimately it should be for the planning authority to balance the competing interests that arise between a developer, the community and government agencies.

Where a referral agency has a power of direction the exercise of the direction should occur as a 'one stop shop' avoiding the need for further approvals.

Where separate approvals are required under other legislation, an applicant should have the ability to defer those matters for later assessment.

Environment Protection Authority Referrals

The UDIA have made several detailed submissions in the past in relation to the State Planning Commission regarding site contamination policies, current wording of Practice Direction 14 and associated referral to the EPA.

The resolution of site contamination issues is rarely a question of 'if' and more often a question of 'how' (e.g. by what practical remediation solutions). Site contamination issues will rarely if ever go to the heart of whether planning consent should be granted, but has the propensity to delay that process dramatically. The urban development industry needs a nimble and cost-effect process for dealing with site contamination so as to turn land over quickly to meet the growing demand for housing in the State.

The UDIA believes that site contamination remediation can generate both public and private benefits by releasing previously contaminated land and facilitating urban regeneration which can result in significant economic, environmental and social benefits.

Site contamination is a complex and broad issue impacting large areas of land across the State, and the planning system is only one part of the Government's integrated approach to the management of site contamination However, as it stands, many people wanting to rejuvenate land are often subject to lengthy and onerous remediation processes.

We reiterate our previous concerns that the current site contamination policy suite 'front loads' the assessment of site contamination resulting in considerable cost and delay before planning consent is issued. Applicants will variously need to spend in the order of $5,000 on a "Preliminary Site Investigation (PSI)" report, $20,000-$200,000 on a "Detailed Site investigation" (DSI) and $20,000-$150,000 on an audit before knowing that they have a consent. The delay in undertaking a DSI (even without an audit) can be many months, sometimes a year. Assuming (again, without accepting that it should be part of the planning system) that an assessment is warranted, this level of integration should occur only once planning consent is in hand.

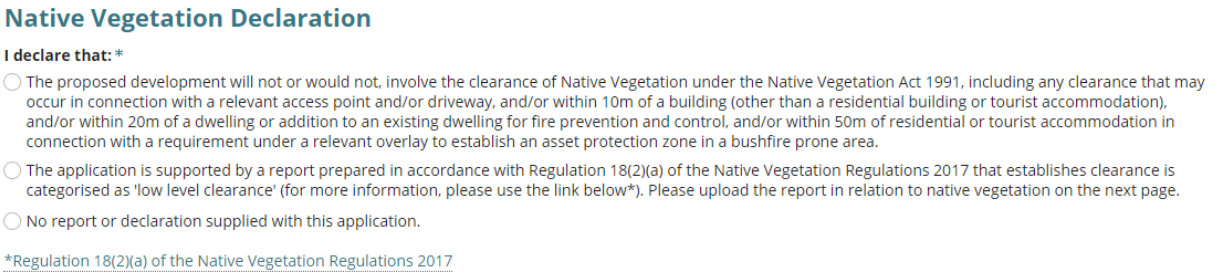
The UDIA seeks that Practice Direction 14's referral trigger (and potentially the regulations) put this requirement as a planning condition at the 'back end' once planning consent has been granted.

This could for example be achieved through the Reserved Matter power under section 102(4) of the PDI Act.

Native Vegetation

The UDIA agrees with the Expert Panel that the introduction of the 'Native Vegetation Overlay' and the 'State Significant Native Vegetation Overlay' has strengthened the retention of native vegetation on development sites.

However, there is a disconnect when lodging a Development Application on a site that is located within the Native Vegetation Overlay, as the Development Application Processing System (DAP) requires you to select from the following three options:



It is recommended that the DAP system be modified to enable a fourth option that allows you to nominate that:

> "*A report has been prepared and identifies that moderate/major clearance of native vegetation is proposed, but is supported.* "

The 'fact sheet' for Native Vegetation on the PlanSA Website also does not provide a definition for 'low level clearance' which would therefore require an expert's opinion. It is recommended that a clear definition for 'low level clearance' be provided to support the streamlined processing of applications and a clear guidance to applicants. As it currently stands, most applicants do not possess the necessary expertise to confidently or accurately make the above declarations and applicants are therefore required to engage expert vegetation consultants to assist them in this process at considerable expense. Providing further guidance and clarity to applicants as part of detailed fact sheets may assist in reducing time and cost delays associated with the need to engage native vegetation consultants.

The UDIA would support investment in technology that enables identification of the location of native vegetation without the requirement to obtain expert consultant advice to lodge a development application. This information should be readily publicly available (i.e. via a layer on SAPPA).

In instances where applications trigger referral under the relevant Overlays, there is also still a requirement for the applicant to undergo a separate assessment and approval process under the 'Native Vegetation Act.' Applications that trigger referral should result in a combined planning consent and native vegetation approval to reduce 'red tape' and expedite the overall combined approval processes.

Code Amendments

When the PDI Act was introduced the UDIA supported placing the emphasis on consulting on changes to the planning rules upfront and then (once adopted) allowing landowners to exercise their private property rights in accordance with the rules. Since the implementation of Phase 3 of the Code, UDIA Members have advised the Proponent Initiate Code Amendment system has unlocked underutilized land

to be rezoned generally to address critical housing supply shortages and demand for changing land uses in a particular area.

The UDIA continue to advocate that emphasis should be placed on consultation occurring at the Code Amendment stage to enable a streamlined development assessment process for land uses that are expressly envisaged within the (once adopted) zone, without time delays and costs that may be occurred via third party appeal rights to challenge decisions made against that policy once it has been set and determined. The UDIA supports the State Planning Commission ('the Commission') guiding principles of the Engagement Charter being namely that if an application meets all the prescriptive rules and the land use is envisaged, that the application should receive a streamlined and assured approval without notification and third-party intervention.

Affordable Housing overlays

In the UDIA's submission for the Miscellaneous Technical Enhancement Code Amendment (MTECA) we raised concerns in relation to draft wording from the South Australian Housing Authority (SAHA) in the Affordable Housing Overlay referral trigger as drafted below. Our concerns were that this wording would result in all applications proposing 20 or more dwellings or residential allotments being referred to the Minister.

Current drafting in MTE Code Amendment:

> "*Except where the applicant for the development is the South Australian Housing Authority (or an agent acting on behalf of the South Australian Housing Authority), residential development or land division other than land division that reflects the site boundaries illustrated and approved in an operative or existing development authorisation for residential development under the Development Act 1993 or Planning, Development and Infrastructure Act 2016):*
>
> *a) that comprises 20 or more dwellings or residential allotments and the development is intending to provide affordable housing; or*
>
> *b) where the applicant is seeking to access one or more of the planning concessions outlined in the Affordable Housing Overlay DTS 3.1, 3.2 or 4.1; or*
>
> *c) that is described in the application documentation as including affordable housing of any number of dwellings or residential allotments."*

We reiterate the UDIA's strong support for the MTECA wording as drafted for consultation that the proponent must demonstrate an intent to provide affordable housing or be seeking to access one of more of the planning concessions to trigger a referral to the Minister. However, we would like to take this opportunity to again express our concern that the adopted wording remains vague and subject to interpretation especially the phrase 'seeking to access' which may be construed by a Relevant Authority as an automatic trigger for referral of the application (to the Minister responsible for administering the *South Australian Housing Trust Act 1995*). We again seek that the wording in the Affordable Housing Overlay referral trigger be amended to the following:

Suggested wording:

> "*Except where the applicant for the development is the South Australian Housing Authority (or an agent acting on behalf of the South Australian Housing Authority), residential development or land division (other than land division that reflects the site boundaries illustrated and approved in an operative or existing development authorisations for residential development under the Development Act 1993 or Planning, Development and Infrastructure Act 2016):*

a) *that comprises 20 or more dwellings or residential allotments and is described in the application documentation as intending to provide affordable housing; or*

b) *that is described in the application documentation as intending to provide affordable housing and the applicant is seeking to access one or more of the planning concessions outlined in the Affordable Housing Overlay DTS 3.1, 3.2 or 4.1; or*

c) *that is described in the application documentation as intending to including affordable housing for any number of dwellings or residential allotments*."

Public Notifications and Appeals

1. What type of applications are currently not notified that you think should be notified?

Generally, UDIA members consider the triggers for notification to be very robust. However, in some circumstances, applications are notified even where the type of development proposed is expressly envisaged in a zone. A wider review to identify these discrepancies is encouraged, and preferably a switch back to the listing only the types of development that should be notified rather than the current model which only lists forms of development that do not need to be notified (we expand on this point further below).

2. What type of applications are currently notified that you think should not be notified?

As part of the UDIA SA's submissions to Phase 2 and Phase 3 of the Code, we outlined that where a land use is envisaged and reasonable in its design and aligned with the performance outcomes of the Zone, an application should not be subject to public notification.

A example of this is where a land use 'element' is listed in a Zone's DPF 1.1 (i.e. it is an envisaged land use), it is not always listed as being 'excluded' from public notification in Table 5 of the Zone (even though it is listed as being an envisaged land use). Public notification should not be required for land uses identified in DPF1.1 of a Zone.

The UDIA SA raised concern during the Phase 2 and Phase 3 consultation periods that the approach of 'specifying types of development being excluded from public notification" would most likely result in more types of applications going on public notification, even if there are lengthy lists of development that are excluded.

UDIA Members experience has proven this to be the case, where departures to garage/dwelling wall lengths on boundaries have triggered public notification even if the element of non-conformance is minimal. This has sometimes led to protracted assessment timeframes where notification has resulted in public submissions who wish to be heard at the relevant Council Assessment Panel meeting.

Another example relates to 'Neighbourhood Type Zones' where a community facility, educational establishment or preschool which exceeds 1 building level requires public notice, even where the zone expressly anticipate dwellings of two building levels (which are excluded from public notice).

It is recommended that the structure of the notification triggers be flipped so that all forms of development are 'excluded' from notification other than specifically identified type of development which are then listed in the Procedural Matters (PM)- Notification table within each Zone. Only those specifically identified types of development would then be required to undergo notification

within the Zone, such as where development exceeds the specified building height or is clearly an unsuitable land use within in a zone.

3. What, if any, difficulties have you experienced as a consequence of the notification requirements in the Code? Please advise the Panel of your experience and provide evidence to demonstrate how you were adversely affected.

UDIA Members have expressed concern in deciphering 'Column B' (exceptions) of Table 5 – Procedural Matters – Notification. In order to determine if a land use outlined in 'Column A' as being 'excluded' from notification is actually not excluded from notification (note the double negative i.e. the land use actually is required to be notified) members are required to either open two versions of the Code on their screens or to scroll back and forth between the DTS/DPF provisions and Table 5. For example:

Class of Development (Column A)	Exceptions (Column B)
Any development involving any of the following (or any combination of any of the following): (f) dwelling	Except development that: 1. Exceeds the maximum building height specified in…..DTS/DPF 2.1
Alternation of or addition to any of the following (or of any combination of any of the following): (a) community facility (b) educational establishment (c) pre-school	Except for development that does not satisfy… DTS.DPF 1.6

User experience has raised concern with the time and complexity involved in order to determine if an application will require public notice. This could be rectified by a formatting change where the DTS/DPF referenced is listed in Column B.

4. What, if any, difficulties have you experienced as a consequence of the pathways for appeal in the Code? Please advise the Panel of your experience and provide evidence to demonstrate how you were adversely affected.

The UDIA supported the previous Expert Panel on Planning Reform's December 2014 'The Planning System We Want' recommendation that there is a focus shift to setting clear directions and policies up front and encourage communities to be involved when their participation is most meaningful during the Code Amendment (rezoning process). In members experience, the community consultation undertaken as part of the Code Amendment process provides meaningful engagement on zoning and policy framework to adjoining property owners/occupants.

The current level of appeals being limited only to applicants rather than third parties assists in streamlining the application and avoids vexatious litigants.

5. Is an alternative planning review mechanism required? If so, what might that mechanism be (i.e. merit or process driven) and what principles should be considered in establishing that process (i.e. cost)?

The current planning review mechanisms enables an aggrieved applicant to either have a review of an Assessment Manager's Decision to the relevant Assessment Panel (Council, Regional or Commission) or directly to the ERD Court. Under the PDI Act, the relevant Assessment Panels are (with the exception of one (1) elected member) comprised of Accredited Professions to a Level 2 standard. This ensures a review by a Panel (i.e. CAP) is being undertaken by a panel who have the expertise and experience to hear and considers such matters. In addition, the existing ERD Court system has suitably qualified and experienced Commissioners. The UDIA support the existing review and appeal avenues without further need for yet another administrative review 'tribunal.'

The UDIA would however support a more streamlined ERD Court process, particularly in relation to the timeframe taken for planning appeals to be determined. It is not uncommon for planning appeals to take over a year to be determined, with the parties waiting up to 8 months to receive judgment following a hearing. This delay, in combination with the expense of the process has meant that the ERD Court is not readily available as an avenue to resolve an impasse with a relevant authority, for applicants and residents alike.

Despite having three full time Commissioners and a number of allocated Judges the ERD Court has, as at 13 December, published just 17 judgments in 2022. Of these only a handful are 'planning appeals'. It is apparent that a large amount of time is being spent on a relatively small number of matters.

There are clear opportunities to reform the ERD Court processes to make it a more accessible and efficient part of the overall system. These could include empowering the Court to take a more active role in refining the issues in dispute (avoiding every element of a development being considered) or legislating a timeframe for delivery of judgments.

Accredited Professionals

1. Is there an expectation that only planning certifiers assess applications for planning consent and only building certifiers assess applications for building consent?
2. What would be the advantages of only planning certifiers issuing planning consent? What would be the disadvantages?
3. Would there be any adverse effects to Building Accredited Professionals if they were no longer permitted to assess applications for planning consent?

UDIA members have expressed there is some time benefits to enabling Building Accredited Professions to assess some applications for planning consents (akin to the former 'Residential Code' scheme under the rescinded *Development Act 1993*). Time efficiencies can be gained by the Building Certifier being able to issue a combined Planning Consent and Building Consent thereby fast-tracking approvals for developments that 'tick the box.' As such the UDIA supports the current accredited professional framework that enables building certifies to assess certain classes of development for planning consent (such as Deemed-to Satisfy) forms of development.

Impact Assessed Development

1. What are the implications of the determination of an Impact Assessed (Declared) Development being subject to a whole-of- Government process?

   Ensuring and maintaining transparency and accountability in public decision making is strongly supported by the UDIA. Whilst streamlining assessment processes is fundamental to ensuring the timely delivery of critical housing products, for more significant 'major projects' our members recognised the importance of ensuring all Ministers that may be impacted by a project (i.e. infrastructure, economic development, environment etc) are able to review and comment on a proposal to ensure the best outcome for all South Australians. The UDIA recognize and support the Expert's Panel suggesting of re-introducing a Cabinet Review Process for 'Impact Assessed (Declared)' forms of development as recommended by the Select Committee of Parliament's inquiry into the Kangaroo Island Port application as an appropriate mechanism to ensure the appropriate level of scrutiny for State significant forms of development. This should be appropriately balanced however to ensure that developments are expedited and not needlessly complicated or delayed.

Deemed Consents

2. Do you feel the deemed consent provisions under the PDI Act are effective?
3. Are you supportive of any of the proposed alternative options to deemed consent provided in this Discussion Paper? If not, why not? If yes, which alternative (s) do you consider would be most effective?

   The UDIA in its 'Grow, Reform Build' blueprint identifies creating 'an efficient planning and approval mechanisms to minimise 'red tape' as being essential to the urban development sector. Accordingly, the UDIA support the Expert Panel's suggestion of a 'Deemed Approval' in instances where an applicant has received both planning and building consents for an application, but the relevant authority (Council) has either delayed or refused to issue the final development approval.

   Members would also strongly support the Expert Panel's suggestion of enabling (by way of a Regulation amendment) an accredited professional to issue the final development approval. This would avoid 'double handling' by relevant authorities (i.e. Council) and delays associated with the administrative issue of another Decision Notification Form onto the PlanSA system. Given the accredited professions (building) needs to ensure consistency between planning and building consents, it logically follows that once both planning and building consents have been granted Development Approval could then also be granted by the accredited professional.

   Members have identified that whilst the current 'Deemed Consent' mechanism is supported, it is mainly used as a 'last resort' to obtain a decision from the relevant authority who has exceeded their statutory timeframes. There is a perception of 'maintaining working relationships' with officers at the relevant authority (i.e. Council) and this may lead to a reluctance within the sector to issue Deemed Consent notices. Concern is also raised that the current 'deemed consent' function does not 'commence' until a development application has been 'verified' under Regulation 53(2) by the relevant authority. It is recommended that a review of the verification timeframes together with Deemed consents process is undertaken to ensure the combined verification and assessment process is undertaken as expediently as possible.

   Relevant authorities retain the ability to appeal against a Deemed Consent notice and there are no consequences for a relevant authority where this occurs. The UDIA considers that where a relevant authority appeals against a Deemed Consent notice and is unsuccessful in overturning the Deemed Consent it should be required to pay the costs of the applicant who has suffered unnecessary delay through the actions of a relevant authority.

Verification of development applications

1. What are the primary reasons for the delay in verification of an application?

As outlined in the UDIA SA's submission to Phase 3 of the Planning and Design Code, currently the Verification Process (5 business days) that occurs at the beginning of every development application has no express consequence attached should the planning authority not undertake this verification process within the 5 day timeframe. During the Phase 3 P&D Code Consultation UDIA SA raised concern that the planning authorities may take longer to verify applications and where verification is delayed, the lodgment and assessment process will not have officially commenced, meaning it is not possible for the applicant to instigate the Deemed to Consent process. This effectively leaves applications 'in limbo'.

This concern has unfortunately become a reality since the implementation of the Code with a large percentage of relevant authorities failing to verify applications with in the 5 business day period. Experience from UDIA members concur with the anecdotal evidence sited by the Expert Panel that a lack appropriate resourcing by relevant authorities leads to delays in the verification process, with no consequence for the relevant authority and no means for an applicant to rectify the delay.

The UDIA is aware that there is currently no University within South Australia that provides an Undergraduate Planning degree. The only pathway into the profession within South Australia is via the Master of Urban and Regional Planning at the University of South Australia, which was postponed in the previous two years due to the Covid-19 pandemic and only recommenced at the start of 2022. The lack of new qualified town planners entering the profession, combined with those leaving the profession (either via retirement or moving to alternative career pathways) has resulted in a critical shortage of qualified planning staff to administer the system.

The UDIA SA would strongly encourage the State Government to work with the Universities to provide greater career pathways options into the planning profession in order to accommodate the staffing requirements of relevant authorities to expedite the assessment system. Funds collected by the CITB could potentially be used to improve the quality and accessibility of training provided to the planning profession.

UDIA SA members have also cited unrealistic and unjustified request for information and documentation outside the information required under Schedule 8 of the PDI (General) Regulations from relevant authorities during the 'verification' period. There is a view (rightly or wrongly) that these requests during verification are a 'workload management' tactic, used to delay lodgment and 'stop the clock' on the process to give the relevant authority more time. Alternatively some relevant authorities are requesting an extensive list of possible items anticipated by Schedule 8 without reference given the limited scope expressed by Regulation 31.

Such examples of unjustified requests for documentation during verification include:

- Request for software details of a carpark free space 'loop' calculator which was essentially a 'box' that was located with a landscaped area which otherwise would not constitute 'development' if not associated with the signage;
- Details of anticipated waste volumes for a childcare centre;
- Details of estimated time it will take a waste vehicle to collected bins from a childcare centre and the footpath waste contractors would utilise to wheel bins from enclosure to the collection vehicle;

- Details of the mature height of landscape plan species to be shown on the landscape schedule;
- Requests for added notations on elevations regarding the height of obscure glazing to manage privacy concerns;
- Requesting a DRAINS model and MUSIC model in addition to the provided stormwater management plan; and
- Clarifications of traffic generation rate used in expert consultant's traffic assessment report.

Given the above examples, the UDIA would strongly support the Expert Panel's suggestion of amending the Schedule 8 – Plans and documentation requirements required for verification.

UDIA Members have also raised verification delays in instances where there is debate as to whether Council or SCAP is the relevant authority (i.e. a new application to very an application previously issued by SCAP). In such instances when an application is submitted, the DAP system only enables the selection of the relevant Council as the 'relevant' authority. Council then has to manually re-assigned the application to SCAP as part of the verification process. This would be overcome if the DAP system allowed 'SCAP' to be directly selected as a relevant authority.

2. Should there be consequences on a relevant authority if it fails to verify an application within the prescribed timeframe?

It is considered that if planning authorities do not meet the Verification timeframe, then the Assessment Process timeframe must commence, and the fees are not payable. It is understood that this would require an amendment to the Regulations. The wording in Regulation 53 (2) regarding payment of fees will need to be taken into consideration. At present there appears to be a gap in the overall process between Regulations 31 and 53 which needs addressing.

Other options that could be considered include self-verification or ERD Court costs penalties where it is necessary for the Court to determine or direct the verification decision.

3. Is there a particular type or class of application that seems to always take longer than the prescribed timeframe to verify?
4. What would or could assist in ensuring that verification occurs within the prescribed timeframe?
5. Would there be advantages in amending the scope of Schedule 8 of the PDI Regulations?

Reserved Matters

In the UDIA's submission for the Miscellaneous Technical Enhancement Code Amendment (MTECA) we highlighted recommended improvements in relation to Section 102(3)-(5) of the PDI Act which enshrines the power for some matters relating to the assessment of a proposed development to be reserved for later assessment:

"(3) A relevant authority may, in relation to granting a planning consent, on its own initiative or on application, reserve its decision on a specified matter or reserve its decision to grant a planning consent—

(a) until further assessment of the relevant development under this Act; or

(b) until further assessment or consideration of the proposed development under another Act; or

(c) until a licence, permission, consent, approval, authorisation, certificate or other authority is granted, or not granted (by the decision of another authority), under another Act.

(4) A relevant authority must allow any matter specified by the Planning and Design Code for the purposes of this subsection to be reserved on the application of the applicant.

(5) Any matter that is not fundamental to the nature of the relevant development may, subject to the Planning and Design Code, be reserved under subsection (3) or (4)."

We take this opportunity to reiterate that the ability for an applicant to nominate certain matters which are not fundamental to the question of whether Planning Consent can be granted is potentially of great utility. It does not avoid assessment of those matters but rather enables an applicant to obtain a decision on whether Planning Consent is warranted without incurring unnecessary costs on matters which are not fundamental to that decision.

The applicant, not the Relevant Authority, bears the risk that the reserved matters cannot ultimately be achieved for some reason. The planning system contemplates that the Code will specify certain matters which an applicant may request to be reserved for later assessment.

We confirm the matters which in our opinion would be suitable to be included in the Code for the purposes of section 102(4) of the PDI Act include:

• Site Contamination;

• Stormwater;

• Wastewater disposal;

• Landscaping;

• Native Vegetation clearance; and

• Final materials and finishes.

Obviously there will be times when an applicant wishes to include matters like landscaping and final finishes in the initial application in order to demonstrate the merits of a development. There will be other times when those matters have little bearing on the decision to grant or refuse Planning Consent.

On this basis, we again recommend that an amendment to Table 2 of Part 5 of the Code to specify that the above matters are matters that an applicant may request to be reserved for later assessment.

We also take this opportunity to highlight that the current DAP system does not currently have the functionality to enable applicants to upload information to address reserved matters and/or conditions of consent. It is recommended that the DAP enhancement be included to enable a more streamlined and trackable post-approval functionality.

OTHER

Response to requests for Further Information

- When an applicant responding to a Request for Information (RFI) from the relevant authority on the DAP system, the application remains 'on hold' until such a time that the relevant authority

confirms whether or not the applicant has sufficiently resolved the RFI content. UDIA Members understand that this is a 'loophole' that some Councils use because there are no assessment timers to manage this process. Often it appears to be caused by Council's planners awaiting to hear back from their engineers or other internal departments. This can result in an applicant's response to an RFI being uploaded but not being 'confirmed' by the relevant authority for several weeks (during which the assessment clock has stopped), adding to delays in assessment that are not picked up by the DAP system clocks. The UDIA recommended that the DAP system be modified so that the relevant have five (5) business days to confirm whether the applicant has sufficiently addressed the RFI once a response has been submitted before the application returns to be 'live.'

Shared Access to Applications on DAP system

- The UDIA support the use of technology to enhance the accessibility of the planning system for all members of the urban development industry. Members have identified the current DAP system provides access to one entity who then must share access with others (i.e. project team) who often will need to access requests for further information, stamped approved plans, decision notices etc. A recommended future enhancement of the DAP System should enable greater flexibility for project team members to access application information without the reliance of the submitter to 'share' the application with them.

2. Urban Infill Policy

The UDIA recognises the benefits of a consistent set of planning policies established through the Planning and Design Code for the development sector.

As stated in the Panel's report, South Australia's infill policy is new, and the outcomes are yet to be fully realised. We recognise that infill development has been a key policy area of reform given the significant community interest in this issue.

Master planned developments must be treated differently from general infill given the opportunities to coordinate and plan in a way that delivers liveability, sustainability and to provide for the range of housing our community needs.

While the overall planning outcomes may be consistent for infill and greenfield development, the tools available to achieve master planned developments are much broader as they are not constrained by compatibility with existing character, road networks, open space provision or an existing public realm.

The UDIA strongly supports the continued supply of master planned neighbourhood-type zones which provide the necessary flexibility for developments to evolve and respond to the housing market. We do not support however, the inclusion of infill-type policies in these master planned areas.

Design Guidelines

1. Do you think the existing design guidelines for infill development are sufficient? Why or why not?

   The UDIA recognises that infill development policies need to carefully balance the existing neighbourhood characteristics and constraints with the community's desire for a range of housing. Significant design policies have been included in the Planning and Design Code to address this

balance. Given that dwellings considered under the HomeBuilder Scheme were not assessed against these new policies, insufficient time has passed to test their effectiveness. The UDIA therefore recommends further monitoring of the impacts on development potential, availability of housing stock and design outcomes before making further changes.

In relation to design manuals to support the Code, the UDIA is concerned that this adds another layer of complexity to the planning system overall and provides uncertainty around the role of these documents. Guidelines and design manuals should be seen as advisory rather than policy. Where it is policy, it should be within the Code.

2. Do you think there would be benefit in exploring alternative forms of infill development? If not, why not? If yes, what types of infill development do you think would be suitable in South Australia?

The UDIA supports the Code facilitating a range of infill development types that meets the housing needs of South Australians. It is for this reason that it is important that a performance-based approach to planning is maintained within the legislation and the Code.

The policies must enable innovative and creative housing solutions and not continue to fall back on a tick box approach to planning in a way that stops good projects from happening. We advocate for clear and certain policies with streamlined assessment pathways where codification is possible. However, there must always be the option of a performance based assessment to support unique circumstances and innovative opportunities.

In strategic infill sites, it is critical that there is a high level of flexibility to ensure we can make the most of these sites and provide for housing diversity.

In particular, we would like to see the quantitative standards of the Code reviewed for larger strategic infill sites where there is a higher propensity to resolve all of the design concerns expressed in respect of small-scale infill. This is the opportunity for new and innovative housing led by the development sector. A method of achieving this might be through consideration of dispensation for significant development sites.

Car Parking Policy
Code Policy

1. What are the specific car parking challenges that you are experiencing in your locality? Is this street specific and if so, can you please advise what street and suburb.

For residential development within master planned developments, car parking can be balanced between on-site and off-site provision. The rigid application of residential car parking rates in these areas can stifle innovation, make it difficult to create small-lot housing products and impact on housing affordability.

A more flexible assessment approach to car parking for Greenfields or strategic infill is recommended to enable a greater diversity of housing stock where there is greater opportunity to consider a range of parking solutions.

2. Should car parking rates be spatially applied based on proximity to the CBD, employment centres and/or public transport corridors? If not, why not? If yes, how do you think this could be effectively applied?

There are some key areas where there are a unique range of factors guiding car parking numbers and it is reasonable to have differing car parking rates, for example:

- Master planned development should have more flexible rates than small-scale infill
- Parking is not required in the CBD where public transport is accessible
- Strategic employment areas could be more flexible where there is shared parking.

These could be specifically identified through a Car Parking Overlay within the Code. The current approach is to exclude areas through Transport, Access and Parking Table 2 from the general standards. However, this is more difficult to find and interpret when navigating the Code.

3. Should the Code offer greater car parking rate dispensation based on proximity to public transport or employment centres? If not, why not? If yes, what level of dispensation do you think is appropriate?

Car parking numbers within the Code are generalised figures based on high level analysis to broadly address car parking concerns. A performance-based planning system is designed to enable alternatives to the numerical assessment standard where a lesser amount is proposed.

There are many circumstances where a reduced car parking rate can be justified. For example where there is available shared parking, on-street parking, access to public transport, high level of walkability or the other strategic outcomes are prioritized.

4. What are the implications of reviewing carparking rates against contemporary data (2021 Census and ABS data), with a focus on only meeting average expected demand rather than peak demand?

5. Is it still necessary for the Code to seek the provision of at least one (1) covered carpark when two (2) on-site car parks are required?

We note that the draft Code for consultation required that only one (1) car park needed to be provided for two-bedroom homes.

Car ownership data (using the vehicle registration system and information from the Australian Bureau of Statistics) demonstrated that this would be sufficient, as 2016 statistics indicated that the highest proportion of households owned one (1) or no cars (42 per cent) and approximately 35 per cent of the population owned two (2) cars.

However, in response to feedback from the public and councils during consultation on Phase Three of the Code, the car parking rates were increased to provide at least two (2) car parks for two-bedroom infill housing, increased from one (1) car park originally proposed. The Code also required at least one (1) of those car parks to be covered (e.g., carport or garage).

The UDIA considers that greater flexibility should be applied to small lot housing in master planned communities and would welcome the opportunity to work with the Commission on how a more flexible policy position could be developed.

The requirement for undercover car parking to be provided should be reviewed having regard to the propensity for garages to be used as storage spaces instead of car parks.

Design Guidelines

1. What are the implications of developing a design guideline or fact sheet related to off-street car parking?

   Provided that the role of the fact sheet or design guideline is clear as advisory, it may be useful to provide clarity around car parking layout and design. However, it is not an issue raised by our membership as a significant priority.

Electric Vehicles

1. EV charging stations are not specifically identified as a form of development in the PDI Act. Should this change, or should the installation of EV charging stations remain unregulated, thereby allowing installation in any location?

   There is a need for flexibility in the planning system as the EV industry is emerging and it is expected the EV market will adapt to technology as the industry grows.

   EV prevalence as well as the use of solar power and batteries will ultimately change sustainability requirements of development and alter people's movement and choices (at home and at work).

   While EV charging stations are currently not identified as a form of development in the PDI Act, the effect of making EV charging stations development may make it more difficult to deliver them.

   If EV charging stations are substantial, they do have the potential to become a change of use within the current system. If this occurs, they will be assessed against the general provisions of the Planning and Design Code.

   Currently there are a number of private providers of EV charging stations such as 'Jolt' that provide free charging but incorporate an advertising display into the charging station (i.e. the advertising associated pays for the free charging to users). In examples provided by UDIA members, if these structures are located within the Neighbourhood-Type Suite of Zones public notification is triggered due to the advertising component. Conversely if EV charging infrastructure in other zones is not expressly excluded by Table 5 and therefore the infrastructure itself triggers public notice.

   The UDIA encourages the reduction in red tape including streamlined assessment process for this essential infrastructure. We would strongly support the introduction of Code policy to provide incentives and reductions in car parking where charging stations are provided as part of a development.

   The Government may also need to consider the long-term planning for increased demand for electricity infrastructure to support his shift.

2. If EV charging stations became a form a development, there are currently no dedicated policies within the Code that seek to guide the design of residential or commercial car parking arrangements in relation to EV charging infrastructure. Should dedicated policies be developed to guide the design of EV charging infrastructure?

There are a range of policies within the Code that exist and could be applied to this land use, including access and parking, interface between land use, design and appearance etc.

If EV charging stations became a form a development, there are currently no dedicated policies with the Code that seek to guide the design of residential or commercial car parking arrangements in relation to EV charging infrastructure. Should dedicated policies be developed to guide the design of EV charging infrastructure?

Car Parking Off-Set Schemes

1. What are the implications of car parking fund being used for projects other than centrally located car parking in Activity Centres (such as a retail precinct)?
2. What types of projects and/or initiatives would you support the car parking funds being used for, if not only for the establishment of centrally located car parking?

The UDIA supports the establishment of car parking funds where it offers an appropriate alternative to the provision of on-site parking. However, we do note that several councils, namely the City of Salisbury, City of Port Adelaide Enfield and City of Norwood, Payneham and St Peters set up car parking funds and then dissolved them.

Car parking off-set schemes should:

- Involve industry participation in their development
- Have fair and reasonable fees that do not erode the confidence of industry to invest in areas
- Ensure the funding to be captured is sufficient to deliver on the ground outcomes or will be 'topped up' by the local council or other body (i.e. the scale needs to be right).
- Be designed to minimise administrative overheads
- Provide certainty, accountability and transparency.

As with any off-set scheme or payments from the development industry it is crucial that the intended purpose is clear, the cost is a reasonable impost on development, there is a suitable number of developments that ensure the funding provided is sufficient to deliver an outcome and there is a clear connection to the Code.

The UDIA does not consider that car parking off-set schemes should be applied to master planned developments or strategic infill sites.

The main application of car parking funds has been for activity centre precincts and mainstreets where development is being undertaken within constrained sites, where on-site car parking numbers are difficult to achieve. As set out above, these schemes can be effective but require careful management to ensure they deliver car parking on the ground.

Commission Prepared Design Standards

1. Do you think there would be benefit from the Commission preparing local road Design Standards?

There is significant frustration within the industry around the lack of clear standards for local roads, which typically vary from Council to Council. There would be significant time and cost savings for the development sector if a standard set of design requirements could be achieved. However, Councils

must accept Design Standards that are adopted by the Commission. The UDIA would welcome the opportunity to liaise and consult with the Commission, LGA and Council's to inform the development of suitable Design Standards.

The introduction of a broadly accepted standard will need to provide scope flexibility to ensure innovation is not stifled.

Native Vegetation

1. What are the issues being experienced in the interface between the removal of regulated trees and native vegetation?
2. Are there any other issues connecting native vegetation and planning policy?

The introduction of the Native Vegetation Overlay and the State Significant Native Vegetation Overlay have strengthened the nexus between the planning assessment process and Native Vegetation Act. However, there is still a separate assessment and approvals process under the Native Vegetation Act. An amendment to the Native Vegetation Regulations could exempt the need for approval under the NV Act where an application was referred to the Native Vegetation Council under the PDI Act. This is similar to the EPA licensing process.

There is often significant confusion in areas where both regulated tree and native vegetation controls apply.

For enhanced clarity, the system could also be designed to state that one scheme takes precedence over the other so that approval processes are not unnecessarily complicated and duplicated.

Tree Canopy

3. What are the implications of master planned/greenfield development areas also being required to ensure at least one (1) tree is planted per new dwelling, in addition to the existing provision of public reserves/parks?
4. If this policy was introduced, what are your thoughts relating to the potential requirement to plant a tree to the rear of a dwelling site as an option?

The UDIA understands the importance of urban tree canopy to our long-term sustainability and climate change resilience. We understand that the Urban Tree Canopy Overlay was introduced to address tree loss through urban infill. The policy was specifically designed for infill development where more granular policies are needed to address tree loss, provide for soft landscaping, and address the impact of additional hard surfaces on stormwater systems and urban heat load.

Master planned communities aim to not only have the same level of sustainability and tree canopy levels as Adelaide's more established suburbs but aspire to meet and exceed them. However, there are many ways this can be achieved.

Sustainability can be achieved through the integrated design of the public and private realm, with coordinated tree planting and integrated stormwater solutions based on Water Sensitive Urban Design Principles. These issues are largely addressed at the master plan/ land division level rather than at the individual dwelling application level.

The UDIA would support flexibility about the location of trees on infill development sites.

Tree Protections

The current legislative framework achieves a reasonable and appropriate balance between protection of large established trees and achievement of urban infill and development across Greater Adelaide. Any change to the current legislative and policy framework to remove or alter current exemptions (ie tree circumference of distance to a dwelling or swimming pool) should include robust assessment and analysis of the implications of change with respect to reduced dwelling yields, achievement of infill targets as well as impact on housing affordability.

5. What are the implications of reducing the minimum circumference for regulated and significant tree protections?

A jurisdictional comparison of tree protection measures should include a comprehensive review of greening strategies adopted by each Australian state.

The tightening of existing tree protection controls will have significant impacts on property values, further constraining development potential of land as well as impacting on landowner rights to remove trees on private land, including circumstances where there are genuine safety concerns.

6. What are the implications of introducing a height protection threshold, to assist in meeting canopy targets?

The current tree circumference test is appropriate on the basis that:

- it is simple to understand
- does not require technical expertise
- is cost effective and accurate, minimising legal disputes.

7. What are the implications of introducing a crown spread protection, to assist in meeting canopy targets?

8. What are the implications of introducing species- based tree protections?

The UDIA supports the intention to protect Significant and Regulated Trees in Adelaide. We also support the current simple framework to identify Significant and Regulated Trees, and the inclusion of exemptions that protect significant buildings from tree affects.

The UDIA does not support changes to Significant and Regulated Tree policy which will increase the complexity of the assessment process, have the potential to put buildings and assets at risk, or significantly impact on the development potential of land.

Distance from Development

9. Currently you can remove a protected tree (excluding *Agonis flexuosa* (Willow Myrtle) or Eucalyptus (any tree of the genus) if it is within ten (10) metres of a dwelling or swimming pool. What are the implications of reducing this distance?

10. What are the implications of revising the circumstances when it would be permissible to permit a protected tree to be removed (i.e. not only when it is within the proximity of a major structure, and/or poses a threat to safety and/or infrastructure)?

The removal or alteration of exemptions for the removal of trees in proximity to dwellings and pools have been introduced to manage the risk of damage to people's homes and assets. Before varying

these provisions, a clear rationale would need to be provided and a risk assessment undertaken to understand the impact of reduced exemptions, (ie materials, damage to property, insurance etc).

Urban Tree Canopy Off Set Scheme

11. What are the implications of increasing the fee for payment into the Off-set scheme?
12. If the fee was increased, what are your thoughts about aligning the fee with the actual cost to a council of delivering (and maintaining) a tree, noting that this would result in differing costs in different locations?

Despite fears that all developers would elect to pay into the Tree Canopy Off-set Scheme in lieu of planting trees, the UDIA notes the Expert Panel has identified that there have only been 10 applications requiring payment into the Scheme. This equates to 5% of all eligible applications.

There will always be examples where trees cannot be provided on-site, and an alternative solution needs to be available (particularly for constrained sites).

A standardised fee for the off-set is supported, however raising these fees must be balanced against housing affordability and the range of charges that add up for a development (e.g., open space contribution). Charging what it costs for councils to maintain a tree is not a fair or reasonable way to calculate the off-set and is likely to raise it significantly.

Greater transparency in the use of the off-set funds is important.

Setting a fee at the level to be maintained by Council's sets a high bar that will ultimately drive up development costs and therefore increase the cost of housing.

13. What are the implications of increasing the off-set fees for the removal or regulated or significant trees?

There are occasions when it is not possible or inappropriate to replace Regulated and Significant Trees on a site in urban areas. The off-set scheme is therefore an appropriate mechanism to off-set tree loss. Increasing the cost of tree removal for infill and master planned developments would however add a significant cost burden to development and should not be applied in cases where the trees can be replaced. Many developers regard trees as an asset and therefore only remove them when there is a negative impact on the urban outcome.

Public Realm Tree Planting

14. Should the criteria within the Planning and Development Fund application assessment process give greater weighting to the provision of increased tree canopy?

South Australia has the highest open space provision requirement in the country at 12.5 per cent of the area of a land division whereas other states range from 6 per cent to 10 per cent. Some inner-middle suburban councils have suggested a provision of 20–25 per cent open space in medium density developments, an amount which is clearly unsustainable from a land economics and a maintenance perspective.

In contrast, some fringe metropolitan councils actively encourage a lower requirement for open space, typically around 8 per cent, and collect a financial contribution to make up the outstanding balance.

The Planning and Development Fund should be reviewed as follows:

- Facilitate better urban amenity and accessibility by committing to reviewing and reforming the open space contributions to create a fairer and more flexible approach.
- Through amendment to the Regulations, or Act, incorporate all open space uses into the 12.5 per cent contribution and not seek additional land for other open space purposes (eg stormwater which is also adding to open space amenity).
- Restrict the ability to impose an unreasonable minimum open space size for parks and reserves by recognising within the Code that there are multiple uses and sizes of reserves which serve a variety of purposes.

In terms of the use of the fund for tree canopy, we recognise that planting trees in public spaces provides significant benefit to local communities and can contribute to public amenity, place making and remove urban heat load impacts in urban areas design.

The P&D Fund criteria needs to ensure public benefit is achieved and balances the role of this fund with the Tree Off-set Scheme funds.

Character and Heritage Policy

1. In relation to prong two (2) pertaining to character area statements, in the current system, what is and is not working, and are there gaps and/or deficiencies?
2. Noting the Panel's recommendations to the Minister on prongs one (1) and two (2) of the Commission's proposal, are there additional approaches available for enhancing character areas?

The Historic Areas Overlay and Character Areas Overlay have fundamentally different purposes:

- Historic Areas - planning provisions promote the retention of buildings that contribute to the heritage values of an area. Planning provisions ensure new development is complementary to established heritage values.
- Character Areas - the focus of planning provisions is not on restricting demolition, rather on the form and character of replacement/new development that is complementary to clearly established character objectives.

Historic (Conservation) Zones within Development Plans were largely transitioned into Historic Areas under the Code. However, many of these would not meet any heritage test if it was to be applied today.

A large portion of Greater Adelaide's Inner Metropolitan Area is within a Historic Area, placing substantial constraints on growth within inner metro suburbs (within 10km of the CBD).

Demolition controls are generally stronger for Historic Areas than Historic (Conservation) Zones under Development Plans (with a few outlier exceptions).

The elevation of Character Areas to Historic Areas will expand the application of demolition controls to new areas. This should only be on the basis that it is to protect 'heritage'. The impact of this change would be to reduce the capacity of new housing forms to be developed in key inner areas of Adelaide. This is now the case, where most of the City of Unley, along with suburbs of Medindie, Gilberton, St Peters, Rose Park and Toorak Gardens are within a Historic Area Overlay.

While there has been criticism from Councils about Historic Statements and Character Statements, they should be limited to identifying the most important and consistent elements of heritage or character value in the surrounding area. They are an expression of what exists.

When Statements are read with the relevant provision of the Overlays, they are effective in providing guidance for development assessment purposes. Statements should not be updated to include policy content, which should remain in the Overlay. The Statements should clearly identify the elements /characteristics of value.

There is room for ongoing improvements to these Statements, however it is important that the intent does not lead to lengthy commentary that undermines the streamlining of policy achieved through the reform program.

3. What are your views on introducing a development assessment pathway to only allow for demolition of a building in a Character Area (and Historic Area) once a replacement building has been approved?

4. What difficulties do you think this assessment pathway may pose? How could those difficulties be overcome?

This proposal aims to introduce a new development assessment pathway that only allows for the demolition of buildings within a Character Area or Historic Area Overlay once a replacement building has been approved.

The Code appropriately removed the replacement building test from the planning rules.

The assessment for demolition should be on the basis that the building is of heritage value. A Local Heritage Place Overlay or State Heritage Place Overlay already exist for those properties identified as having characteristics of value, which have generally been informed by in depth heritage surveys. The Local Heritage Place Overlay and State Heritage Place Overlays already have suitable 'demolition' tests associated with them. The UDIA agree with this approach that Demolition policies should support the protection of places that display historical attributes worthy of preservation. Those dwelling that are not considered to be of value should not be unduly restricted from being demolished until a replacement dwelling has been approved.

Further, the design of a replacement building should be unrelated to the heritage value of an existing building and assessed against the design requirements within the relevant overlay.

This doesn't mean that the design of new buildings is not important. Any application for new development must satisfy several clear tests in the Code. These tests include:

- consistency/compatibility with nearby heritage buildings in terms of streetscapes
- front /side boundary setbacks, and
- architectural detailing (wall height, roof pitch/form, window and door openings, chimneys, verandas and materials).

The role of the Character Area Overlay is to ensure development complements the established character of the locality, rather than to control the removal of buildings that do not have heritage value.

Local Heritage in the PDI Act

1. What would be the implications of having the heritage process managed by heritage experts through the Heritage Places Act (rather than planners under the PDI Act)?

   The UDIA supports heritage expertise underpinning heritage decision-making. However, heritage must still be balanced with the overall development potential of areas.

   Control at the State Government level achieves consistency in the approach to heritage listing processes and we support Government maintaining an oversight role.

2. What would be the implications of sections 67(4) and 67(5) of the PDI Act being commenced?

   In relation to the introduction of section 67(4) and 67(5) of the PDI Act. This provision essentially puts the definition of character areas in the Code to a community vote. While the sentiment and intention are positive, this is a poor precedence for other policy decisions, and overall is not considered to be good practice.

3. Planning System Delivery and Operation

Website Re-Design

1. Is the PlanSA website easy to use?

   The UDIA SA support the refresh of the PlanSA website to enable the easy accessibility of information to all South Australians. Whilst the current website provides a wealth of information, it is not considered to be simple to use or intrinsic to navigate to find information you are seeking (even for the seasoned professional!).

   UDIA support the Panel's recommendation to enable a 'subscription service' to enable the community to subscribe and receive notification to certain types of development and changes to the status of applications. This will improve system usability for all South Australians without the need to continually monitor the website.

   UDIA also support the Panel's recommendation of providing an interactive development application tracking map that would like back to the public register and notification page. This will assist in making data easily accessible to all South Australians and be able to clearly see the location of applications which may affect them.

2. What improvements to the PlanSA design would you make to enhance its usability?

Mobile Application for Submission of Building Notifications and Inspections

1. Would submitting building notifications and inspections via a mobile device make these processes more efficient?

   The UDIA support the previous Expert Panel on Planning Reform's December 2014 recommendations outlined in 'The Planning System We Want' that sought to "*capitalize on emerging technologies should improve access and reduce delays and duplication*." The suggestion to submit building notifications and inspections via a mobile device/app to improve system accessibility and reduce delays is supported.

2. Where relevant, would you use a mobile submission function or are you more likely to continue to use a desktop?

Online Submission Forms

UDIA supports the Panel's recommendation to create a centralized database of Builder's information that is integrated into the e-Planning portal removing the requirement to manually enter Builder's data for each individual application. We also strongly support the modification of the online application form to save and reuse common contacts to auto populate pre-saved contact details. This will assist in streamlining the system and reduce the time taken to lodge an application.

Whilst we support the Panel's recommendation to enable the relevant authority to generate a checklist with each application which identifies the relevant assessment criteria, especially in relation to Deemed to Satisfy applications, it is recommended that such a checklist be made available to the general public to reduce time wading through the pages of policy generated by the current pdf versions. This could be akin to the old 'Residential Code' checklist under the rescinded *Development Act 1993*.

1. Is there benefit to simplifying the submission process so that a PlanSA login is not required?

   The UDIA strongly support the Panel's suggestion of simplifying the submission process of development application's on the DAP system. Currently all applicants are required to have a PlanSA login system that must be generated by PlanSA staff, which can take a number of days. By removing the need to have a PlanSA login created, all South Australians will have access to the system without unnecessary delay.

2. Does requiring the creation of a PlanSA login negatively impact user experience?

3. What challenges, if any, may result from an applicant not having a logon with PlanSA?

Increase Relevant Authority Data Management

1. What would be the advantages of increasing relevant authorities' data management capabilities?

   The UDIA supports any improvements to the e-Planning system that ensure the timely assessment of applications and the reduction in 'double handling' between the relevant authority and departmental staff.

   In addition to providing increased data management capabilities to relevant authorities, it is also recommended that the e-Planning system be altered to enable applicants to upload additional documents between submission and 'verification' of the application. Under the current system once an application has been 'submitted' there is no functionality to enable other documents to be uploaded (even if a document has been accidently forgotten during the lodgment uploading process) until the application has either been 'verified' by the relevant authority or the relevant authority has requested additional documentation be provided on the portal.

2. What concerns, if any, do you have about enabling relevant authorities to 'self-service' changes to development applications in the DAP?

   Any changes to the portal that increase the ability for relevant authorities to manage data should ensure that this improves/expediates assessment timeframes and provides for a more robust and transparent system. The UDIA would welcome the opportunity to workshop possible options for improvement further in this regard.

Inspection Clocks

3. What are the advantages of introducing inspection clock functionality?

   The UDIA supports the suggestion of implementing inspection clocks to ensure the relevant authority undertakes timely inspection after the given of notification. This would also provide greater transparency within the system.

4. What concerns, if any, would you have about clock functionality linked to inspections?
5. What, if any, impact would enabling clock functionality on inspections be likely to have on relevant authorities and builders?

Collection of lodgment fee at submission

6. Would you be supportive of the lodgment fee being paid on application, with planning consent fees to follow verification?

   The UDIA strongly supports the Expert Panel's suggestion of 'locking in' the relevant version of the Code at time of submission of an application by way of payment of the lodgment fee. This will ensure that any Code Amendments that become operational between submission, verification and ultimate payment of fees and official 'lodgment' will not alter the assessment once submitted. This will provide certainty to the development industry and avoid any doubt on which version of the Code should be applied to an application.
   Members have also raised concerns that the Portal currently only allows planning applications to be paid by credit card online. This is difficult when there are multiple applications submitted (ie. 60+ individual built form applications for a master planned project). Members have outlined that it can be a challenge to have a credit card limit able to accommodate this. Most business preference is to pay via EFT however no bank details are provided for PlanSA. Having this updated in the Portal would be a great help for more efficient business practices.

   Further, members have advised that submitting applications on parent titles can be a challenge when new titles are issued. Essentially the whole planning process needs to be done again on the individual title. This is a double up of work and fees, etc. Ideally it would be good if the Portal allowed submissions on the parent title and then when new titles are issued, it could associate the existing approval with a new title reference. This would streamline the process.

7. What challenges, if any, would arise as a consequence of 'locking in' the Code provisions at lodgment? How could those challenges be overcome?

   The only challenge for payment of a lodgment fee upon submission of the application would be for planning practitioners who submit applications on behalf of their clients then being required to pay the lodgment fee. One recommendation could be that once 'submitted' an option would be for a link to be sent to those listed as responsible for 'invoicing' on the DAP system.

Combined Verification and Assessment Processes

8. What are the current system obstacles that prevent relevant authorities from making decisions on DTS and Performance Assessed applications quickly?
9. What would be the advantages of implementing a streamlined assessment process of this nature?

   The UDIA strongly support the suggestion of a combined Verification and Assessment process. Where applications satisfy the DTS pathway or satisfy relevant performance outcome of the Code applications should be approved quickly, reducing frustration, uncertainty and unnecessary expense.

10. What, if any, impact would a streamlined assessment process have for non-council relevant authorities?

Automatic Issue of Decision Notification Form

11. What are the advantages of the e-Planning system being able to automatically issue a Decision Notification Form?

    The UDIA supports the automatic issue of a Decision Notification Form for Deemed to Satisfy forms of developments. This will enable quicker processing times and reduce administrative delays currently experienced in the system.

12. What do you consider would be the key challenges of implementing an automatic system of this nature?

    For Performance Assessed forms of development, especially where public notice is required, the automatic Decision Notification function may be more challenging to implement.

13. If this was to be implemented, should there be any limitations attached to the functionality (i.e., a timeframe for payment of fees or the determination will lapse)?

Building Notification through PlanSA

14. Would you be supportive of mandating building notifications be submitted through PlanSA?

    Whilst the UDIA generally supports the intent of ensuring a streamlined system and reducing 'double handling', concern is raised regarding mandating that building notifications be submitted directly through the PlanSA portal without first ensuring that appropriate technology is in place (i.e. phone or tablet based app) to enable the notification to be made whilst on the job site rather than a desktop pc.

15. What challenges, if any, would arise as a consequence of removing the ability for building notifications to be received by telephone or in writing to a relevant council? How could those challenges be overcome?

16. Would this amendment provide efficiencies to relevant authorities?

Remove Building Consent Verification

17. Would you be supportive of removing the requirement to verify an application for building consent?

    The UDIA strongly support the Expert Panel's suggestion of removing the requirement to verify an application for building consent. This suggestion would further streamline the process and reduce delays in the system. A relevant authority would still retain the ability to request further information pursuant to clause 119(3) of the PDI Act.

18. What challenges, if any, would arise as a consequence of removing building consent verification? How could those challenges be overcome?

Concurrent Planning and Building Assessment

26. What would be the implications of enabling multiple consents to be assessed at the same time

    UDIA Strongly supports the proposal to enable concurrent Planning and Building Assessment. This would reduce the overall timeframe for the assessment process and streamline the approval system. Currently UDIA members experience time delays between obtaining Planning Consent, the relevant authority issuing the DNF and stamped plans onto the PlanSA Portal then not being able to upload their Building Rules Consent until the previous steps have been completed. The proposal to enable multiple consents to be assessed at the same time was a clear intent of the original planning reforms and its implementation should be a priority.

Extract for the Grow Reform Build UDIA document:

> ***Invest in the development of a new real time electronic urban development monitoring tool in partnership with the UDIA, to improve state-wide planning for growth, liveability and affordability, and encourage increased private sector investment.***

Innovation – Automatic assessments check for DTS Applications

The UDIA support the investment in new technologies to enhance and fast track the processing of development applications, such as the suggested automated assessment checks of DTS applications. This could be a useful tool for one-time users of the planning system. A statewide implementation of such a tool in the planning system may alleviate the workload pressures on relevant authorities and improve timeframes particularly within the 'verification' period.

Innovation – 3D Modelling for Development Application Tracker and Public Notification

Whilst it is acknowledged 3D modelling can assist in the ability to interpret plans and understand a development's 'look and feel', the production costs of 3D renders are far greater than 2D plans and take greater time to produce. The requirement to provide 3D renders with applications should be limited to certain classification or zones for example, development of greater than 4 storeys where located within the 'Design Overlay.' This should not be mandated for all development classifications, and ideally should only apply for more significant development proposals.

Innovation – Augmented Reality Mobile Application

Augmented Reality tools provide a useful tool to interpret the 'look and feel' of a development proposal and the ability to 'see it' especially for those not able to interpret 2D plans. Augmented Reality tools would be particularly useful for those larger scale applications that require public notice, however the cost to produce augmented reality 'plans' is far greater than standard 2D or 3D renders. Consequently, the use of such technology should be carefully considered and limited to certain classifications of development or zones, for example development of greater than 4 storeys where located within the 'Design Overlay' or within the 'Urban Corridor' suite of Zones.

Innovation – Accessibility through Mobile Applications

The UDIA support the investment in new technologies to enhance the usability of the PlanSA website and DAP system particularly to cater for mobile devices.

4. Appendix

1. UDIA Submission on Developer Deed Review and Infrastructure Schemes
2. UDIA Submission to the State Planning Commission on Miscellaneous Technical Enhancement Code Amendment (MTECA)
3. UDIA Submission on Land Supply Reports and State Planning Commission EFPA review
4. UDIA Grow Reform Build 2022

The above reports have been supplied as attachments to DTI.PlanningReview@sa.gov.au on Friday, 16th December 2022.

MOUNT BARKER DEVELOPER DEED REVIEW

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Executive Summary

UDIA commends the Government for undertaking this review. As the industry body representing the development sector most affected by these provisions and legislation, we encourage the Government to continue to engage with UDIA and its members before embarking on any changes to policy or legislation. UDIA will always provide sound, factual and mature advice to the Government thanks to its broad and experienced members of the development industry.

The delivery of residential development in the Mt Barker area has been a roaring success. The rezoning of land at Mt Barker provided a critical role in the supply of housing for Greater Adelaide. In the absence of Mt Barker the impacts on growth or affordability for housing in Adelaide would have been significant.

Whilst the imposition of developer contributions and the method of delivery of key infrastructure has not been ideal, the UDIA and its members has continued to work together with the State Government and District Council of Mt Barker with the goal of delivering new housing to meet market needs and demands at the lowest possible cost to new home owners.

The Infrastructure Deed mechanism used at Mt Barker had greater potential for better outcomes if implemented correctly. UDIA does not believe that any wholesale reform is required. The knowledge and real-life experience gained at Mt Barker can be used to modestly refine the methodology for infrastructure deeds with more successful outcomes. Any radical or rapid changes to legislation that affects development can cause considerable disruption to industry. Transitional changes over a reasonable period provides the industry more time to adjust any investment or implementation decisions.

The main failings of the Mt Barker Deed arrangements, and similar infrastructure deeds throughout South Australia, can be summarised as:

- Lack of early identification and adequate scoping of urban infrastructure;
- Lack of concept design, costing and fair apportionment of contributions;
- No up-front funding to cashflow the early construction of infrastructure;
- No urgency in the delivery of the infrastructure within the stated timeframes;
- Poor transparency, with the status of funds unknown for a long time, and a lack of regular review to update timing of delivery of infrastructure, cost estimates, refine contributions, reimburse overpaid contributions and adjust indexing as required;
- Delay in establishment of the Advisory Committee and its very limited role versus that of a more appropriate Scheme Coordinator;
- Missed opportunities due to overdesign of infrastructure, the possibility of acquiring land for difficult sections of connector road and constructing infrastructure at a time when the SA economy was struggling.

The District Council of Mount Barker has long been advocating for the completion of the Connector Road. The vast majority of the Connector Road constructed to date has been by UDIA member developers. The UDIA agrees there are several gaps that should be completed as a priority (eg crossing the railway corridor). However, the growth of Mt Barker has resulted in greater attraction to its town centre as well as the South Eastern Freeway interchanges. The existing Infrastructure Deeds envisaged delivery by the State Government of several upgrades to major roads and key junctions, including Adelaide Road, Flaxley Road and Wellington Road. UDIA believes that these upgrades are a higher priority than full completion of the Connector Road.

The unfair manner in how the Connector Road was to be funded and delivered only by those landowners / developers through which the Connector Road traversed has contributed significantly to its ad-hoc construction to date. Under the current arrangements it is unlikely to be 100% completed for decades without some form of intervention. Any intervention to complete the Connector Road must be fair to those who bore the financial burden and delivered their portion of the Connector Road.

UDIA understands the various infrastructure funding models including value capture, infrastructure levies and the mechanics of developer contributions, and also their effect on housing affordability and the first home buyer in new developments. Infrastructure levies / developer contributions are ultimately a tax on the first home buyer in new developments, with other taxes compounding (eg stamp duty). Increases, mismanagement or over-pricing of these levies/contributions strikes at the heart of affordability for new home buyers.

The UDIA played a key role in the impetus for a new alternative for the identification of apportionment of infrastructure costs in new development areas with multiple land owners. This led to the introduction of the Planning, Development and Infrastructure (PDI) Bill in 2016. Unfortunately, during creation/drafting of the new PDI Act and subsequent legislative amendments much of the UDIA suggested provisions for infrastructure schemes and a Scheme Coordinator, were watered down during legislative negotiations due to political pressure from other interest groups that were vehemently opposed to any form of development contributions..

UDIA will continue to liaise with Government and welcomes the opportunity to assist or be involved in any proposals to make minor improvements to the current infrastructure schemes.

1. Introduction

The delivery of residential development in the Mt Barker area has been a roaring success. The market has voted with its feet, adopting an attractive and affordable lifestyle in this Adelaide Hills community.

The rezoning of land at Mt Barker provided a critical role in the supply of housing for Greater Adelaide. In the absence of Mt Barker and the presence of the current growth boundary restricting urban development at the northern and southern ends of Adelaide, one wonders the impacts on growth or affordability for housing in Adelaide if not for Mt Barker.

UDIA member developers have provided outstanding residential developments in the Mt Barker area, providing a range of housing options for different household demographics and lifestyle choices, a range of price points for affordable and social housing to large family homes, community infrastructure such as schools, parks, playgrounds, shopping centres and other commercial uses.

Whilst the imposition of developer contributions and the method of delivery of key infrastructure has not been ideal, the UDIA and its members has continued to work together with the State Government and District Council of Mt Barker with the goal of delivering new housing to meet market needs and demands at the lowest possible cost to new home owners.

As discussed later in our response, the Infrastructure Deed mechanism used at Mt Barker had greater potential for better outcomes if implemented correctly. UDIA does not believe that any wholesale reform is required, but rather the knowledge and real-life experience gained at Mt Barker can be used to modestly refine the methodology for infrastructure deeds, developer contributions and the implementation/management of such with more successful outcomes.

2. Purpose of the Deloitte Review and Other Reviews

It is our understanding that the purpose of the Deloitte Review is to understand how infrastructure deeds, council special rates levy's and developer contributions operated at Mt Barker to help inform any future arrangements and suggest any possible changes to the Planning Development & Infrastructure Act (PDI Act) to improve the various mechanisms.

UDIA commends the Government for undertaking such a review. As the industry body representing the development sector most affected by these provisions and legislation, we encourage the Government to continue to engage with UDIA and its members before embarking on any changes to policy or legislation. UDIA will always provide sound, factual and mature advice to the Government thanks to its broad and experienced members of the development industry.

Development projects and investments generally span many years, and so any radical or rapid changes to legislation that affects development can cause considerable disruption to industry. Transitional changes over a reasonable period provides the industry more time to adjust any investment or implementation decisions.

In 2017 an Infrastructure Schemes Pilot Program was undertaken for 3 pilot projects to test the application and administration of the Infrastructure Scheme provisions under the PDI Act. The Expert Report from this study was only ever a draft, but some of the findings in this report included:

- The need for a Scheme Coordinator much earlier in the process;
- A proposal for establishment of a State Fund (say $10M a year for 5 – 7 years) so that upfront funding is available to ensure critical urban infrastructure is completed in a timely manner. After 5 – 7 years this Fund should be in a position whereby it becomes a rolling fund topped up by the levy payments from the various developer contributions;
- The current scheme is too unwieldy, and so unlikely to be used.

UDIA is aware that the Infrastructure Schemes Pilot Program Outcomes Report published by the then Department of Planning, Transport and Infrastructure did not include all items identified in the draft Expert Report.

3. UDIA(SA) Response to the Deloitte Review

UDIA(SA) has noted the list of questions produced by Deloitte. We have collated our response into the following five key categories to answer the Deloitte list of questions:

1. The Existing Mt Barker Deed Arrangements
2. The Connector Road
3. General Infrastructure Deeds
4. Cost Estimates & Indexing
5. Effects of Developer Contributions

3.1 The Existing Mt Barker Deed Arrangements

(Deloitte General Mount Barker Deed Questions 1 – 8)

The correct model for "value-capture", developer contributions and infrastructure deeds requires:

1. Early identification and scoping of the necessary fit for purpose infrastructure works;
2. Concept design, costing and fair apportionment of contributions;
3. Scheduling, up-front financing/funding and implementing the delivery of the infrastructure;
4. Collection/reimbursement of contributions from development benefiting from the infrastructure;
5. Regular review, measuring, reporting and monitoring of the process; and
6. An appropriate authority to implement and manage the above.

The existing Mt Barker Deed arrangements went some way in meeting the above, but unfortunately fell short in all six categories as noted below.

3.1.1 Early Identification and Scoping

Rezoning of land for residential growth at Mt Barker was the right thing to do to unlock much needed land supply for residential growth for Greater Adelaide. At that time there was no new PDI Act or Infrastructure Schemes, and so all parties negotiated in good faith, recognising the need for urban infrastructure (including transport infrastructure). Developer projects could not proceed until such time as negotiations were concluded and all parties were in agreement.

There was a lot of effort by all parties at that time to help identify and scope the necessary infrastructure. The Connector Road is an example and is discussed separately under Section 3.2.

Much has been learned from the process at Mt Barker, but the early identification and adequate scoping of urban infrastructure is sadly still lacking. UDIA believes this is largely because no single or appropriate authority has been tasked with the early planning and scoping of urban infrastructure for growth areas.

- DiT is generally focussed on larger arterial transport projects and is not charged with other urban infrastructure like stormwater or other essential services.
- Due to their small size, individual councils typically do not have the resources or expertise to plan urban infrastructure over multiple land holdings.
- The Planning and Transport functions within Government have been integrated from time to time but overall have typically had little involvement in coordinating planning with infrastructure requirements.
- Individual essential service authorities are left to their own devices, with little to no coordination between them all.

At the time of creation of the new PDI Act, UDIA strongly advocated for a Scheme Coordinator to manage infrastructure schemes and be involved in the early identification and scoping of urban infrastructure for growth areas, and this remains its belief.

When infrastructure planning processes occur after land is rezoned, the costs are difficult to anticipate and are often unnecessarily inflated. It also introduces unnecessary delays and increases the holding costs of development while waiting for infrastructure planning to be resolved.

3.1.2 Concept design, costing and fair apportionment of contributions

Much of the transport infrastructure interventions envisaged under the Mt Barker deeds are yet to have any advance in design since the early negotiations at the time of rezoning. UDIA fails to see why over the last decade further design development has not been undertaken, to refine the scope, understand costs and any risks. By having designs further advanced, projects could commence construction much sooner once approved to proceed.

Consultation with landowners and developers during design is essential. Developers understand the challenges and impacts of infrastructure and can assist in providing alternative solutions to costly problems. For example, at the Springs Road / Heysen Blvd roundabout the adjacent developer purchased a neighbouring land parcel that facilitated a much cheaper and better design for this roundabout in a geographically superior location. Of note the developer was not reimbursed for this acquisition under the rules of the Deed.

Having concept designs prepared early allows for private industry to help deliver some of the infrastructure. For example, DiT may have plans for a road widening/upgrade through a growth area. A developer wishes to connect to the road in advance of the road widening/upgrade project. Currently that developer would have to build a project specific connection at their cost only for it to be ripped up later when the main works arrive later. This is clearly a ludicrous situation noting that the developer is paying twice; once for this “temporary” infrastructure and secondly in contributions for the final infrastructure. If a concept design exists it could be adopted and partly built by the developer. And with an appropriate infrastructure deed the developer could receive credits against its contributions or compensation for having built this community infrastructure.

Initially only approximately half of the rezoned growth area was signed up to infrastructure deeds. Growth areas not covered by these deeds have been subjected to Council Separate Rates. The use of council special rates and the Mt Barker Infrastructure Deeds to capture the whole growth area has provided *some* fair apportionment of contributions across all landholdings, whereby land owners are paying the same rates per hectare. However, delivery of the Connector Road was not apportioned fairly, as discussed under the Connector Road section later.

The use of a per hectare charge has proven to be simple and easily administered. A per hectare charge for land used for new allotments also assists with fairness where some landowners/developers may be giving up more of their land for infrastructure (eg roads, communal stormwater or parks), over which the hectare charge should not apply.

Having two schemes in place at Mt Barker, being Infrastructure Deeds and Council Separate Rates, has complicated matters considerably. The two schemes are being managed separately, so there is a doubling up of resources. The two schemes meant that in some instances a developer would require approval of both scheme administrations to develop a piece of infrastructure because it was shared between the two schemes.

The Council Separate Rates has different nuances to the Infrastructure Deeds. Being managed by Local Government, it is much harder for council to make a quick adjustment due to their annual

processes for budget approvals and setting council rates and levys. One advantage of the Separate Rate is that it is very specific, so the scope works being expended has to be clear and well defined.

3.1.3 Scheduling, up-front financing/funding and implementing the delivery of the infrastructure

The Mt Barker infrastructure deeds contained indicative timeframes for the delivery of various transport infrastructure interventions. Few (if any) of these timeframes have been met, with most interventions not yet commenced.

The deeds state that all timing and funding of this infrastructure was to be at the relevant Minister's discretion. Unfortunately, this meant there was no fixed commitment to commence construction of transport infrastructure within the nominated timeframes. Any future Infrastructure Deeds must have firm commitments around the timeframes for delivery of infrastructure.

At Mt Barker there has been no up-front capital or funding provided by the State Government to commence the construction of infrastructure under the Deeds. It is impractical and inefficient to wait for the receipt of development contributions to then fund infrastructure.

Despite having the largest balance sheet and ability to source funds at cheaper rates then other parties, there has been a reluctance for Government to fund infrastructure up front. We understand that this is driven by Treasury concerns that they do not wish to take the timing risk of cash-flowing infrastructure up-front and then receiving the developer contributions later. UDIA has had past discussions with the Federal Government about assisting in this regard and they have been amenable and supportive of the idea of providing up-front funds in the knowledge of receiving reimbursement later. Alternatively, Infrastructure Bonds or similar could be utilised to secure sufficient finance up-front. UDIA would also suggest that if Treasury is concerned about such a modest investment/loan on its balance sheet then another statutory authority (eg Renewal SA) could be utilised.

Investment in the infrastructure needs to be made up-front, with the developer contributions to follow later. The timing and outlay of infrastructure can still be managed appropriately so it is completed sensibly and efficiently.

Early creation of infrastructure unlocks greater development potential, which generally translates into earlier receipt of developer contributions from more active development.

Any future Infrastructure Deeds must include up-front funding to ensure delivery of the infrastructure within the stated timeframes. Should the rate of receipt of development contributions be significantly slower than anticipated then it would be reasonable to collaborate and adjust the timing of infrastructure delivery to suit.

3.1.4 Collection/reimbursement of contributions from development benefiting from the infrastructure

The Mt Barker Deeds mechanism for timing of collection of developer contributions is at the time of creation of new titles. This is the time at which developers finally start receiving some return on investment from the sale of allotments/dwellings and so is the absolute earliest time to be paying contributions for infrastructure.

A process that has worked well at Mt Barker is the confidence and reliance by all parties on certified surveying companies in providing details at the time of plan deposit that confirms the breakdown of land area (ie allotments, road reserve, reserves) and calculated area for use in developer

contribution calculations. The experience with some other councils is a little different, whereby the council may do its own calculations that don't match those prepared by the surveyor.

Several items of transport infrastructure envisaged under the Deeds were delivered by the developer, eg Flaxley Road / Heysen Blvd roundabout and Heysen Blvd / Springs Road roundabout. In these instances, the developer received credits against future developer contributions for building this infrastructure. In the absence of a fixed timeframe for the delivery of infrastructure, this process largely worked and should be continued to be allowed under future schemes.

If the Connector Road had been handled in a similar manner, whereby all growth areas were contributing in some way, then developments through which the Connector Road traversed would have been partially (if not fully) reimbursed some of the cost of creation of the Connector Road, which would have led to early completion of Connector Road in more areas.

3.1.5 Regular review, measuring, reporting and monitoring of the process

Accountability is fundamental to the process. At Mt Barker for too long the status of receipts from developer contributions and expenditure was unknown. Regular reporting of the status of Infrastructure Deed funds is essential to provide openness and integrity to the process.

Developers wish to be certain that funds for infrastructure are not being fritted away on public service wages, or are being directed to expenditure in other areas (like Open Space Contributions). Developers have a general mistrust of funds being used inappropriately and so transparency is important.

Measuring progress provides accountability for the delivery of infrastructure. Developers will program their developments around timeframes nominated for delivery of infrastructure. It is incredibly frustrating when a developer has relied upon the stated timing of delivery of infrastructure by others, having made significant investment decisions to suit, and it is not delivered.

A regular review of the implementation of the infrastructure also provides an opportunity to update cost estimates, refine contributions, reimburse overpaid contributions and adjust indexing as required.

3.1.6 An appropriate authority to implement and manage the above.

The Mt Barker deeds envisaged an Advisory Committee, consisting of an independent Chair, and members representing Council, UDIA, and DiT/the Minister. For several years after execution of the deeds, this Advisory Committee was not formed or in place.

The Advisory Committee has no real power to implement or manage the envisaged outcomes under the deeds, as it is merely providing relevant advice to the Minister.

Most of the implementation and management of the Deeds has effectively been by DiT, under the relevant Minister for Transport. The general impression of industry is that DiT has not managed well the implementation of the Deeds. There has been no sense of urgency in delivering the transport infrastructure.

In the UDIA's view, a Scheme Coordinator is required, being a nominated person with a strong charter that they could be measured against to ensure appropriate performance, together with appropriate support staff and authority to be able to resolve negotiations with other State or Local Government authorities, service authorities and developers/land owners. This is discussed in more detail in Section 3.3.

3.1.7 Missed Opportunities

In 2015 the South Australian economy was struggling. SA had an average unemployment rate over 8% for that year. The development industry was quiet and civil contractors were in dire need of work. UDIA and its developer members at Mt Barker regularly badgered both the State Government and local Council to start building identified key infrastructure at Mt Barker. The cost of construction would've been very competitive, it would have provided much needed stimulus to the state economy and it would've delivered more infrastructure to unlock more development potential. Importantly future developer contributions would have fully reimbursed the cost of constructing this infrastructure. However, nothing was built. This is because:

- Key infrastructure had not yet been designed and so was nowhere near being "shovel-ready"; and
- An aversion to finance up-front funding of infrastructure by Treasury and Councils, despite the knowledge that reimbursement will come.

This is one of the greater failings for delivery of infrastructure at Mt Barker. The delay in early investment and implementation of infrastructure has now resulted in the infrastructure being required more urgently at a time when the economy is over-heated and construction costs have now risen substantially.

3.2 The Connector Road

(Deloitte General Mount Barker Deed Questions 12 – 14)

The new Heysen Boulevard at Mt Barker (or "Connector Road") is an important piece of transport infrastructure. It acts as the main collector for road traffic through the key growth area with connections to the two South Eastern Freeway interchanges that service Mt Barker. It provides interconnectivity throughout the growth area and in part diverts traffic directly to the South Eastern Freeway, rather than through the centre of Mt Barker.

3.2.1 Existing Arrangement

Under the existing Mt Barker Deed arrangement, parcels of land that include the Connector Road route require the relevant landowner/developer to:

- Surrender or gift that portion of the land as road reserve to the relevant authority;
- Finance and fund the design and construction of the Connector Road as part of any development;
- Generally not use the Connector Road to directly service allotment driveways (*note few exceptions eg. Springlake).

Adjacent land parcels that do not include the Connector Road are not required to make any contribution, despite gaining some benefit from this infrastructure. This is unfair.

Residential development is a very capital intensive and risky enterprise. Naturally developers will seek to manage and minimise their upfront capital expenditure and exposure before they finally start to receive a return on investment via the sale of completed allotments (and associated infrastructure). Given the conditions above, there is zero incentive for a developer to build Connector Road early or allow a neighbouring competitor to 'piggy-back' from their investment without being appropriately compensated.

There are several land parcels through which the Connector Road runs where there are no current plans or intentions for the land owner to develop the land.

There are also some land parcels through which the Connector Road runs whereby the land economics are such that the cost of building the Connector Road makes a development project currently unfeasible.

The Connector Road also crosses a railway corridor, with no party clearly responsible for its construction over this corridor.

The Connector Road also includes various transport infrastructure interventions, being intersection upgrades or roundabouts, that were to be delivered by the State Government in accordance with the existing Mt Barker Infrastructure Deeds. To date the State Government or Council has not delivered any Connector Road infrastructure – the only junctions constructed thus far were financed and delivered by the adjacent developer, with a reimbursement of credits for construction. Note that this reimbursement did not include any land acquisition or financing costs.

With these various other gaps in the Connector Road that are outside developers' control, again there is no incentive for a developer to finance and construct Connector Road when there is nothing to connect it to.

Given all of the above, it comes as no surprise that the Connector Road has been constructed in an ad-hoc fashion, suiting the timing of individual developments. It is unlikely to be 100% completed for decades without some form of intervention.

3.2.2 Completion of the Connector Road

The UDIA notes that the vast majority of the Connector Road constructed to date has been by UDIA member developers.

Council has long been advocating for the completion of the Connector Road. The UDIA would agree that there are several key short strategic gaps that should be completed as a priority (eg crossing the railway corridor). However, the growth of Mt Barker has resulted in greater attraction to its town centre as well as the South Eastern Freeway interchanges. The existing Infrastructure Deeds envisaged a number of transport infrastructure upgrades to major roads and key junctions to be delivered by the State Government, including Adelaide Road, Flaxley Road and Wellington Road. UDIA believes that these upgrades are a higher priority than the Connector Road, as road users are going to continue to be drawn into the town centre and its services.

For example, constructing the long section of Connector Road through the several undeveloped parcels at the eastern side of Mt Barker to connect to Hurling Drive/Adelaide Road is unlikely to ease traffic on other key roads.

UDIA notes that an intervention by any Government authority to complete the Connector Road through land parcels with no current development plans will result in:

- Compulsory acquisition of the land (ie the landowners being reimbursed for road reserve)
- Finance for design and construction by the Government authority (and not the landowners)
- The landowners now having direct access to key infrastructure, which will add value to their land and provide a considerable saving on headworks for any future development of their land.

This is grossly unfair, being the exact opposite of the existing arrangement and financial burden borne by UDIA member developers to date.

UDIA suggests that that only fair process now is to use an infrastructure deed or council separate rate over these (and other) land holdings such that all growth areas contribute to the total construction cost of the entire connector road. This will allow those who have already built the connector road (at their expense) to receive some reimbursement for their earlier contribution.

3.2.3 Other Learnings

Poor decisions lead to waste. For example, the Connector Rd / Flaxley Road roundabout is oversized, having been designed for an 80kph speed limit (being the speed limit in existence at the time) when everyone knew that after development the speed limit was always going to be reduced to 60kph.

See our comments under General Infrastructure Schemes, but for this Connector Road a robust concept design should have been created at the time of rezoning and incorporation of the Infrastructure Deeds. This would have identified gaps in responsibility (eg the railway corridor) and a vertical design for the road is essential in undulating terrain to identify areas of risk. This concept design could have then been appropriately costed, with ALL growth area land making an appropriate contribution towards its construction, including a fair acquisition cost for landowners through which the connector road traverses. An implementation plan for its construction with FIXED timeframes for its delivery should have been produced such that landowners/developers could rely on its delivery. The option should always be available for a developer to procure and construct the key infrastructure on their land parcel, with appropriate reimbursement/credits for doing so. This allows a developer to ensure the timing and delivery of key infrastructure should it choose to construct it in advance of the authority timeframes.

There is a known parcel of land where the terrain and route of the Connector Road made it uneconomic to develop. This parcel of land recently came to the market for sale, and so it would have been opportune for one of the authorities to purchase it to facilitate construction of the Connector Road. However, this opportunity was passed over, and so the land has now been purchased by a third party that is unlikely to proceed with construction of the Connector Road any time soon.

3.3 General Infrastructure Schemes

(Deloitte General Mount Barker Deed Questions 9 & 11, Part Two – General Infrastructure Schemes Questions 1 – 5)

3.3.1 Infrastructure Funding Generally

All of society benefits from new infrastructure. Even those far away from a new piece of major transport infrastructure may indirectly benefit, while those living, working or investing in close proximity benefit both directly and indirectly.

Various governments across all Australian cities have fallen behind in delivering required infrastructure. This has left existing and new communities feeling aggrieved as a result of new development that they see as having negative impacts on their standard of living. Governments then attempt to play catch-up on infrastructure delivery, which is both costly and untimely for sustainable development.

State and local governments lack the revenue from existing sources to finance and fund the large-scale transport infrastructure required, ahead of the new development delivery. Without the forward delivery of infrastructure our cities struggle to maintain standards of liveability and amenity.

So governments look to the private sector and new home buyers to assist in funding and financing infrastructure developments via “value capture”. Value capture may in very limited circumstances provide part of the solution, but it will not be able to fully fund new infrastructure. A mixture of funding sources will always be required, including traditional funding via consolidated revenue and borrowing.

UDIA strongly believes that taxes, charges and levies based only on land use changes should not be included in the definition of “value capture”. Pure planning gain (ie a change of land use without accompanying infrastructure investment) is not “value capture; it is a “betterment tax”. Any value capture for master planning approvals or growth area rezoning must be anchored with infrastructure investment that demonstrably adds value to this private land.

Value capture should not be used as an opportunity for State and local governments to avoid their responsibilities to provide major trunk and social infrastructure in new and established developments. These should always be funded through general revenue, as these governments will already accrue tax revenues from the additional rate base created from this investment. For too long Governments have been transferring its responsibility in this regard to the private sector development industry, which ultimately has contributed greatly to the affordability crisis facing our urbanised areas.

The UDIA played a key role in the impetus for a new alternative for the identification of apportionment of infrastructure costs in new development areas with multiple landowners which led to the introduction of the Planning, Development and Infrastructure (PDI) Bill in 2016. Unfortunately, during creation/drafting of the new PDI Act and subsequent legislative amendments much of the UDIA suggested provisions for infrastructure schemes and a Scheme Coordinator were watered down during legislative negotiations. With suitable amendments which are detailed below we believe there is still the opportunity for the PDI Act to be utilised in a positive way.

3.3.2 Examples in Other Jurisdictions

One of the worst infrastructure schemes is that adopted by NSW. Contributions can be levied as a rate per lot based on additional infrastructure demand (section 7.11 contributions), or as a fixed levy charged as a percentage of the estimated development costs (section 7.12 contributions). The NSW

system has the most extensive contribution system that includes local essential infrastructure, local social infrastructure (including items like social housing, environmental conservation) and state or regional infrastructure (state roads, public transport, schools, hospitals). These levies became so burdensome that the increased cost of development stopped supply, resulting in the associated housing affordability crisis in NSW that still exists today. Local government was collecting these extraordinarily high levies, but infrastructure was still not being built. Indeed some estimates have the total balance of unspent developer contributions across the Sydney/Illawara/Hunter region at $3 billion, indicating the inability for local government to implement infrastructure in a timely fashion or hoarding until the balance can fund larger projects (rather then borrow and invest up-front).

In a 2021 report by the National Housing Finance and Investment Corporation (NHFIC) it analysed Sydney Councils and found that on average nearly two-thirds (and up to 88%) of all funds raised by developer contributions between 2017 and 2020 were earmarked for social infrastructure, with just one-third (on average) earmarked for essential infrastructure with a stronger nexus to new housing developments. Whilst this social infrastructure has broad community benefits, it confers fewer clear, direct and immediate private benefits to new home buyers that are providing the funds. This means that developer contributions increasingly act like a tax on new housing, which ultimately impedes new housing supply and reduces housing affordability for buyers and renters.

NHFIC found that developer contributions in the eastern states can typically amount to 8% - 11% of total construction costs, making it a substantial contribution to the cost of building a new home.

An aversion to debt and rate caps on councils has constrained local government's ability to fund good-quality local infrastructure. This puts more pressure on the developer contribution system to raise revenue for this expenditure instead, being less efficient as the councils could finance/borrow at relatively lower rates.

In QLD, where development is located within a designated Priority Development Area, contributions are made based on one/two bedroom homes or three or more bedrooms. Credits apply if there is an existing dwelling being demolished or rebuilt. Outside priority areas developers and councils typically negotiate contributions through an infrastructure agreement. Sometimes developers may be required to provide essential infrastructure in lieu of paying a contribution. If essential infrastructure provided has a greater value then the levied charge, a developer is entitled to a refund of the additional amount.

3.3.3 One Size Doesn't Fit All

It is important for SA to have a range of tools available to manage developer contributions and infrastructure delivery.

For instance, for very large Government land parcels specific negotiated indentures can be the most effective, as was used for projects like Mawson Lakes or Golden Grove.

For growth areas with multiple land holdings and infrastructure traversing across the various land holdings, the infrastructure deeds can be effective when set-up and managed appropriately. Infrastructure schemes envisaged by the UDIA could also be effective.

For smaller, simpler projects an individual Council Separate Rate could be the most efficient method.

Very small landholdings caught up in a growth area need a different mechanism that has far less administrative requirements but still facilitates these landholdings making their fair contribution. One of the problems with Council Separate Rates or general infrastructure schemes is how they are applied to very small land parcels within a growth area. Application of administrative heavy

instruments on smaller land parcels places an administrative cost burden on these parcels rendering them unviable to develop and difficult to gain development approvals. A possible option to assist these smaller parcels is to have a “sunset clause” or similar, whereby the schemes are terminated on small parcels only once the infrastructure is completed/funded, freeing up small parcels at the end of the process without any administrative burden. Importantly the churn cost of administration should be kept minimal such that contributions are used specifically for infrastructure delivery.

In having a range of tools available, fundamentally no landowner or project should be subject to more than one scheme.

3.3.4 Fit for Purpose

One of the great challenges is to ensure infrastructure is fit for purpose. Gold-plating of infrastructure and scope creep are the most common causes of infrastructure cost blow-outs.

If the cost of infrastructure is excessive, resulting in unfair developer contributions, then this will make development unviable and so it simply won’t occur. Conversely if the cost of infrastructure is fair and appropriate, then the uplift will be realised promoting further economic activity in the scheme area as the value of this infrastructure is recognised and realised.

A good Scheme Coordinator (addressed in 3.3.7) should be tasked with value engineering and driving the most economic solutions for provision of infrastructure. They should have the authority to deny those who wish to add unnecessary additional costs or insist that parties that want a higher standard contribute accordingly.

3.3.5 Allow Developers to Deliver

Developers are innovative and more commonly able to procure and deliver fit for purpose urban infrastructure faster and cheaper than government authorities. There is much merit in allowing developers to deliver the key infrastructure on their land parcel. It is attractive to developers to be able to construct key infrastructure in advance of a later delivery date by the relevant authority. However, the developer should be appropriately reimbursed for taking on the associated procurement and finance risks.

Early concept designs for infrastructure is required to allow this to happen. But early concept designs should be undertaken early in any case to enable appropriate calculation of costs of infrastructure, securing of finance, scheduling for implementation and fair apportionment of development contributions.

Contestability of all infrastructure works should be a requirement, to encourage the private sector to deliver infrastructure on a competitive bid basis.

3.3.6 Fund and Deliver

All infrastructure schemes require up-front funding and early delivery of the infrastructure.

Early provision of infrastructure encourages developer and market involvement, with the relevant infrastructure being visible to and valued by housing consumers and the wider community. Build it and they will come.

If Treasury is not going to allow for up-front funding of infrastructure schemes, then they simply won’t work. The Government needs to find a way to ensure that up-front funding is available to build the infrastructure with the receipts from developer contributions to follow. There are many ways this could be undertaken, including:

- Use a statutory authority (like Renewal SA) to remove any borrowings for infrastructure schemes from the Governments balance sheet;
- Use the Federal Governments balance sheet to provide the up-front funding;
- Create Infrastructure Bonds or similar to secure up-front finance;
- Engage with Superannuation funds or similar.

Timeframes for the delivery of infrastructure needs to be reliable. UDIA believes that a dedicated and accountable Scheme Coordinator is required to help drive the process and ensure delivery. Proper management and administration will reduce any timing risk associated with up-front funding.

In the UK, collected contributions must be spent within a time limit and any monies not spent are then returned to the developer. This would be a good addition in SA to incentivise delivery of infrastructure.

3.3.7 Scheme Coordinator

UDIA believes that a Scheme Coordinator is essential to the delivery of infrastructure schemes.

The lack of strategic urban infrastructure planning is a widespread issue, which worsens every year. There is a dire need for an appropriately resourced Scheme Coordinator that can deal with the planning, design and facilitation of urban infrastructure for many small projects (typically less than $10M but up to $20M).

The Scheme Coordinator would act as a facilitator and final arbiter of the terms of agreement for infrastructure schemes for recommendation to the relevant Minister. This Scheme Coordinator would be a senior position accountable to the Minister, but with a charter of independence. Ideally the Scheme Coordinator would have some experience in development, infrastructure, engineering, finance, public service and be fair-minded but tough.

Key roles of the Scheme Coordinator would be to:

- Facilitate urban development in both infill and greenfield areas.
- Act fairly and with integrity towards all stakeholders and the activities undertaken.
- Act in good faith without fear or favour to any government agency, council, landowner or developer.
- Coordinate all parties, including management of relationships and responsibilities.
- Coordinate with State and Local Government to require rights of way, easements or compulsorily acquire land for key infrastructure.
- Complete master planning and project planning (where required) for necessary infrastructure to support urban development.
- Negotiate and agree with key stakeholders the scope of works for infrastructure. Set contract specifications and coordinate delivery against an agreed plan and timing against an agreed schedule.
- Negotiate and act positively to ensure infrastructure is fit for purpose, with an eye to value engineer and remove any “gold-plating”.
- Ensure the creation of adequate concept designs and costings for scheme area infrastructure.
- Determine fair apportionment of contributions from and between landowners/developers, councils and State Government.
- Manage the formation and implementation of infrastructure schemes/deeds.

- Ensure the establishment of an infrastructure fund to support the up-front investment for the scheme area infrastructure.
- Seek alternative sources of funds (eg Federal Grants, Local Government Grants, Private Investment etc) to supplement infrastructure schemes.
- Oversee the coordination and delivery of scheme infrastructure such that it occurs as scheduled.
- Manage the timing of delivery of scheme infrastructure to meet the market conditions.
- Manage rebate payments to approved parties from the established infrastructure fund for the scheme area for scheme infrastructure delivered by that party.
- Convene relevant stakeholder meetings to resolve project plans and any issues and provide updates.
- Provide transparent reporting of the status of infrastructure schemes, including status of funds, cost of works, timing of works etc. The Roseworthy Road Deed is a good example of this occurring.
- Review scheme developer contribution rates, including any indexing at regular intervals (say 3 – 5 years) or rebates/refunds to developers due to reduced costs or alternate sources of funds.

The Scheme Coordinator should have clear KPI's for performance to be measured against. The UDIA will quickly inform the Government should it believe any Scheme Coordinator is not adhering to the charter.

3.3.8 Good Fundamentals in the Current SA Models

The currently legislated infrastructure schemes have many good fundamentals that should be retained, such as:

- The charge or rate is payable over time as development occurs (ie not all up-front).
- The charge or rate carries with the land and doesn't restrict sale, transfer, mortgaging or encumbering of the land.
- Infrastructure charge funds must be expended within the scheme area in which they are raised.
- Landowners within scheme areas retain existing entitlements under planning and land use, as the charge is only payable at the time of development by the developer.
- It is not applied retrospectively to existing zoned land.
- Where developers elect to develop in advance of infrastructure provision within the scheme area then the scheme provides for flexibilty by way of a re-bating mechanism for pre-funded works. This facilitates competition.
- Schemes can be proposed by any relevant party, with the nature and terms negotiated with the participation of key stakeholders including landowners and developers within the scheme area.
- When well-constructed, the scheme provides certainty to landowners, developers, councils and government in terms of planning and financing infrastructure.

Unfortunately, much of the UDIA suggested provisions for infrastructure schemes and a Scheme Coordinator, which were generally agreed to by then State Government, got watered down during legislative negotiations during creation of the new PDI Act due to political pressure from other interest groups that were vehemently opposed to development contributions or levys.

Reporting requirements across the nation are varied, but transparency of developer contributions is typically very limited. Any scheme must be transparent and provide regular reporting on:

- The financial position of the Scheme, including received & expended amounts;
- Projected receipts and expenditure, including assumptions for indexing;
- A breakdown of expenditure, eg appropriate finance and administration costs, land acquisition, individual infrastructure projects etc;
- Budget, timing and delivery of infrastructure projects.

3.4 Cost estimates within the Deed / Indexing (or similar) methods

(Deloitte General Mt Barker Deed Question 10 and Part Two – General Infrastructure Schemes Questions 6 – 7)

UDIA believes that at the time of the creation of the infrastructure Deeds at Mt Barker, the costs allowed for transport infrastructure were probably about right. At the time there was much angst amongst developer members about the high rates of contingency (up to 60%) used by the Department of Transport, which were a reflection of the low level of schematic design produced at that time and a relatively high degree of conservatism. The construction of the Bald Hills Interchange at the South Eastern Freeway is an example where the actual construction cost was significantly cheaper than the estimate.

Naturally allowance needs to be made for inflation and appropriate indexing for the recovery of future revenues. We note that it is generally the Reserve Bank of Australia's goal for inflation to sit within 2 – 3%. Whilst recently inflation has exceeded this upper limit, for the majority of the time since the creation of the Deeds inflation has been at the lower limit or below. The infrastructure deeds use the ABS Road & Bridge Construction Index, which is generally higher than general inflation / CPI rate, but is typically accepted as a more relatable index for road and transport infrastructure. For many years the developer contributions were continuing to escalate each year at the much higher Road & Bridge Construction Index while inflation and dwelling sale prices were relatively stagnant.

The transport infrastructure deeds assigned monetary values and a timeframe for construction for various items of transport infrastructure. Therefore the cost estimates would/should have reflected an appropriate net present value or discount rate for construction of this infrastructure at the timeframe nominated. Unfortunately, most infrastructure has not been delivered as per the nominated timeframes, and is still outstanding. And now whilst in a rare high inflation period, construction costs have risen disproportionately. The Department of Transport or State Government was the authority managing implementation of this transport infrastructure, and therefore should bear this timing risk. It would be unfair for those still making developer contributions to have this increased due to the inaction of others.

There is some merit in having regular reviews of indexation. For example SA Water often sets augmentation charges for infrastructure in growth areas. There have been many occasions where the augmentation charges and cost estimates set at the start of the process have been too conservative. Whether due to actual construction costs being much lower or the augmentation charges being set too high, the net result often means that the augmentation charges are removed earlier than originally intended once the infrastructure has been paid for. However, this means that early developments have paid more than their fair share, whereas later developments contribute nothing. A more regular review could enable some redistribution, whereby early developments be reimbursed for overpayment and later developments still pay their fair share.

In principle a regular review to alleviate the above scenario sounds fair. However, in practice there are many similar schemes whereby annual reviews simply mean costs keep going up. For example, Council Separate Rates are typically raised every year to at least meet CPI (or a similar measure), and without any actual consultation with those paying the rates. There is rarely any rigour to the analysis. Perversely, inaction on delivery of infrastructure can be an incentive to keep building up the level of funds or improve a council's balance sheet, as has been the case in some interstate council areas.

Arguably the greatest reason for a mismatch between original infrastructure costs and the reimbursing developer contributions is scope creep. It is too easy for whichever relevant authority is implementing the infrastructure to add-on extra bells and whistles, or design to higher standards then first envisaged. It takes extreme discipline to limit the works to the original fit-for-purpose scope. Again the relevant authority is in control of this process, and so should be responsible to fund any extra scope items that they desire.

One way to help alleviate some of the above is to have an independent and dedicated party manage the implementation, scope, financing and index updates. ESCOSA acts in this role in some way for some essential infrastructure, providing some value management to keep the cost of infrastructure in check. As discussed elsewhere in this response, a Scheme Coordinator with a strong charter to be measured against may have the ability to provide this service for the missing management of urban infrastructure.

Another method is to have any adjustments or indexation restricted to upper/lower limits (eg there can be never be more than a 5% increase per annum).

3.5 Effects of Developer Contributions

(Deloitte Part Two – General Infrastructure Schemes Question 8)

Urban development is a risky venture requiring significant up-front capital investment before any financial return can be realised through the sale of completed allotments/dwellings. With such a heavy up-front investment, the loss of time before receiving any revenue from sales has a significant impact on the feasibility of projects.

Deferring payment of developer contributions until at least the point of sales receipts is vital to reduce the cost and cashflow issues for development.

Equally, if a developer is financing and delivering community infrastructure, it is essential that they be reimbursed promptly or with progress payments as the infrastructure is developed.

If developer contributions are to be applied for essential infrastructure then the correct time to "value-capture" is at the time of up-zoning parcels of land, such that the landowner does not get a "free-kick" with a significant uplift in land value.

When acquiring parcels of land for development, developers will make an assessment of the target market and market price for its finished product, the likelihood of gaining authority approvals for such, the costs to design, market, procure, build, finance the product and allow for an appropriate margin for profit and risk. The SA development industry is very competitive, with multiple developers vying for land parcels, so the margins adopted by SA developers are similar. It is essential that developers are aware of any other infrastructure costs or developer contributions at the time of acquisition such that this can be factored into the purchase price.

There are many areas in Adelaide where the land economics do not stack-up due to the cost of infrastructure. These areas remain dormant of development and will remain so until such time that either the infrastructure is installed by others or land price growth makes the parcels viable again.

The property market goes through various cycles, with the SA market tending to be less volatile than the eastern states. So simply raising sales prices to cover extra costs for infrastructure is rarely an option available to developers.

The trend has been for a "user-pays" system, whereby new growth areas need to pay for their essential infrastructure. In reality this is inequitable for many reasons.

Firstly, essential infrastructure provided to support new development is not just used by these new home owners. The community at large also uses this infrastructure, and so some apportionment of essential infrastructure should be borne by "the community" - not be 100% funded by new home owners.

Secondly, there is a trend for new social infrastructure to be solely funded by the new home owners, eg school sites, libraries, community sports grounds etc. As above, the community at large is benefiting too and so should be making a fair contribution.

Thirdly, all cost of development including essential and social infrastructure is borne by the new home owners up-front. Past generations and people buying existing homes have the opportunity to spread their payment for infrastructure over the life of the asset in annual rates etc. But new home owners need to save a deposit and take out a 30-year mortgage to pay for all the infrastructure in a lump sum on Day 0 at settlement – plus stamp duty on a price that includes the cost of the infrastructure. The increasing use of developer contributions to fund local infrastructure reduces intergenerational equity.

Infrastructure levies / developer contributions are ultimately a tax on the first home buyer in new developments, with other taxes compounding (eg stamp duty). Increases, mismanagement or over-pricing of these levies/contributions strikes at the heart of affordability for new home buyers.

4. Next Steps

On behalf of UDIA and its membership we thank you for the opportunity to provide a submission and be consulted as part of this review.

We would appreciate receiving a copy of the final report from Deloitte resulting from this review, to share with our Executive Council and/or membership as appropriate.

UDIA will continue to liaise with Government and welcomes the opportunity to assist or be involved in any proposals to make minor improvements to the current infrastructure schemes.

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23 September 2022

State Planning Commission
GPO Box 1815
ADELAIDE SA 5001

Via email: plansasubmissions@sa.gov.au

Dear Mr Holden,

UDIA SUBMISSION – MISCELLANEOUS TECHNICAL ENHANCEMENT CODE AMENDMENT

We write to you in relation to the '*Miscellaneous Technical Enhancement Code Amendment*' [MTECA] which is on consultation from 25 July 2022 until Friday 23 September 2022.

We thank you for the opportunity to comment on the MTECA and for the informative 'Industry Leaders Briefing' session on the Code Amendment that was held by the Department on 9 August 2022.

We note that the MTECA proposes a series of technical amendments which aim to enhance the general performance and operation of the Planning and Design Code [the Code]. The Code Amendment focuses on addressing technical and operational elements within the Code, as opposed to changing policy intent or outcomes.

In particular, the Code Amendment focuses on:

- Technical matters;
- Policy clarity and interpretation;
- Consistency with drafting principals;
- System efficiency and procedural matters; and
- Other Technical Improvements.

Key areas of the Code Amendment include:

• Notification Tables	• Definitions
• Assessment Pathways	• Rules of Interpretation
• Overlays and referrals	• Character and Heritage identification
• Restricted Development	• Classification Tables & Linkages
• Policy Terminology	• Expanded policy

We understand that the scope of the MTECA, including the key issues addressed by the Code Amendment, have been derived from early stakeholder consultation with planning and development professionals, several local councils as well as issues raised via the PlanSA service desk.

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The UDIA strongly supports the initiation and implementation of the MTECA which represents the first review and "tune-up" of technical and operational aspects of the Code, based on user and stakeholder feedback. It is an opportune time to review and refine the Code following its first year of operation and this process of review and reform should continue for the life of the Code with regular (annual or bi-annual) amendments that continue to fine tune and refine the technical and operational aspects of the Code.

Planning policy within the Code should also be regularly reviewed and refined (annually or bi-annually) with periodic amendments to ensure a contemporary policy framework.

Undertaking regular, quick, and transparent amendments to the Planning and Design Code is directly aligned with reform Recommendation 9 of the South Australia's Expert Panel on Planning Reform which was to '*Make changing plans easy, quick and transparent'*. For the Planning and Design Code to operate effectively, it needs to be consistently and regularly updated. This was reflected in the recommendations of the Expert Panel which recognised that '*Development plans are the foundation of the day-to-day administration of the planning system. The policies in these plans must be up to date at all times, so that development proposals and assessment decisions can result in the best outcomes for an area*'.

The Commission has previously stated its commitment to regularly reviewing the Code and, where appropriate, initiate amendments to ensure the best development outcomes are being achieved through the Code. Under the Act, the Commission is responsible for preparing and maintaining the Code and therefore has an important role in ensuring the Code is contemporary and responsive to emerging trends. We are pleased that the State Planning Commission has identified in '*Our priorities for 2022-23*' to '*update and improve the Planning and Design Code'* as a key priority and area for focus over the next 12-18 months.

Whilst the UDIA strongly supports the implementation of the MTECA, there are several aspects of the proposed Code Amendment that require further attention, amendment and/or refinement. These matters are addressed respectively below.

1.0 Wall Height & Building Height

Section 2.3.2.12 (page 81) of the MTECA addresses 'B*uilding Height, Building Wall Setback and Wall Height*' and identifies inconsistencies between the defined term 'wall height', the defined term 'Building Height' and actual policies relating to wall height within the Code. The Code Amendment also seeks to amend wall and building height policy terminology in some neighbourhood-type zones.

Building Height is currently defined in the Code as follows:

> *"Means the maximum vertical distance between the lower of the natural or finished ground level at any point of any part of a building and the finished roof height at its highest point, ignoring any antenna, aerial, chimney, flagpole or the like. For the purposes of this definition, building does not include any of the following:*
>
> *(a) flues connected to a sewerage system*
> *(b) telecommunications facility tower or monopole*

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(c) electricity pole or tower
(d) or any similar structure.

[our emphasis]

Wall height is currently defined in the Code as follows:

"Means the height of the wall measured from the top of its footings but excluding any part of the wall that is concealed behind an eave or similar roof structure and not visible external to the land'

[our emphasis]

The Code Amendment seeks to amend the definitions for 'wall height' and 'building height' in Part 8 – Administrative Terms and Definitions to include the option for the measurement point to be taken from a point specified by the policy in which the term is used, rather than from the measurement point specified in the definition.

The new definition for 'Building Height' is proposed as follows:

Means the maximum vertical distance between the lower of the natural or finished ground level or a measurement point specified by the applicable policy of the Code (in which case the Code policy will prevail in the event of any inconsistency) at any point of any part of a building and the finished roof height at its highest point, ignoring any antenna, aerial, chimney, flagpole or the like. For the purposes of this definition, building does not include any of the following:

(e) flues connected to a sewerage system

(f) telecommunications facility tower or monopole

(g) electricity pole or tower

(h) or any similar structure.

[our emphasis]

The new definition for 'Wall Height' is proposed as follows:

Means the height of the wall measured from the top of its footings or a measurement point specified by the applicable policy of the Code (in which case the Code policy will prevail in the event of any inconsistency) noting that the height measurement does not include any part of the wall that is concealed behind an eave or similar roof structure and not visible external to the land

[our emphasis]

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Determining 'natural ground level'

We note that the definition for 'Building Height' still includes a reference to 'natural ground level', an undefined term which is generally accepted to be the ground levels in existence prior to European colonisation of South Australia. Building Height is not only a DTS and DPF criteria used to assess development applications, but it can also be used to determine the Assessment Pathway of a development application with respect to public notification. Confidence and certainty in relation to the calculation of natural ground level is therefore important, but at present it can be subjective and subject to interpretation.

The challenge is derived from the accurate calculation of natural ground level, particularly where this level is calculated on an adjoining site that cannot be legally accessed by a licensed Surveyor or is otherwise inaccessible (i.e., occupied by an existing building etc). Where ground levels have been disturbed (previous cut and fill) it is also difficult to accurately (and objectively) calculate natural ground level.

Determining natural ground level is something that requires thorough attention and detailing on plans and may require the assistance of a licensed Surveyor and research into past approvals and historical earthworks. Where it is not possible to determine natural ground level the court tends to take the existing ground level as natural ground level, which we see as a sensible approach.

The operation of building height controls would therefore benefit from greater clarity around how natural ground level is to be determined. This could include the adoption of a possible separate definition for 'natural ground level' within the Code or possibly within a new Practice Direction or Guidelines.

Measurement of height on a vertical plane

The proposed definition of Building Height calls for a measurement of the highest and lowest parts of a building regardless of whether they occur in the same vertical plane. This leads to skewed results particularly for stepped buildings on sloping land. [1] There is no apparent planning purpose behind taking the measurement in this way. On this basis, we recommend an amendment to the definition of 'Building Height' as follows:

> *Means the maximum vertical distance between the lower of the natural or finished ground level or a measurement point specified by the applicable policy of the Code (in which case the Code policy will prevail in the event of any inconsistency)* ~~*at any point of any part of a building*~~ *and the finished roof height* ~~*at its highest point*~~*, ignoring any antenna, aerial,*

[1] Relevant cases include:

Turner v City of Victor Harbor [2013] SAERDC 49

Greenslade Holdings Pty Ltd v District Council of Yorke Peninsula [2011] SAERDC 17

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chimney, flagpole or the like. For the purposes of this definition, building does not include any of the following:

(a) flues connected to a sewerage system

(b) telecommunications facility tower or monopole

(c) electricity pole or tower

(d) or any similar structure.

In addition, and in any event, consideration should also be given to the inclusion of a diagram to assist with interpretation of the definition of building height particularly relating to the measurement of the vertical distance between the lower of natural or finished ground level (or other measurement point specified by the Code) and the finished roof height. (i.e., refer to example provided in ***Figure 1*** over page).

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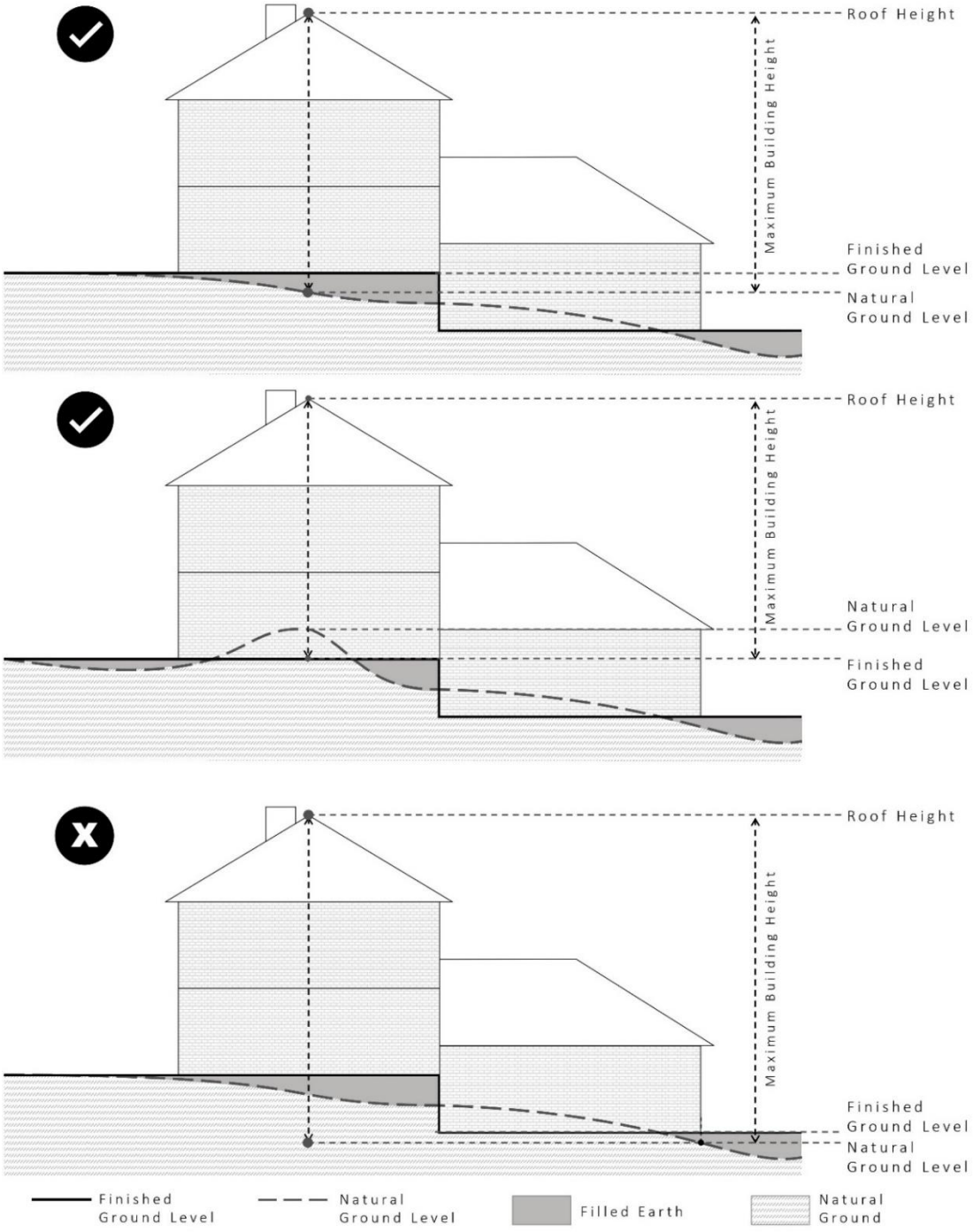
Figure 1: Maximum Building Height

(Measurement of vertical distance above the lower of the natural or finished ground level (or other point prescribed by the Code)



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2.0 Affordable Housing

Section 2.3.3.1 (page 135) of the MTECA states that Relevant Authorities are presently experiencing confusion insofar as determining when a development application should be referred to the Minister for the purposes of Affordable housing.

On this basis, we understand that the South Australian Housing Authority ('SAHA') has suggested that the referral trigger be amended to read as follows:

> *Residential development or land division within the Affordable Housing Overlay, and:*
>
> *1. the proposed development or land division comprises of 20 or more dwellings or residential allotments; or*
>
> *2. the applicant is seeking to access either one or more of the planning concessions as outlined in the Affordable Housing Overlay (PO or DTS 3.1, 3.1 and 4.1); or*
>
> *3. the proposed development or land division is described as including affordable housing of any number of dwellings or residential allotments.*

The three (3) planning concessions mentioned in point 2 above relate to reduced minimum site areas for dwellings, increases to maximum allowable densities, increases to the maximum specified building height and applicable car parking rates.

Based on the wording proposed by SAHA, all development applications that proposed 20 or more dwellings or residential allotments would be referred to the Minister. Notwithstanding, we note that the Code Amendment does not seek to adopt this approach and states that '*It is however recommended that referrals be limited to proposals that are intending to include 'affordable housing' to maintain a level of consistency with the current referral arrangements and to also exclude land division that is reflective of an approved development*'.

On this basis, the proposed amendment which is currently on public consultation states:

> *"Except where the applicant for the development is the South Australian Housing Authority (or an agent acting on behalf of the South Australian Housing Authority), residential development or land division (other than land division that reflects the site boundaries illustrated and approved in an operative or existing development authorisation for residential development under the Development Act 1993 or Planning, Development and Infrastructure Act 2016):*
>
> *a) that comprises 20 or more dwellings or residential allotments and the development is intending to provide affordable housing; or*
>
> *b) where the applicant is seeking to access one or more of the planning concessions outlined in the Affordable Housing Overlay DTS 3.1, 3.2 or 4.1; or*
>
> *c) that is described in the application documentation as including affordable housing of any number of dwellings or residential allotments.*

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The UDIA strongly supports this position and the intent that the proponent must demonstrate an intent to provide affordable housing or be seeking to access one of more of the planning concessions as outlined above.

Notwithstanding, while the proposed wording for the referral triggers goes some way to address the automatic referral triggers as suggested by SAHA, we are concerned that the proposed wording remains vague and subject to interpretation (particularly in clause (b)).

The reason we have formed this opinion is that the phrase 'seeking to access' in clause (b) may be construed by a Relevant Authority as an automatic trigger for referral of the application (to the Minister responsible for administering the *South Australian Housing Trust Act* 1995) any development that exceeds any one of the following:

Affordable Housing Overlay DTS 3.1

> With the exceptions being development within the Character Area Overlay or Historic Area Overlay, there is a risk that all development applications proposing residential allotments that are less than the minimum site area or exceeding the maximum density per hectare by up to 20% as specified by the relevant zone will be referred to the Minister.

Affordable Housing Overlay DTS 3.2

> There is a risk that all development applications that propose a building incorporating dwellings that exceed the maximum building height (within specified zones) will be referred to the Minister (e.g., a 2-level building in the Established Neighbourhood Zone).

Affordable Housing Overlay 4.1

> There is a risk that all development applications that propose s shortfall in on-site vehicle parking will be referred to the Minister.

While we suspect that this is not the intention of the Code authors, we suggest that the triggers for referral are drafted to automatically assumed that there is no intention to include affordable housing, unless the application documentation expressly states otherwise. Our recommended wording is set out below:

> "*Except where the applicant for the development is the South Australian Housing Authority (or an agent acting on behalf of the South Australian Housing Authority), residential development or land division (other than land division that reflects the site boundaries illustrated and approved in an operative or existing development authorisation for residential development under the Development Act 1993 or Planning, Development and Infrastructure Act 2016):*
>
> *a) that comprises 20 or more dwellings or residential allotments and is described in the application documentation as intending to provide affordable housing; or*

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b) that is described in the application documentation as intending to provide affordable housing and the applicant is seeking to access one or more of the planning concessions outlined in the Affordable Housing Overlay DTS 3.1, 3.2 or 4.1; or

c) that is described in the application documentation as intending to including affordable housing for any number of dwellings or residential allotments.

3.0 Designated Performance Features (DPF)

Whilst not specifically addressed in the MTECA the application of Designated Performance Feature (DPF) provisions continues to be a source of confusion for some Relevant Authorities, and the community. In some instances, a DPF is viewed as a prescribed criteria which must be met. It is not uncommon to see a DPF listed as a reason for refusal. At the other end there are Relevant Authorities which take the view that a proposal which meets a DPF may still be refused based on a failure to meet the corresponding Performance Outcome.

Further changes to '*Part 1 - Rules of Interpretation'* of the Code should therefore be considered to provide clarity to Relevant Authorities, applicants and the community alike.

We recommend an amendment to the Rules of Interpretation for Designated Performance Features as follows:

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to ***one way*** ~~*what is generally considered*~~ *to satisfy the corresponding performance outcome.*

Where the DPF is met it is unnecessary to undertake an assessment of the merits of the development against the corresponding performance outcome.

Where a DPF is not met a relevant authority must undertake an assessment of the merits of the development against the corresponding performance outcome. The relevant authority retains a *discretion to determine that the outcome is met in another way.*

~~*but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.*~~

A departure from a DPF is not of itself a reason for refusing planning consent to a development and does not derogate *from the need to assess a development on its merits against all relevant policies.*

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4.0 Reserved Matters

Section 102(3)-(5) of the PDI Act enshrine the power for some matters relating to the assessment of a proposed development to be reserved for later assessment:

> *(3) A relevant authority may, in relation to granting a planning consent, on its own initiative or on application, reserve its decision on a specified matter or reserve its decision to grant a planning consent—*
>
> *(a) until further assessment of the relevant development under this Act; or*
>
> *(b) until further assessment or consideration of the proposed development under another Act; or*
>
> *(c) until a licence, permission, consent, approval, authorisation, certificate or other authority is granted, or not granted (by the decision of another authority), under another Act.*
>
> *(4) A relevant authority must allow any matter specified by the Planning and Design Code for the purposes of this subsection to be reserved on the application of the applicant.*
>
> *(5) Any matter that is not fundamental to the nature of the relevant development may, subject to the Planning and Design Code, be reserved under subsection (3) or (4).*

The ability for an applicant to nominate certain matters which are not fundamental to the question of whether Planning Consent can be granted is potentially of great utility. It does not avoid assessment of those matters but rather enables an applicant to obtain a decision on whether Planning Consent is warranted without incurring unnecessary costs on matters which are not fundamental to that decision.

The applicant, not the Relevant Authority, bears the risk that the reserved matters cannot ultimately be achieved for some reason.

The planning system contemplates that the Code will specify certain matters which an applicant may request to be reserved for later assessment.

The matters which in our opinion would be suitable to be included in the Code for the purposes of section 102(4) of the PDI Act include:

- Site Contamination;
- Stormwater;
- Wastewater disposal;
- Landscaping;
- Native Vegetation clearance; and
- Final materials and finishes.

Obviously there will be times when an applicant wishes to include matters like landscaping and final finishes in the initial application in order to persuade a Relevant Authority of the merits of a

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development. There will be other times when those matters have little bearing on the decision to grant or refuse Planning Consent.

On this basis, we recommend that the MTECA incorporates an amendment to Table 2 of Part 5 of the Code to specify that the above matters are matters that an applicant may request to be reserved for later assessment.

We commend the Commission for undertaking this technical and operational review of the Planning and Design Code and support the amendments that are proposed to be introduced into the Code with the exception of the suggested amendments raised and addressed above.

The UDIA also strongly encourages the Commission to continue with operational and policy reform with regular and consistent updates and amendments to the Code to ensure the Code is responsive to emerging trends with a modern and contemporary policy suite that can be readily interpreted and implemented.

We confirm that the UDIA will also separately engage with the 'Expert Panel' established to undertake the 'Planning System Implementation Review' and will prepare a separate written submission to the panel on our ideas for reform of the South Australian planning system.

We thank you for the opportunity to comment on this important amendment to the Planning and Design Code and would be pleased to provide additional information in support of this submission if/where required.

The UDIA will continue to offer its support to work with the Department and Commission to ensure valuable industry insights from our members are heard.

Yours Sincerely

Pat Gerace
CHIEF EXECUTIVE

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6th August 2021

Ms Helen Dyer
Chair
State Planning Commission
Level 5, 50 Flinders Street,
Adelaide SA 5000

Dear Ms Dyer

RE: Environment and Food Protection Areas (EFPA) Review 2021 Statement of Position released by the South Australian State Planning Commission (SPC)

Please find attached the Urban Development Institute of Australia (UDIA) submission in relation to the recently released Environment and Food Protection Areas (EFPA) Review 2021 Statement of Position released by the South Australian State Planning Commission (SPC).

In terms of the legislated requirements for review, it is of concern to the UDIA that the SPC has wrongly narrowed the scope of the EFPA review under section 7(10) of the Act and is undertaking the review too far in advance of the legislated review date (at some time after 1 April 2022). The attached legal advice from Botten Levinson Lawyers details the problems with the review as it is presently framed.

Notwithstanding the SPC is able to conduct a review from time to time under section 7(8) of the Act, the UDIA believes the SPC should undertake the five yearly review in accordance with the requirements of the Act and not foreclose any consideration of the relevant issues. We maintain that this will require the review to be undertaken in 2022 having regards to all of the matters relevant to section 7(3)(a) of the Act. This will require proper consultation on the land supply matters (at or close to April 2022) that the present review wrongly states are not open for discussion.

In addition to the above, we are concerned about the use of the associated Land Supply Reports. Rather than shaping Adelaide in the most appropriate way to take account of new trends in living patterns or addressing affordability to maintain Adelaide's liveability, it appears they will be utilised as references to either approve (or not) future developments based on the historical patterns of development that have been extrapolated into future forecasts.

We are also concerned about the assumptions underpinning the reports (see attachment). It is the incorrect assertions about excess land supply that have too often been used as a reason for restricting development because of the government's reluctance to invest in infrastructure, which unfortunately is at the expense of the primary driver in maintaining housing affordability, namely competitive market tension.

Despite our repeated offers, the release of such important supporting documents with no formal consultation is disappointing. Without addressing these concerns, we fear for the State's overall liveability and affordability and the significant and unnecessary risk to the State's economy.

The UDIA will continue to offer its support to work with the Department to take advantage of important industry insights, and we look forward to discussing this submission with you in more detail.

Regards

Pat Gerace
CHIEF EXECUTIVE

Attachment 1: Environment and Food Production Areas Review 2021 Submission (UDIA)
Attachment 2: Legal Advice - Botten Levinson

CC- Deputy Premier, Attorney-General, Hon Vickie Chapman MP

This submission contains commentary on:

1. EFPA review process to date and associated legislation
2. Status and use of Land Supply Reports as planning policy
3. Land Supply and EFPA Report – Assumptions and Scenario Analysis
4. Land Supply Report for Greater Adelaide – Greenfield
5. Land Supply Report for Greater Adelaide – Urban Infill
6. Land Supply Report for Greater Adelaide – Employment
7. Environment and Food Production Areas Review 2021 – Statement of Position
8. Recommendations

EFPA review process and associated legislation

While the review of the EFPA did not ask for commentary on the Planning Development and Infrastructure Act (PDI), unfortunately the consequences of the Bill passed are now evident.

The UDIA was very clear at the time of the implementation and during the debate of the PDI Bill that it did not support the inclusion of the Environment and Food Protection Areas within the legislation as drafted for several reasons.

We said at the time the framework was flawed and designed so that there would never be any changes. We are now faced with a situation where the supply of land and affordability of housing in certain areas is at a very significant risk as a result.

At the time the UDIA stated:

> *By requiring Parliament to legislate to amend the boundary presents a great risk for South Australia in its capacity to quickly respond to future challenges and is likely to lead to it only reacting in a time of crisis. Through the current policy and zoning regimes an effective boundary is already in place. A legislated urban growth boundary may only cause future speculation and adversely impact home affordability and choice.*

The UDIA believes the objective evidence and existing policy landscape was more than sufficient to ensure that Adelaide's growth could continue to occur in an orderly and sustainable way.

The implementation of the boundary as part of the Act included no meaningful consultation on the location of the boundaries and was only provided days before being laid on the table in Parliament.

The Government at the time provided no modelling or objective analysis about the conclusions that it had come to with respect to these boundaries and was an example of bad public policy which ultimately succumbed to parliamentary fatigue.

Despite our warnings, included in the Bill was the requirement that future reviews of the boundary on a five yearly basis would be required by the SPC, but parliamentary scrutiny and oversight would be required for that to take effect. The UDIA stated at the time that things can change rapidly and the need for addressing the location of the boundaries must be more flexible. The significant hurdles, namely parliamentary approval was flawed from the outset because it would be next to impossible to amend despite the touted objectivity. We believe that this level of detailed planning policy should not be subject to the full parliamentary process.

Policy decisions around the definition of available supply within the Act also fail to recognise the many nuances of planning for Greater Adelaide. This composition of dwelling types, requisite infrastructure, supply in various submarkets, the difference in prices and product types all factor into the liveability of Adelaide.

Following the passing of the Bill on the 12th of April 2016 the UDIA wrote to the then Minister and expressed our concern at the very broad criteria specified in the Act that the Commission has to consider. We said at the time:

> *The criteria refers to fifteen years supply and we urge you to ensure that this applies in all identifiable locations. For example this should apply to townships surrounded by the Environment and Food Production Areas as well as each council area (particularly metro). Any measure of supply should not be satisfied by pointing to one or two growth areas only.*

and

> *Finally, underpinning all the above is housing affordability. This needs to be a key criteria to ensure that house and land prices per square metre are significantly lower than all other mainland capitals.*

Following raising these matters, the UDIA has consistently requested information from the Government about what it called its Metropolitan Growth Management Plan, and what we understood to be the basis for how the Department would inform the SPC as part of its statutory obligations under the Act.

We expressed concern about the Department's pilot project in the City of Onkaparinga, met with the former chair of the Planning Commission about this, and also expressed on numerous occasions to the former Minister the need for work to commence with meaningful consultation to inform any conclusions. Unfortunately, with the release of the Statement of Position and recent Land Supply Reports the UDIA concerns have now been realised.

We are seeing for only the first time the type of analysis that the Department has been doing to conclude that the legislative thresholds for boundary adjustments are met or not. It also appears the Department has still not defined exactly how it would be applying the legislative test that relates to "*the principle of urban renewal and consolidation of existing urban areas"* and "*adequate provision cannot be made within Greater Adelaide outside environment and food production areas to accommodate housing and employment growth over the longer term"*.

As mentioned in our cover letter, in addition the UDIA has sought legal advice which also disputes the interpretation in the SPC's Statement of Position that these questions are not required to be addressed (attached).

<u>Status and use of Land Supply Reports</u>

Included in the *Land Supply Report for Greater Adelaide Background and Context* paper in section *1.4 How it will be used?* it states:

> *"This information will be used as an evidence base to determine the capacity of the land use planning system to provide an adequate supply of appropriate land to meet this demand"*

and

> *"In particular, the report will provide base line data to help inform deliberations on the rezoning of land for residential and employment activities."*

In addition to the previous comments raised above together with the detailed commentary on the reports further on, the UDIA is concerned that instead of these land supply reports being used to inform future policy frameworks, they are being used instead as assessment tools.

We believe that development approvals based primarily on supply alone ignore the nuances of differing products and the role of private sector competition. We are concerned future code amendments and development will be at risk because assessment will be framed in the context of the inaccurate available supply that these reports conclude.

One of the other concerns is the conclusion related to general infill. The UDIA strongly supports strategic infill within metropolitan Adelaide, and we commend the Department for the first time categorising the types of infill, we are however concerned about the level of supply predicted from general infill.

It is general infill that has caused considerable community angst and the SPC itself spent considerable time working on developing infill guidelines because of the backlash around the impacts of this unplanned development.

General infill development does not make a contribution to the enhancement or upgrading of existing infrastructure networks and it is particularly concerning the reliance on this as a key part of supply considering the Department's own *Background and Context* reports itself contains submissions by utilities who explicitly state that "t*runk infrastructure in more established urban areas is aged and was not designed to accommodate the increased demands currently being generated by urban infill*".

The UDIA has long been aware of these issues, and in fact it was the UDIA who convened a roundtable with Minister Knoll, the SPC and major utilities in March 2019 to raise these very issues.

In contrast, greenfield development and strategic infill are required to make sure much of the infrastructure is properly planned and provisioned for with contributions made by developers. General infill only contributes to the Planning and Development Fund upon the creation of allotments with none of those proceeds addressing any of the local issues created.

Land Supply and EFPA Report – General Commentary

The Land Supply reports will be used as an input to the upcoming review of the 30 Year Plan. As such getting the data and analysis correct is of considerable significance. Whilst the reports have considered medium and high growth scenarios the report has not undertaken appropriate scenario analyses. These reports should be seen as a resource for other work not as an outcome in themselves. The process these reports are involved in should be about seeking growth opportunities in infill and greenfield locations. Maintaining or enhancing housing affordability is considered to be a key principle in the analysis of data and scenarios as well as the determination of policy responses.

The Land Supply reports are largely based upon June 2020 data. Since that time COVID19 and the Federal and State Government's responses have led to typical urban development patterns being changed somewhat. Whether these changes are short term or longer term in nature are unknown at this stage. As a result, the range of potential forecasts that need to be considered are wider than is typically the case.

The demand for the future creation of allotments and dwellings has relied upon the Centre for Population forecasts. Their Population Statement was issued in December 2020 which means much of the work would have been undertaken in the preceding months relying upon data that is probably close to 12 months old and not being aware of how the Federal and State Governments have subsequently dealt with COVID19 and in particular actual Net Overseas Migration (NOM) and Net Interstate Migration (NIM) in the past year. The assumed rapid rebound to having NOM being at around 100,000 pa in 2023 and 200,000 pa in 2024 might be somewhat ambitious given the recent four step plan announced by the Federal Government. If a delay in achieving those NOM numbers occurs then it is likely that there will be a reduction in demand in the mid 2020s from what has been stated.

We are also concerned about the reliance on dwelling commencements and completions as a measure of supply. The implications of this are that accurate data can be eighteen months to two years behind what the true supply levels are due to the time from signing a contract to building time due to civil construction etc.

Australia's response to COVID19 could well mean a greater demand from other countries' peoples seeking to immigrate to our country. As such depending on Federal Government policy with regard to allowing more migrants into Australia in a few years' time the NOM could easily be higher than stated.

The Population Statement has the NIM being negative for SA from 2022 onwards. The SA NIM had been slowly heading towards a 0 figure prior to COVID19 and has been a small positive number (98[1]) in the last 12 months. "The State Government is attempting to attract more interstate migrants and bring ex-South Australians home by selling the lifestyle benefits, lower house prices and availability of high-tech jobs in the space, defence and hydrogen industries. It is using a rebadged $200-million Jobs and Economic Growth Fund to target industries such as space, hydrogen, plant-based foods and defence with business development funding."[2] To assume the SA NIM will head back to around -3000 pa means the Growth State[3] strategies the State Government has been putting in place to reverse that loss won't work.

With Adelaide being ranked the 3rd most liveable city[4] in the world and the 3rd most honest city[5] out of 75 world cities, the attractiveness of Adelaide has the potential to increase the demand from local and overseas sources beyond what has been considered in the reports. Housing affordability relative to other capital cities in Australia is a positive factor and is something that we can't afford to lose.

The High Growth scenario in Table 2 for 2020 – 2030 has a lesser growth than the previous decade. The UDIA is concerned that the High Growth Scenario is not as high as it plausibly could be. If demand is higher than forecasted then affordability issues will arise, and quickly. Enabling more land to be developed, whether that be for greenfield or infill, is a lengthy process. On average the time it takes for a greenfield development to go from a piece of rural land through the strategic planning process, then rezoning, then gaining development approvals to building the first dwelling is 13 years. This is largely due to the infrequent nature of strategic planning processes. If you get the strategic planning slightly wrong then adverse outcomes can easily arise.

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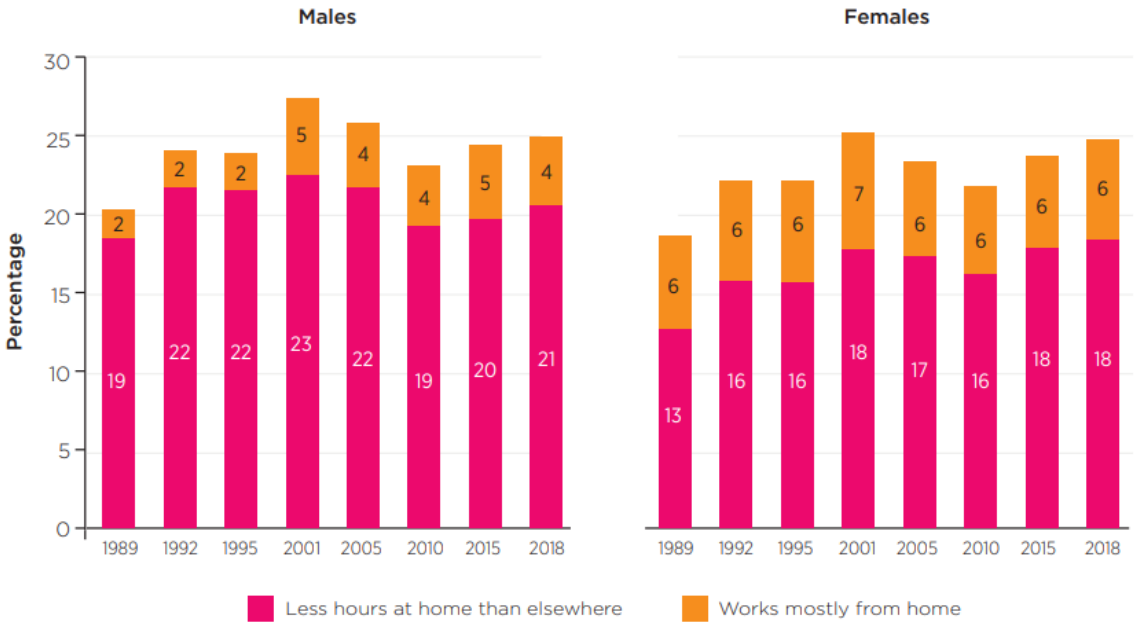
[1] ABS – media release 4 May 2021
[2] The Urban Developer – 15 July 2021
[3] www.growthstate.sa.gov.au
[4] Economic Intelligence Unit Global Liveability Index 2021
[5] TWINNER-20210304_Honest-Cities-Index_EN.pdf

Whilst the report has a section on trends that are likely to influence urban development and the growth in peri-urban and regional towns near Adelaide is mentioned there is no mention of the work from home shift in the past year. The historical longer term 'works mostly from home' percentage has been around 5% of employees, with it being lower for males and higher for females as seen in the table below[6].

Figure 10: Working from home, employed persons, 1989–2018



Note: Employed persons working at least 50% of their usual weekly work hours at home were classified as working mainly from home.
Source: ABS Working from home survey (1989, 1992 and 1995) and HILDA 2001 to 2018
Credit: Australian Institute of Family Studies 2020 (aifs.gov.au/copyright)

In February 2021 around 41%[7] of employed people in Australia worked from home at least one day a week which is considerably higher than the approximately 20% in 2018. Should a minor but sizeable chunk of the workforce either mostly work from home (say 10 – 15%) or at least a day or two per week (possibly another 15 - 20%) there are considerable impacts on urban development and management of our urban areas that will arise. The report has not considered such a scenario and its impacts on expected demand in the 10 areas.

The household ratios used in Table 3 (p.22) range between 2.08 in the Inner Metro area to 2.28 in the Outer South. These appear to be averages across the areas as opposed to what actually occurs in new development in those areas, whether that be greenfield or infill. It is common for greenfield estates to have household ratios of around 3.0. Even the strategic infill development of Lightsview, which is a medium density infill project, has a household ratio considerably higher than 2.08.

With the Homebuilder grant boosting dwelling approvals and commencements substantially in the last 9 months the report should discuss what the impact of this will be on demand in the remainder of the 2020 – 2030 period.

It appears that the forecast lot/dwelling numbers have not considered the Planning and Design Code policy that was introduced on 19 March 2021. This is discussed further in the Infill section below.

[6] Australian Families Then & Now: How we worked (aifs.gov.au)
[7] ABS – media release 17 March 2021

Section 3 – Infrastructure, is considered to be, at best, a cursory glance at the issues associated with infrastructure. There is no analysis of the few issues mentioned in terms of the potential impacts on achieving greenfield and infill estimates of new lots/dwellings in the 10 areas that make up Greater Adelaide. For example, in Section 3.3 (Water Network) the issue of understanding infill hotspots and the consequential impact on required upgrades is mentioned but there is no analysis of what this means either at a whole area basis or a local government area basis or a suburb or part of suburb basis.

In Section 3.5 Electricity Network it states SAPN has a $1.6B infrastructure cap until 2025. There is no information in the report about where that spend is to be located and what areas it might assist in improving the ability to deliver infill and/or greenfield development.

Section 3.6 Transport Network does not provide any useful information about what is to be provided where and whether that is going to assist with achieving estimated lot/dwelling numbers in the 10 areas.

The issue of funding models is complex. With the corporatisation and privatisation of infrastructure agencies in the past few decades the frameworks that SA Water and SAPN, in particular, have to operate within are subject to national rules as well as SA Acts which have other players, such as ESCOSA, involved. The individual frameworks are somewhat clunky when you try to bring together all the infrastructure providers to plan and deliver potential solutions.

It is considered critical to the making of policy and infrastructure investment decisions that capacity analysis at a small scale is essential in order to work out where the challenging areas are and what needs to be done to fix them. There is no point implementing planning policy changes that allows greater development potential (ie increased density) if the infrastructure can't cope.

Land Supply Report for Greater Adelaide – Greenfield

The categories in Table 1 are a good start however the Undeveloped Zoned category needs further refinement. Some land that is zoned is unable to be developed viably due to a lack of infrastructure capacity or the scope of the upgrade is so large it overwhelms the scale of the development making it not possible. Splitting it into two subcategories is worthy of consideration –

. Undeveloped Zoned – infrastructure available

. Undeveloped Zoned – Infrastructure unavailable/unviable

The vacant lots column in Table 2 is June 2020 data. Since that time virtually all vacant lots have been sold due to the Homebuilder grant, so more recent data is essential.

The High Growth Scenario dwelling demand on 38,300 lots to 2030 needs all the Development Ready and 25% of the Undeveloped Zone land to be developed. It is highly likely the demand won't be spatially distributed as per the supply in Figure 1. If anyone were asked in 2010 what the demand for lots would be in Mt Barker they might have said 100 lots pa. Over 600 lots pa are now being developed in Mt Barker in 2021. The market can change considerably over 10 years.

In the Outer North under the High Growth Scenario the report states there will be demand for 16,400 dwellings with 13,000 coming from greenfield estates. This leaves 3,400 to come

from other sources, presumably infill. If the infill numbers are not able to be achieved then more will come from greenfield sources. Notwithstanding the greenfield land available, some do face infrastructure issues.

Table 4 has substantial amounts of supply controlled by a limited number of estates which are expected to take beyond 2030 to be fully developed. The table gives the impression that all lots will be developed by 2030 in these estates.

We are unable to determine if the 43ha of land at Karbeethan was included in the land available for development as it is zoned Future Urban, however it has been allocated for district open space.

We are also unsure if the potential dwelling numbers in Virginia considered the impact of flood affected land.

The remaining approximately 290ha of land at Blakeview has been assumed to deliver 5655 dwellings at just under 20 dwellings per hectare in gross terms. This is considered to be a high estimate given the need for drainage networks, open space, a school and activity centres.

In the Outer South rezonings will need to occur as the High Growth Scenario demand is 4100 dwellings and supply is 4174 dwellings in the Development Ready and Undeveloped Zoned categories. At present supply beyond 2030 is dependent on development occurring at Aldinga, Hackham and Sellicks Beach. (Despite community groups trying to stop development at Sellicks Beach) Additional long term supply (eg: Bowering Hill) should be considered which will inevitably involve land in the McLaren Vale Character Preservation area.

In the Adelaide Hills area the demand between 2020 and 2030 is estimated at 300pa. Given Mt Barker is delivering 600 dwellings pa at present and there are other townships that are growing it is considered the demand levels are more likely to be in the order of 5 – 7000 in total. There is little land available in many of the townships at the northern end of the area (eg: Kersbrook, Gumeracha, Birdwood). No analysis of potential infill for any towns in the entire area has been undertaken. If the ongoing response to COVID19 is that peri urban areas are in greater demand then there will be a considerable supply problem in many towns.

There has been no analysis made as to the appropriateness of the Hills Face Zone boundary which traverses Outer North, Inner North, Inner Metro, Inner South, Outer South and Adelaide Hills areas.

The Fleurieu area is expected to run out of supply in some towns before 2030 without rezonings occurring as demand will not pan out as per supply availability.

In the Northern Plains and Barossa area the figures are incorrect for Freeling. A sizeable part of the town (not impacted by EFPA) is still zoned Rural yet is counted in as Undeveloped Zoned. This should be categorised as Future Urban Growth.

Land Supply Report for Greater Adelaide – Urban Infill

Having the split between strategic infill and general infill is a useful planning tool. The 2010 – 2020 decade provided 22,600 dwellings classified as strategic infill and general infill provided 49,600 dwellings.

It is the UDIA's position that the outcomes achieved through strategic infill sites is far superior to the vast majority of general infill sites. The concerns about infill development raised by the community[8] have largely come from general infill (one into two dwellings). As such, finding more strategic infill sites should be a priority so that well planned, well designed and carefully implemented redevelopment projects are delivered. These could take the form of areas under multiple ownership.

The Land Supply report is heavily reliant on one into two developments so the factors that impact the ability to deliver such development are crucial.

The calculation of General Infill land supply by PLUS is summarised on p21 of Part 2 – Urban Infill. This set of assumptions are considered to be reasonably robust, however there are some nuances that might have been applied in those calculations that are not obvious. For example, how have the relevant zones been applied to assess redevelopment yields? Much of the Inner Metro area is subject to the Established Neighbourhood Zone and Suburban Neighbourhood Zone. The ability to increase density in these zones is very limited. It does not appear an analysis of minimum lot sizes and frontages against the zone policies as well as taking into account heritage area overlays, regulated and significant trees, tree planting requirements, on street parking, etc, was undertaken to see whether redevelopment is realistic.

The recently implemented Planning and Design Code policy relating to infill development has limited development potential, with a series of Missing Middle development typologies not being allowed in the vast majority of infill areas.

Even with the Planning and Design Code's General Neighbourhood Zone which covers large areas between Regency Rd and Grand Junction Rd and then around through the western suburbs (Inner North and Adelaide West areas) the zoning policy typically only allows one into two developments due to existing allotment sizes.

The limited Planning and Design Code policy regarding infill development on consolidated sites is unlikely to achieve much due to the policy metrics.

Anecdotally our members are already experiencing Councils using Deemed To Satisfy policy as the minimum policy when assessing Performance Assessed proposals.

In assuming 40% of sites with a Capital Value / Site Value Ratio (CVSVR) of 1.3 or less will be developed in the next 10 years, has consideration been given to the impact of existing lot sizes (e.g. removing lots below a certain threshold from redevelopment), proximity to noxious or licenced premises (e.g. Incetec Pivot in the past in Port Adelaide, OI Glass in Kilkenny etc.) and the exclusion of all strata title and community title lots (which are almost impossible to amalgamate and redevelop)? The requirement for infrastructure upgrades to enable infill development to occur is not dealt with by using the CVSVR tool.

If suitable allowance has been made for these types of factors, then the issue comes down to whether a 40% redevelopment over a 10 year period across all geographic areas is realistic. Table 4, p13 suggests that the top general infill suburbs have typically operated well below this level in the past decade. It is considered that the 40% figure for CVSVR of 1.3 or less (and 20% for CVSVR of 1.3 - 1.8) is far too high.

[8] State Planning Commission – Raising the bar on Residential Infill in the Planning and Design Code September 2020

Furthermore, the calculation represents an average across all sites meeting the CVSVR threshold, regardless of geographic location. This means that the Inner North, in particular, needs to deliver a very large number of general infill dwellings (28,285 compared with 11,100 for Adelaide West). This region will rely upon extensive redevelopment in areas such as Ridgehaven, Redwood Park, Banksia Park, Surrey Downs and Fairview Park, 15 – 20km from the City. Much of these suburbs are on sloping ground which will make it more challenging to deliver infill housing.

The progressive development of preferred locations may impact upon the take up of remaining opportunities for infill. Adelaide West has been a focus of redevelopment, but will provide fewer opportunities in the future (as reflected in PLUS projections). Will developers and more importantly purchasers readily shift to less prime infill locations?

The report has no analysis of infill capacity in the Adelaide Hills, Northern Plains and Barossa, Fleurieu, and Murray Bridge areas. Many towns in these areas have dwellings that are 80 + years old and are likely to have a CVSVR of <1.3. This potential supply needs to be taken into account.

The above issues relating to infill development are considered to mean that achieving the targets for general infill development stated in the reports are highly ambitious.

The strategic infill supply as shown in Figure 21 is heavily reliant upon three elements – Cheetham, CBD and the Corridor Zones. It is considered to be highly unlikely that a single developer estate such as Cheetham will deliver more than 300 lots per annum once the project actually commences. If the site is rezoned in 2022 and civil construction works begin in 2023 the project might deliver 1800 lots over the decade. Will the Adelaide CBD deliver 10,000 additional dwellings when at least the first third of the 2021 - 2030 decade is going to have much lesser numbers of overseas students. There are very few apartment projects being proposed at present, and given they typically have a 3 year development period it is likely that only 2 – 3000 dwellings might get developed. Other than Churchill Rd the corridors have been delivering about one hundred dwellings per annum. There are many businesses and residents along the corridors that are not ready to sell to a developer and this will continue to be the case. It is considered that 3 – 4000 dwellings might get developed along corridors in the 2021 – 2030 decade.

Whilst the Cheetham site has been identified as a future strategic infill site, why have other sites not be included? The Blair Athol / Kilburn renewal being undertaken by the South Australian Housing Authority is not mentioned. Other examples include the 15ha SA Water site on Frederick Rd West Lakes and the Metcash site at Kidman Park are known sites for future residential development even though they require a Code Amendment. We believe there are other sites that should also be considered. The report also does not mention how strategic sites were selected.

The remaining strategic infill sites in Table 9 total just over 12,000 dwellings/lots. Section 5 states the realistic short term dwelling potential from general infill is 68,200. However if the 40% assumption for the CVSVR of <1.3 is incorrect and is more like 20%, and the 20% assumption for the CVSVR lots between 1.3 – 1.8 is more like 10% then the general infill supply drops from 68,222 to 34,111.

With demand for infill in the High Growth Scenario (Table 6) across the Greater Adelaide Capital City area being 58,550 this essentially just meets the supply (under the scenario described above). If this scenario were to eventuate then there maybe price pressures arising which will make the delivery of affordable housing more difficult.

Land Supply Report for Greater Adelaide – Employment

There is a lack of analysis of how much land is needed for the population serving uses that typically locate on the periphery of centres, along arterial roads and in commercial and light industrial areas when population increases in areas (both infill and greenfield). These types of jobs are the largest number and are expected to remain so to 2030 according to Figure 10.

Commercial and Mixed Use Zones should be included in the analysis as they accommodate many jobs. Some areas in Inner Metro and Adelaide West and some in Inner South are no longer suitable for industrial and warehousing uses due to poor heavy vehicle access and the potential replacement jobs in knowledge intensive industries often don't see these locations as being suitable. There is no analysis for the Adelaide Hills, Northern Plains and Barossa, and Fleurieu areas. The section on Employment Trends is thin.

Environment and Food Production Areas Review 2021 – Statement of Position

Further to the earlier comments and attached legal advice, there are certain areas within Greater Adelaide that are expected to have supply challenges to a point that affordability issues will continue to arise. It is already almost impossible to develop three-bedroom housing within 10-15kms of the CBD that meet the affordable housing price point without external or internal subsidies. The lack of analysis of areas in terms infrastructure capacity is of serious concern.

The table below has used information from various tables in the Land Supply Reports and it shows that demand to 2036 is going to cause serious affordability issues unless land is rezoned to enable more development to occur in the Inner South and Fleurieu areas.

Area	High Scenario Dwelling Demand to 2036	Greenfield Development Ready/ Undeveloped Zoned lots	Realistic General Infill lots	Strategic Infill lots	Total lots
Outer North	25,300	46,300	4,434	0	50,734
Outer South	11,900	4,200	9,563	2,100	15,863
Inner North	20,600	0	28,285	12,400	42,685
Inner South	10,500	0	5,683	4,700	10,383
Adelaide West	24,500	0	11,100	20,000	31,100
Inner Metro	22,000	0	8,798	28,200	36,998
Adelaide Hills	6,200	13,000	359	300	13,659
Fleurieu	7,800	7,500	?	?	7,500+
Northern Plains / Barossa	3,500	4,700	?	?	4,700+
Murray Bridge	2,600	6,300	?	?	6,300+

If our analysis of a more realistic expectation of infill being able to provide supply is close to being correct then supply issues will occur in Inner South, Outer South, Fleurieu and Adelaide West, as well as the northern part of the Adelaide Hills.

There are a number of places where the EFPA boundary dissects cadastral boundaries (eg: One Tree Hill, Inglewood, Lobethal, Summertown, Mount Barker and Ashborne). The EFPA should not arbitrarily dissect cadastral boundaries as this can lead to confusion as to the process for any land division application.

Recommended Actions

The key objective for the State Government should be to have a better approach to having a quality land supply process that leads to having the capacity to deliver affordable housing in all areas. This will require better and more timely data analysis which should be much simpler to achieve now the e-planning system is in place. Updated data and analysis for the Land Supply reports is needed in the next year. We cannot wait another five years for this to occur.

The following actions are considered necessary:

- Revise the EFPA report once the Land Supply Reports are updated so that analysis of the supply / demand for each of the ten areas is undertaken
- The Outer South needs more than 1000 lots rezoned in the very near future to minimise the affordability issue due to a lack of supply.
- Long term supply (beyond 2030) needs to be considered in the Outer South beyond Hackham, Aldinga and Sellicks Beach.
- A review of the peri-urban township boundaries is required.
- A more refined analysis of urban infill potential is required.
- More strategic infill sites need to be identified and rezoned.
- Infill potential in peri-urban areas such as townships in the Adelaide Hills area is required to be investigated.
- Alternatives to the one into two infill developments are needed which should include masterplanning infill areas under multiple ownerships where individual development attends to the upgraded infrastructure requirements.
- The zoning policies across large areas of Adelaide West, Inner Metro, the southern half of Inner North, Inner South needs amending if demand for infill is to be achieved.
- Better capacity analysis of infrastructure is required in both infill and greenfield locations
- PLUS to devise and implement a housing demand and supply monitoring program using live data and reporting publicly on a quarterly basis in conjunction with the UDIA

BOTTEN LEVINSON
Lawyers

Our ref: JAL/219311

29 July 2021

Mr Pat Gerace
Chief Executive
Urban Development Institute of Australia (SA)
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By email: geracep@udiasa.com.au

Dear Pat

Environment and Food Production Areas Review 2021

You have asked me to consider the Environment and Food Production Areas (**EFPA**) Review being conducted by the State Planning Commission (**SPC**).

The Review process has included the publication on the PlanSA website[1] of various documents by the SPC including a Statement of Position published on 4 June 2021 (**SoP**) and a Land Supply Report for Greater Adelaide dated 9 June 2021 (**LSR**). The SPC has invited submissions on the review by pro-forma Submission Guide (**Guide**).

Unfortunately the SoP contains a number of inaccurate and incorrect assumptions and statements. The SoP (and the position the SPC has expressed in the SoP and the Guide) does not meet the requirements of the EFPA review set by the *Planning, Development and Infrastructure Act 2016* (**PDI Act**). While these reports do not necessarily constitute the entirety of the Review, they are wrongly tendentious in steering the SPC down a path that is at odds with the PDI Act.

The required review under the PDI Act

Section 7 of the PDI Act permits the SPC to vary the EFPA from time to time.[2] The SPC may only act to vary the EFPA if it has conducted an inquiry and reported to the Minister or conducted a "review" in accordance with section 7(10) and reported to the Minister.[3]

The SPC must conduct that latter "review" on a "5 yearly basis",[4] hence (presumably) that review is now underway. The phrase "5 yearly basis" is not as precise as might be desirable, but must mean every five years after the creation of the EFPA by the

[1] See https://plan.sa.gov.au/our_planning_system/instruments/planning_instruments/environment_and_food_production_areas.
[2] See section 7(8) of the PDI Act.
[3] See section 7(9) of the PDI Act.
[4] See section 7(10) of the PDI Act.

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commencement of section 7(1).[5] That would mean that the review must be conducted on or around 1 April 2022.

Importantly, "*the purpose of a review…is to assess the matters set out in subsection (3)(a)*".[6] This subsection therefore expressly requires the SPC to assess the matters detailed in that subsection.

Section 7(3) of the PDI Act

Section 7(3) is in the following terms -

> *"7(3) In making any decision under this section (following the establishment of the initial environment and food production areas under subsection (1)), the Commission must ensure that areas of rural, landscape, environmental or food production significance within Greater Adelaide are protected from urban encroachment and the Commission may only vary an environment and food production area if the Commission is satisfied—*
>
> *(a) that:*
>
> *i. an area or areas within Greater Adelaide outside environment and food production areas are unable to support the principle of urban renewal and consolidation of existing urban areas* [SPC calls this test 1]; *and*
>
> *ii. adequate provision cannot be made within Greater Adelaide outside environment and food production areas to accommodate housing and employment growth over the longer term (being at least a 15 year period)* [SPC calls this test 2]; *or*
>
> *(b) that the variation is trivial in nature and will address a recognised anomaly* [SPC calls this test 3].

Review premature

The SoP is dated 4 June 2021, some 10 months before the fifth anniversary of the EFPA under section 7(1) of the PDI Act. It states that the SPC "announced the inaugural review" on 30 March 2021. Apparently, public consultation is open until 30 July 2021. The proposed date for the conclusion of the review is not apparent from the SoP or other documents on the SPC website. The SoP unhelpfully refers variously to a range of undefined terms that are in no way referrable to the requirements under the PDI Act including "stage 1 review", "stage 2 review" "Gate A", "Gate B", "Gate C", "Gate D" and "gateway points" without nominating when the review will conclude nor when a report will be presented to the Minister.

None of those dates above seem reasonably proximate to the five year anniversary of the EFPA to reasonably constitute a review on a "5 yearly basis" as required by the PDI Act.

The SoP states (at the bottom of page 2) that -

[5] On 1 April 2017.
[6] See section 7(11).

> *"Stage 1 of the review is an investigation as to whether there is at least a 15-year supply of residential and employment land (Tests 1 and 2). To do this requires an analysis of Greater Adelaide's land supply and demand. This analysis is contained in the Environment and Food Production Areas (EFPA) Review Report at Appendix 1 which is a companion document to this Statement of Position."*

The report in Appendix 1 of the SoP is undated. As far as I can ascertain, it seems to have been undertaken in 2020 and includes data up to June 2020 at the latest.

Clearly, that "Stage 1" is about 22 months premature of the "5 yearly basis". In essence, it amounts to a three-yearly review.

The LSR is split into three parts dealing with greenfield land supply, urban infill land supply and employment land supply. While the LSR was published on 9 June 2021 it is clear from reading those reports that most of the data on which they are based is from 30 June 2020 or earlier. There are a few references to data as recent as December 2020. Again, much of this is premature, particularly so in the context of a review that is to occur every 5 years.

It must be acknowledged that data before the review date of April 2022 may well be relevant. Likewise, not all data is gathered at a frequency that aligns with the review date (eg the census occurs at a different cycle and on different years, ABS data is commonly gathered quarterly and published after the quarter has passed etc).

Notwithstanding those concessions, a review based on data and analysis that is 14-22 months premature cannot be "on a five yearly basis" as the PDI Act requires. It is difficult to see how public submissions (closing in July 2021) so early in the process properly assist the SPC either, although we would note that even consultation on the matters in s7(3)(a) at this stage would provide the Commission with information and data that is more current than the data on which it appears to have resolved its position on these matters.

The SPC has already and prematurely declared its position on this issue (at p 3 of the SoP) and has invalidly closed its mind to assessing anything other than the matters under s7(3)(b). This is plainly contrary to the requirements of the PDI Act and renders any decision to vary (or not to vary) the EFPA invalid on this basis alone.

Public Consultation

To compound the errors identified above, the SPC has by a process of public consultation published its investigation into the matters required to be reviewed under s7(3)(a) but purports to be closed to any consideration of relevant submissions in relation to that investigation. This is at odds with the primary objects of the Act which clearly anticipate community participation in relation to "*the initiation and development of planning policies and strategies*", and more fundamentally, is at odds with the fundamental principles of administrative law.

In circumstances where its review is based on data that is 14-22 months premature, it is difficult to see how relevant submissions from members of the public that provide current information and/or data in relation to the matters required to be reviewed in s7(3)(a) could properly be ignored.

The scope of the review stated in the SoP

The SoP contains various declarations by the SPC about the scope of the Review that are important to emphasise.

> "***Commission's Position***
>
> *It is the Commission's position that there is an adequate provision of land in Greater Adelaide to accommodate housing and employment growth over the next 15 years. Therefore the review will follow the Gate B pathway which leads on to Gate D and sets the scope of the review as Test 3 only - the consideration of variations of the boundary that are trivial in nature and will address a recognised anomaly. This position is based on the Commission's assessment of the requirements under the Act, outlined in the Three Point Test and the evidence base presented in the EFPA Review Report appended to this Position Statement*." (page 3 of the SoP)
>
> "*Tests 1 and 2 in Section 7(3)(a) of the PDI Act are not satisfied as there is deemed to be sufficient supply of land to support housing and employment growth for at least the projected 15-year timeframe*". (page 4 of the SoP)
>
> "*Test 2 does not allow consideration of:*
>
> - *Land supply analysis at a sub-regional level; OR*
> - *Specific forms of residential supply (ie. greenfield, township or urban infill); OR*
> - *Specific forms of employment land supply (ie. for heavy, light or special industry)*." (page 9 of Appendix 1 of the SoP)

These statements (with my underlining) reveal further errors in the SPC's understanding of the task it is obliged by the PDI Act to undertake as detailed below.

Failure to review matters in s7(3)(a)

The SoP states that the Review will only consider variations of the EFPA boundary under "Gateway B pathway" or "Test 3" being those that are trivial in nature and will address a recognised anomaly (s 7(3)(b)). The SoP also states that the SPC will not consider variations to the EFPA in relation to section 7(3)(a)(i) and (ii).

Section 7(11) of the PDI Act provides that a review of the EFPA is to occur in order to "*assess the matters set out in subsection (3)(a)*". Plainly, the review must involve an assessment of the matters set out in s 7(3)(a)(i) and (ii) above (which the SPC has labelled as tests 1 and 2). There is in fact no requirement as part of the 5 yearly review to consider "test 3" under section 7(3)(b). While the SPC is not precluded from considering it, the declaration only to consider the so-called "test 3" is patently missing the point that whatever else it does, the SPC must consider the matters in section 7(3)(a).

The SPC's declarations not to follow its statutory obligations are plainly unlawful.

"Deemed" supply

The SPC cannot undertake a review of the matters in section 7(3)(a) if at the outset (indeed, well before the five years) it deems to close its mind to that very review.

This position statement is fundamentally and patently invalid and improper.

That "supply" (to paraphrase the test in section 7(3)(a)) is the very point of the review that the SPC is obliged by statute to undertake in or around April 2022.

Mischaracterisation of the matters under section 7(3)(a)

The SoP indicates that the Commission has re-framed the "tests" in (3)(a)(i) and (ii) and as such has mis-directed itself about the scope of the review. The statement at page 9 of Appendix 1 of the SoP suggesting a prohibition on the SPC considering land supply at sub-regional level or in relation to forms of residential or employment land (quoted above) is misconceived.

There is plainly nothing in section 7(3)(a) containing any such prohibition.

Firstly, the whole point of the Review in the context of section 7 is to consider whether there is any basis for variation to the EFPA regularly (every 5 years). That review necessarily should consider the EFPA in a comprehensive manner. That much is self-evident from the purpose of such a review, framed as it is, by the purpose of the EFPA in section 7 as a whole.

Secondly, section 7(3)(a)(i) refers to whether "*an area or areas within Greater Adelaide… are unable to support the principle of urban renewal and consolidation of existing urban areas*". The SPC must consider whether there is "an area" – even one single area – unable to support the principle. The term "area" is not defined by the PDI Act. The spatial extent of an area, for the purposes of the analysis in section 7, is not specified in the Act nor is it precisely identified using the ordinary English meaning of that term. That means at least that an "area" is or can constitute a relatively small space, perhaps greater than a "locality" as understood by planners, but certainly less than a "region". It certainly could be at the postcode or suburb scale if that is an appropriate scale of analysis.

In any event, that spatial pixilation (so to speak) is not prescribed and the PDI Act does not prevent the review considering an area or areas at a scale smaller than "sub-regional".

Thirdly, the reference to the "principle" in section 7(3)(a)(i) is a reference to the "principle of good planning" in section 14(b) of the PDI Act which is stated in the following terms -

> *"In seeking to further the objects of this Act, regard should be given to the following principles that relate to the planning system established by this Act (insofar as may be reasonably practicable and relevant in the circumstances):*
>
> *(b) urban renewal principles as follows:*
>
> *(i) preference should be given to accommodating expected future growth of cities and towns through the logical consolidation and redevelopment of existing urban areas;*

(ii) the encroachment of urban areas on areas of rural, landscape or environmental significance is to be avoided other than in exceptional circumstances;

(iii) urban renewal should seek to make the best use (as appropriate) of underlying or latent potential associated with land, buildings and infrastructure;"

Necessarily the assessment of that "principle" and the application of it to the Greater Adelaide area requires an assessment of everything within that Greater Adelaide area. Whether that be done street by street, area by area or region by region is not to the point. A thorough assessment of those matters within that space to see whether "an area" is unable to support the principle must at least be undertaken.

The SPC's position (as stated in the SoP and recited above) that such analysis cannot relate to specific forms of residential land supply or specific forms of employment land supply finds no basis whatsoever in the PDI Act. Indeed, it is plainly contrary to the very matters set out in the principle. Without opening its mind to the various forms of housing or employment and the relative supply and demand, the SPC cannot hope to consider the matters set out in the principle. For instance, a consideration of the matters in section 14(b)(i) necessarily requires the SPC to identify the expected growth of cities and towns and the logical consolidation and redevelopment of urban areas. It is axiomatic that the SPC, using its expertise, will need to consider the multitude of social, demographic, economic and other factors affecting growth, consolidation and redevelopment. That must take into account the relative forces (put simply, supply and demand) for any identifiable forms or housing or employment (among other factors).

The statement that the review cannot interrogate those matters is just wrong. Notably, the LSR (see Background Document page 16-26 and Part 2 page 5-18) at least identifies some segregation at a broad level, albeit largely by the type of area (eg greenfield, peri urban etc) or purpose (eg general or strategic infill etc). The analysis does not appear to consider housing forms.

The problem with the artificial constraint the SPC has placed on the review is that (apart from being invalid) it will lead to a misdirected review. The SPC cannot determine that there is sufficient residential land supply if that land supply is largely confined to the Outer North, Mount Barker and Murray Bridge regions with very limited residential land supply in the Outer South, Northern Plains and Barossa, Fleurieu Peninsula areas and the Adelaide Hills (excluding Mount Barker). There may be demand for residential land in a region that has very limited supply and, therefore, the demand for residential land may demonstrate a need for a variation to the EFPA in that area despite the availability of residential land in other areas.

The same issue arises in relation to employment land supply. Even if there is adequate employment land available at the whole city scale, the location of it is plainly relevant to the issue of the "adequate provision" question in section 7(3)(a)(ii). Whether people need to travel vast distances to find employment is plainly a matter for analysis.

As referred to above, in my view it would be inappropriate for the SPC to determine there was sufficient employment land available when the employment land supply is largely confined to certain areas. There may be demand for employment land in areas where currently very little employment land is available outside the EFPA. The provisions of the PDI Act make it very clear that this must be considered by the SPC as part of the review

of the EFPA. Again, the use of the terms "area or areas" clearly demonstrate that the review must involve a consideration of the EFPA at a sufficiently small scale.

Summary

As presently framed, the review is premature and misconceived about its statutory scope and purpose. It cannot, on its present terms, constitute a valid exercise of the statutory requirement under section 7(10) and (11) of the PDI Act.

Yours faithfully

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Urban Development Institute of Australia
SOUTH AUSTRALIA

grow.reform.build.

URBAN DEVELOPMENT INSTITUTE OF AUSTRALIA (SA)

2022 State Election Priorities

For more information about the Urban Development Institute of Australia (SA) 2022 State Election Priorities, please contact:

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Find more information about the UDIA (SA) and our advocacy work on our website udiasa.com.au

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URBAN DEVELOPMENT INSTITUTE OF AUSTRALIA (SA)

2022 State Election Priorities

Urban Development Institute of Australia
SOUTH AUSTRALIA

Reade's Plan for Mortlock Park 1917.

South Australia's rich history of planning extends far beyond just the City of Adelaide.

In 1916, Charles Reade was employed as South Australia's (and Australia's) first Government Town Planner.

Shortly following his appointment in 1917, he designed a new suburb with the working title 'Mitcham Garden Suburb'. His plans were shown publicly and for the first time at the first Town Planning and Housing Conference and Exhibition in Adelaide in October 1917.

We now know this suburb as Colonel Light Gardens.

URBAN DEVELOPMENT INSTITUTE OF AUSTRALIA (SA)

2022 State Election Priorities

grow

Address the housing crisis.

Modern planning for growth and liveability.

reform

Transparency and accountability for home buyer levies and taxes.

Invest funds collected for open space on open space.

build

Better and more community infrastructure.

Stop taxing production of housing.

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Message from the President

For 50 years, members of the Urban Development Institute of Australia (SA) have passionately contributed to the success of our great state.

They have created employment for tens of thousands of South Australians and built places that we call home.

As passionate as our members are, increasingly as they risk their livelihoods, more and more regulatory and financial obstacles continue to be put in place that prevent them from delivering more of the great Australian dream.

UDIA members know that we must protect our liveable city — but that there is a better way.

We need better planning and growth strategies for our city, our existing taxes and contributions need to be better spent, and we urgently need more clear and transparent policy making based on better data. Above all we need a more collaborative approach.

A new or returned State Government must work alongside us so we can help create the conditions that support development. One where we return the pendulum back to place so more of us can invest with confidence and create the new communities we so desperately need.

When our members are active, the economic heartbeat of the state is stronger.

Our blueprint for prosperity, **Grow, Reform, Build** has been developed to serve as a guide to turbo charge the positive change that will enable our state to maintain liveability for the benefit of all South Australians — now and into the future.

On behalf of the UDIA, we look forward to working side by side with the future State Government for the benefit of all South Australians.

Daniel Palumbo
President

Message from the Chief Executive

In the lead up to the 2022 South Australian State Election, the UDIA SA is calling on all political parties and candidates to focus on maximising South Australia's opportunities as an attractive place to live, work and invest, to enable our communities to prosper.

To strengthen and diversify our economy, the incoming government must fully leverage what our state can offer the people who live here and those who are considering business here, travelling here or relocating here in the coming years.

To maximise South Australia's opportunities as the ideal place to live, work and invest, UDIA SA has developed key recommendations built around three key pillars — **Grow, Reform and Build.**

Our recommendations are designed to ensure that South Australia's urban development industry can continue to prosper and play a key role in the continued success and growth of our state for the benefit of all South Australians.

Not only is the urban development industry a significant employer, representing the second highest number of fulltime workers (77,200 employed) in South Australia and $7.8 billion in gross value added to the economy, but our industry facilitates and supports the delivery of high-quality urban infrastructure critical to providing all South Australians with the opportunity to succeed.

We want to work together with the incoming government to harness our state's unique and positive characteristics and build on our reputation not only as Australia's most liveable city and the world's third, but as the best place to live, work and invest.

Pat Gerace
Chief Executive

About the Urban Development Institute of Australia (SA)

The Urban Development Institute of Australia (SA) was established in 1971 and is the leading representative body for the urban development industry.

With representation nationwide, we work for the benefit of the South Australian industry and alongside other State and Territory divisions to advocate for meaningful policy reform locally and nationally.

The UDIA in South Australia is a not-for-profit membership organisation. Our members that we represent includes all organisations and people involved in the development of homes, infrastructure and suburbs — the foundation of our current and future communities.

We exist to support the urban development industry — South Australia's third largest employing sector with the second highest number of fulltime workers, boasting more than 77,000 full time employees across the state.[1]

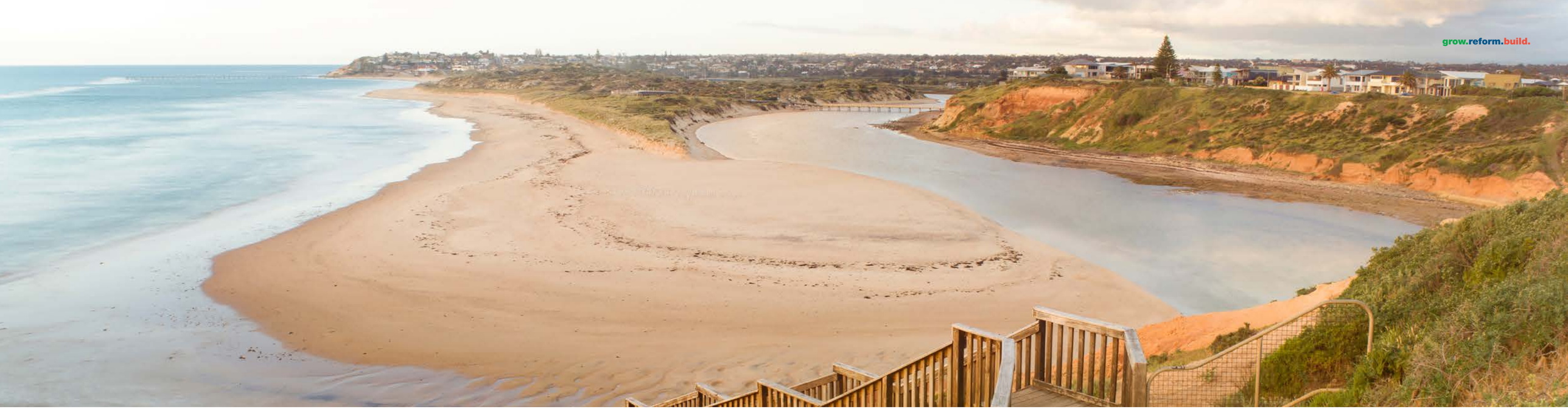
Our purpose is to represent the views, wants and needs of those within our sector — and equally those of their customers who are everyday South Australian homeowners, aspiring home buyers, renters and our most vulnerable residents, including those eligible for social and affordable housing.

We work to promote excellence and innovation in the creation of sustainable and thriving communities, as well as educate and engage with the government and urban development sector on all issues affecting new residential property, particularly pertaining to affordability and liveability.

Our valued members benefit from exclusive access to a range of purposeful policy updates and relevant advocacy information that are pertinent to the development industry, professional learning and development opportunities, and insightful events that connect, engage and build networks.

Ultimately, everything we do is to ensure a thriving urban development sector in South Australia — for businesses, for people, for communities and for our future.

1. https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia-detailed/latest-release



Introduction

A solid foundation for success

As South Australians we are parochial about our great state. Among the many things we treasure about our place is that it is a great place to work, live and play.

Successive South Australians have called the suburbs of Adelaide home; a place where they have raised families and enjoyed a quality of life that is the envy of others both interstate and abroad.

Much of this is possible thanks to generations of South Australians who have invested in growing our state and economy, planning and building infrastructure so that every future generation has the best foundations to create their own success.

It's not surprising that many political leaders like to highlight Adelaide's high liveability rankings or quote median house prices in South Australia to demonstrate the great work they are doing.[2]

Unfortunately, while spin and social media are used to promote South Australia, our leaders rarely talk in detail about what they are doing to protect everything we hold so dear about our state. Liveability is a term they frequently reference, yet most are reluctant to specifically define it.

We know that as much as work, live and play are important, it's also the balance between these that makes a place emphatically liveable. Finding this balance is why the UDIA has developed Grow Reform Build — South Australia's 2022 State Election blueprint for prosperity.

Commitment from the urban development sector

The UDIA represents the property development sector and all within it — the South Australians who are proud to build new suburbs, the buildings that people call home, and all the surrounding infrastructure that lay the foundations for these places to become thriving communities.

Our members sell to, build for and employ South Australians, knowing as well as anyone what they value most. South Australians want suburbs with open space, trees and high-quality public realm. They value ready access to services such as transport, education and health facilities.

With the combined strength of our members, we know what is needed to protect our state's liveability.

Our plan to grow, reform and build

As a membership body we are uniquely placed to see and experience first-hand what South Australian's value most about the places they live.

We also see and experience each of the different and competing interests of policy makers, agencies and levels of government, and how they are often at odds with each other.

From a state-wide perspective, we see that without necessary and thorough planning, development can adversely change the character of our existing suburbs and streets.

We see the impacts of a lack of investment in public transport, roads and trunk infrastructure and how this neglect can easily lead to the same congestion and 'growing pains' being witnessed interstate.

That is why we are calling for vastly improved and more detailed planning, based on better data and an understanding of what people need and value, rather than telling them what they want.

UDIA believes that a key focus for our state now and into the future should be that South Australia continues to be undoubtedly the place where you can still achieve the great Australian dream.

Home ownership means different things to different people — for some it is in a compact denser neighbourhood or apartment, for others it is a place where you can have a trampoline, trailer and a dog.

For those that can't afford to invest in purchasing a home, the certainty that comes with knowing a place to rent is affordable and available, in an area that they are attached to or familiar with, can make a significant difference.

We know that a place to call home offers undeniable sense of safety, security and stability — a fundamental human need as defined in Maslow's Hierarchy of Needs, and is a proven pathway to intergenerational prosperity.[3]

This is why we are calling for a renewed and dedicated focus on home ownership.

Unfortunately, there are a broad range of government policies that do not consider the impact on housing affordability, either directly or indirectly. The hidden cost of land and new housing through state and local government levies and charges — and many of those don't get reinvested when and where they are collected — must be addressed.

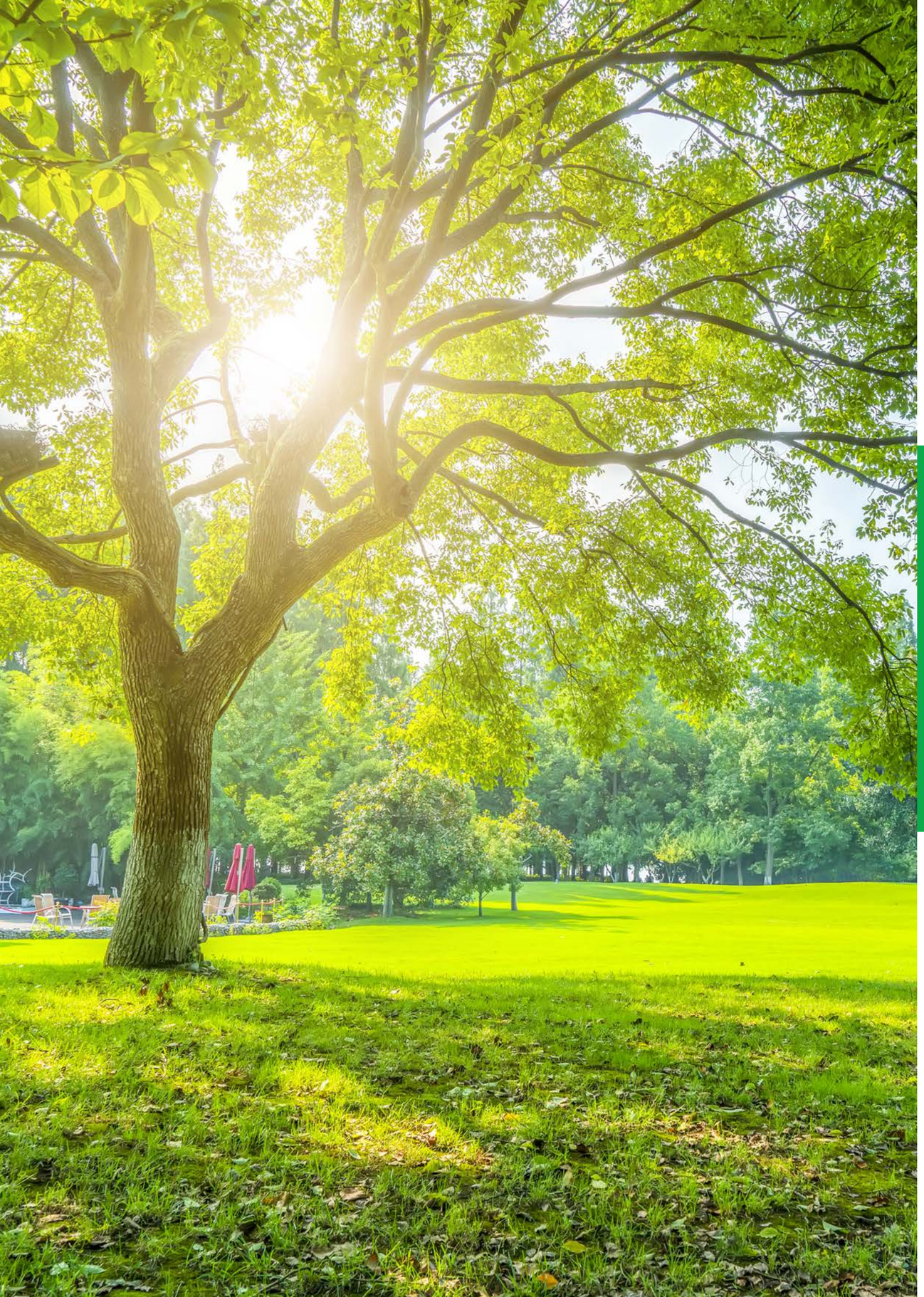
Another key focus is to rectify the failures of our planning system that currently does not operate with any genuine connection to what the majority of South Australians value most.

The three pillars outlined in this document, Grow, Reform and Build, are targeted recommendations to get South Australia back on track.

Some are immediate steps to make a material difference, and others represent the beginning of a transformative journey that will lead to new and better approaches to urban development, more suited to South Australia's modern environment.

2. Economist - https://melbourne.org.au/wp-content/uploads/2021/06/global-liveability-index-2021-free-report.pdf

3. https://www.aihw.gov.au/getmedia/602000e9-adef-4939-a767-61945a7f6c06/haia-c01.pdf.aspx



grow

Address the housing crisis

South Australians have always been proud that, for a vast majority and those lucky enough to be employed, if they wanted to own their own home, it was possible.

However, the alarm bells are ringing and many are already describing the current housing situation in South Australia as a crisis — the great Australian dream of owning a home is quickly becoming out of reach for some.

For South Australia, subdued population growth and relatively flat labour markets compared to other states have helped contain house prices in the past, but post-pandemic and with renewed interest in South Australia, we can no longer rely on those circumstances to protect things we hold dear.[4]

What and whether you can buy a house is a function of how much you earn and unfortunately on this metric, our housing market is the third least affordable nationally — falling behind Brisbane and Perth, even with a less buoyant economy and weaker immigration figures.[5]

The two largest contributors to this problem from a state perspective is the failure to plan for growth and the hidden cost of land and housing.

Graph 1: Adelaide Metropolitan Area

Median house prices by quarter (2000 – 2021)

Source *sa.gov.au*

4. https://www.sa.gov.au/__data/assets/image/0008/169748/3rd-quarter-2021-metro-median.png
5.Demographia

Source
sa.gov.au

54%
increase of median house prices in Adelaide since 2011

$600k
median Adelaide house price

The benefits of home ownership

+ Because the value of their homes are directly affected by what happens in the surrounding community, owner occupiers are likely to have stronger incentives than renters for civic involvement.

+ Home ownership provides greater security of tenure, reinforcing incentives for community participation. Less frequent relocation also minimises disruption to established social networks and children's education.

+ By giving occupiers more control over their living space, home ownership can enhance self-esteem, in turn reducing the incidence of socially disruptive behaviour and promoting physical and emotional wellbeing.

Source

Australian Government Productivity Commission Inquiry Report — First Home Ownership, March 2004

Challenge

Current system is not conducive to housing affordability

The residential development industry builds homes for South Australians, delivers critical economic activity across the state and is reliant on two key factors:

1. Development must be commercially viable and is largely driven by the cost of land, construction and the value of the end product; and
2. Residential products (homes) delivered to market must be relatively affordable for homebuyers at different income levels.

The major reason for diminishing affordability is the hidden cost of land and housing imposed by taxation, regulatory charges and development delays which reduce feasibility and increase the purchase price.

Addressing housing affordability should involve a series of measures that make housing accessible to all South Australians — not just mandating contributions and restrictions through the planning system.

Successive governments have hidden behind announcements about building and maintaining public housing stock which might provide some affordable housing — this is not the same as housing affordability.

While there is an important and critical role to assist those most in need within our community, the majority of South Australians will not qualify or want to access public housing, but that doesn't negate the responsibility or need for measures to address the affordability of housing for them.

Taxes and charges all contribute to retail pricing. Though often hidden, these costs are paid nonetheless and must be funded by the homebuyer or paid back over time through their mortgage.

With land and construction costs already under pressure, it is the hidden costs of housing that we ask a future state government to immediately address.

Housing affordability — how we stack up

On an international scale, Adelaide is right up there with our eastern seaboard counterparts as unaffordable.

Affordable

Most affordable
Pittsburgh, U.S.

2 Rochester, U.S.

3 Buffalo, U.S.

Unaffordable

23 Perth, Australia

•

18 Brisbane, Australia

•

13 **Adelaide, Australia**

•

6 Melbourne, Australia

•

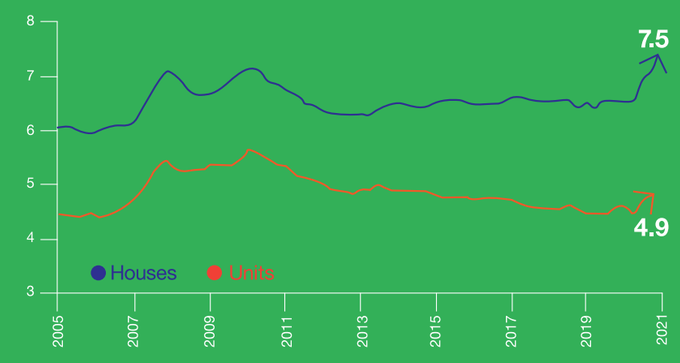
3 Sydney, Australia

2 Vancouver, Canada

Most unaffordable
Hong Kong, China

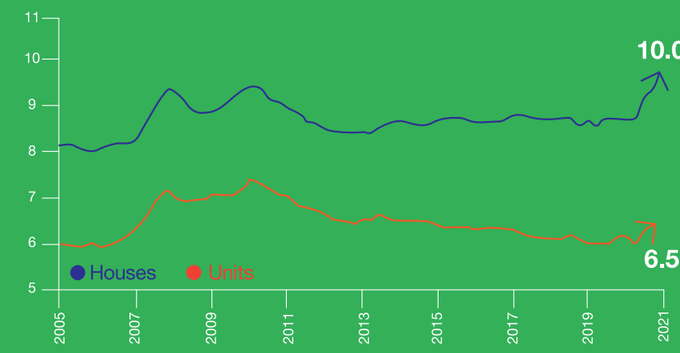
Source *2021 Demographia International Housing Affordability*

Graph 2:
Value to household income ratio



In South Australia, housing values are growing disproportionately to household incomes so saving a deposit has never been more challenging.

Graph 3:
Years to save a deposit



Source *Core Logic*

Springwood, Gawler East

Taxes and charges collected by the government

Developer Land Tax	Infrastructure Contributions
Stamp Duty (twice being paid, once by the developer and once by the homebuyer)	Open Space Contribution/Levy
	Developer Council Rates
Foreign buyer surcharge	Utility charges
GST	Code amendment fees
	Development approval fees

$215m Homebuilder stimulus drove additional $215m Stamp Duty above forecast in just one year!

Stamp Duty – the most inefficient and punitive tax of all

It is the single biggest transactional cost for purchasers of residential property. It acts as a disincentive to the turnover of housing stock and encourages homeowners to hold onto existing properties rather than find new accommodation more suited to their needs, as well as reducing redevelopment opportunities

With review after review, the one thing everyone agrees upon is that it is inefficient, punitive and serves only one purpose — to collect revenue. With government budgets constrained due to the pandemic and short-term relief measures unaffordable, there is no better time to start a discussion about a pathway for wholesale reform in the future.

South Australia has already removed commercial stamp duty entirely and the Commonwealth and other states have commenced conversations and reforming residential stamp duty. An incoming government must make a commitment to reform so we are not left behind.[6]

>$22k
collected on the median house price

$1.736 billion land tax and stamp duty revenue for South Australian Government forecast for 2021/22

Source
2021–22 State Budget, page 37

6. *https://www.nhfic.gov.au/research/researchreport/stamp-duty-reform/stamp-duty-reform-benefits-and-challenges/*

Challenge

The hidden costs of housing and development

There has never been a more critical time to get real about the high cost of housing of land in South Australia.

With the right measures and processes, this will be critical to realising the Australian dream — keeping South Australians owning and renting their own homes, and off the government's social and affordable housing waiting lists.

Recommendations

G1 Create and fund a cross-government task force led by the State Planning Commission with representation from the building and development sector to develop a new housing affordability and ownership action plan.

G2 Allocate responsibility and accountability for housing affordability and liveability across all government ministerial portfolios.

G3 Incorporate a Housing Affordability and Sustainability Impact Statement into all relevant Cabinet submissions to ensure cost impacts of new policies on consumers are minimised.

G4 Implement a continuing requirement for a State Government review of the cost impact of all policy decisions on construction and development standards.

G5 Create focus on housing affordability and ownership by considering appropriate amendments to the Planning Development and Infrastructure Act 2016 and associated regulations.

G6 Commit to an investigation of economic reform for the provision of housing in South Australia including:

a. The development of a regulatory impact statement on all fees, charges and regulations related to the provision of housing
b. A transitionary pathway to reducing reliance on inefficient taxes and charges
c. Options for the deferral of up-front taxes and charges for consumers to improve affordability
d. Immediately abolishing stamp duty on all new residential, owner occupier, off the plan housing construction below the median house price to improve affordability and increase housing supply.

G7 Commit to a moratorium on new value capture taxes and charges.

G8 Commit to a moratorium on new or changed inclusionary zoning policies without engagement and agreement of the development sector.

Modern planning for growth and liveability

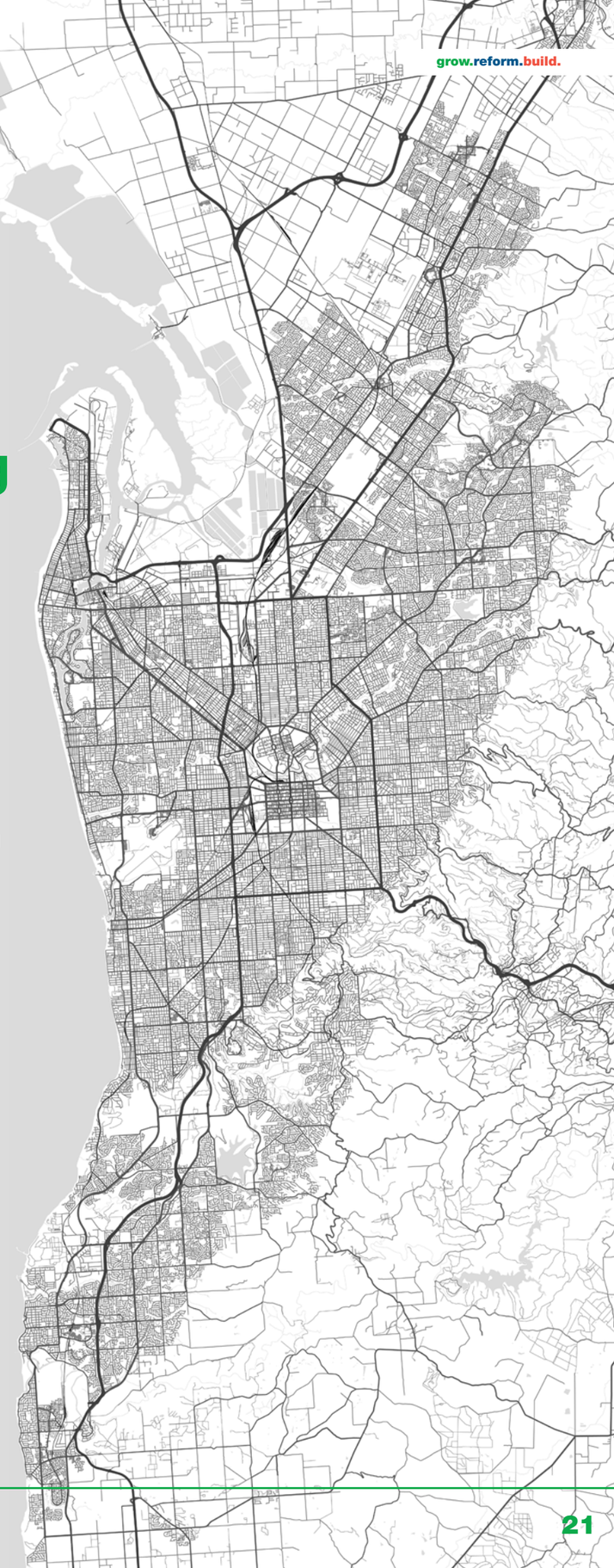
If you are from South Australia, you know who Colonel William Light is and the impact his vision continues to have on our state centuries later.

Fast forward to 2021 and unfortunately despite much talk about the planning system and lengthy debates in parliament when the new Act was passed in 2016, it is hard to say that the system is working as well as it should be.

Delivering an electronic planning system for processing applications isn't a substitute for actual considered planning for growth and has arguably moved the focus away from the planning 'outcome' to the planning 'process'.

There are two main areas that need to be addressed.

1. Regional planning policies that address the look and feel of our city, suburbs and regions encompassed in a 30-year plan for Adelaide.
2. Planning policies underpinned by evidence, metrics and contemporary data to ensure adequate supply of suitably zoned land for positive and sustainable growth in residential, commercial, and industrial areas.



Challenge

An outdated 30-year plan

Regardless of whether Adelaide's population growth is modest or strong, there is an undeniable need for a plan that ensures that the things that matter, the things that create a liveable, sustainable and thriving community, are provided for.

A plan that addresses various scenarios and adapts accordingly to shape Adelaide in the most appropriate way is a necessity — a plan that takes into account trends in living patterns and addressing affordability to maintain Adelaide's liveability.

The current version of the 30-Year Plan for Greater Adelaide simply became a list of aspirations of every government agency and a way to avoid detailed investment plans and commitments by state and local government.

One of the most obvious symptoms of not carefully planning for growth, is that more people who fear for what they may lose will begin to resent progress, and subsequently rally for no change at all. It's therefore critical that we get the planning right.

Future state and local governments must stop abdicating their responsibility for public transport, road infrastructure and key essentials for new and thriving communities, and start investing in growth and urban regeneration areas.

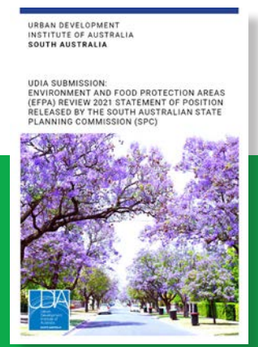
In new growth areas, incorrect assumptions and populous statements are too often used as a reason for restricting development because of the government's reluctance to invest in infrastructure.

In the 2020 Infrastructure Strategy released by Infrastructure SA[7], generalised statements about the role of growth areas were made based on the technical work of Infrastructure Victoria[8]. Unfortunately, generalised assumptions like this are at the expense of the primary driver in maintaining housing affordability, namely competitive market tension as well as providing more sustainable communities.

Other sustainability targets such as increased tree canopy for suburbs will also fail without better policies. Consumers want bigger houses and more amenities, but land prices are high and governments don't want to service growth areas, so naturally lot sizes and yards end up being smaller.

Until governments get serious about committing to and supporting a foundation for more green and spacious suburbs, simply telling developers, planners and consumers to just 'be green' is a plan destined to fail.

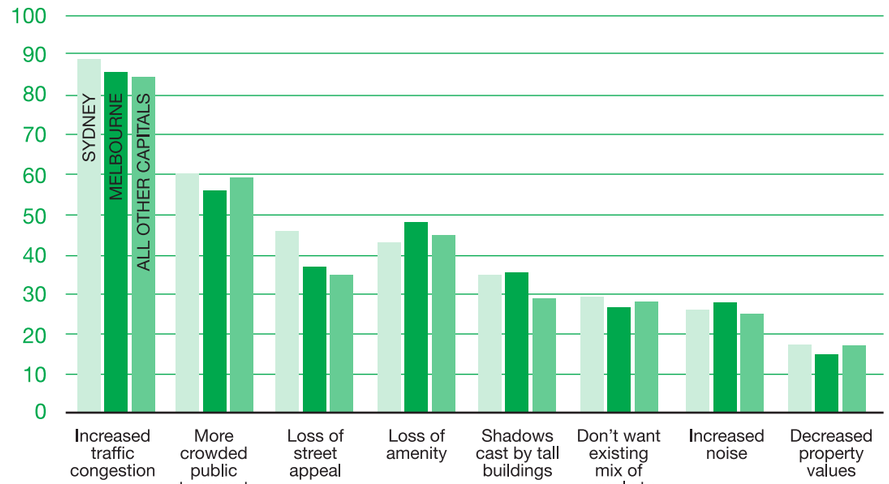
To develop a new 30-year plan that works, we must better understand what people want and create an environment that supports developers to build more of the outstanding new communities and a diversity of product — the ones that people want.



Read the UDIA SA Environment and Food Protection Areas Review Submission on the UDIA SA website

Graph 4:

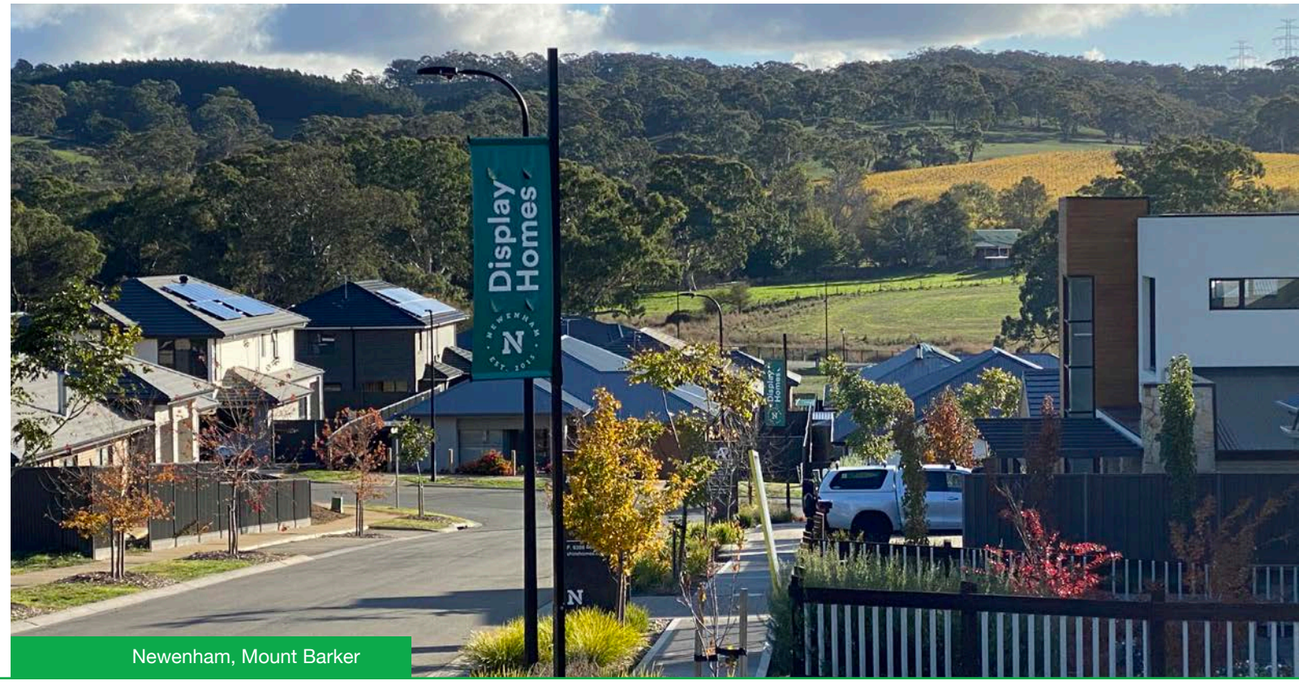
Reasons why people don't want population growth in their neighbourhood[9]



Source

Grattan Institute

grattan.edu.au



Newenham, Mount Barker

7. Infrastructure SA Strategy https://www.infrastructure.sa.gov.au/__data/assets/pdf_file/0006/197511/20-Year-State-Infrastructure-Strategy-Full.pdf
8. Infrastructure Provision in Different Development Settings

9. https://grattan.edu.au/wp-content/uploads/2018/03/901-Housing-affordability.pdf

Challenge

Failure of the Planning Development and Infrastructure Act 2016

Despite the Planning Development and Infrastructure (PDI) Act 2016 being 278 pages in length and with just as many regulations accompanying it, the word affordability appears only three times and the phrase ‘housing affordability’ does not appear at all.

In this context it is not surprising that in operation, the Act is failing to deliver in some key areas.

One key feature of the PDI Act is the process to review the available land supply and changes that need to be made to Adelaide’s footprint.

Under the PDI Act, the State Planning Commission is required to conduct an independent review every five years to assess future housing requirements.

Since its introduction however, the State Planning Commission has had no dedicated resources, staff or independent research capability, and for what is arguably one of the most important roles of the State.

In June 2021, the State Planning Commission completed its first review and under this infrequent and slow responding model, a declaration was made that there is adequate supply for future housing needs.

The land supply analysis informing the Environment and Food Production Areas Review relied upon population forecasts that pre-date the known impacts of the COVID-19 pandemic and its implications on overall population growth.

It also failed to consider detailed modelling around the impacts of the new Planning and Design Code. In addition, land use patterns across different parts of Adelaide were not considered and instead a ‘Greater Adelaide’ assessment of demand and supply was used.

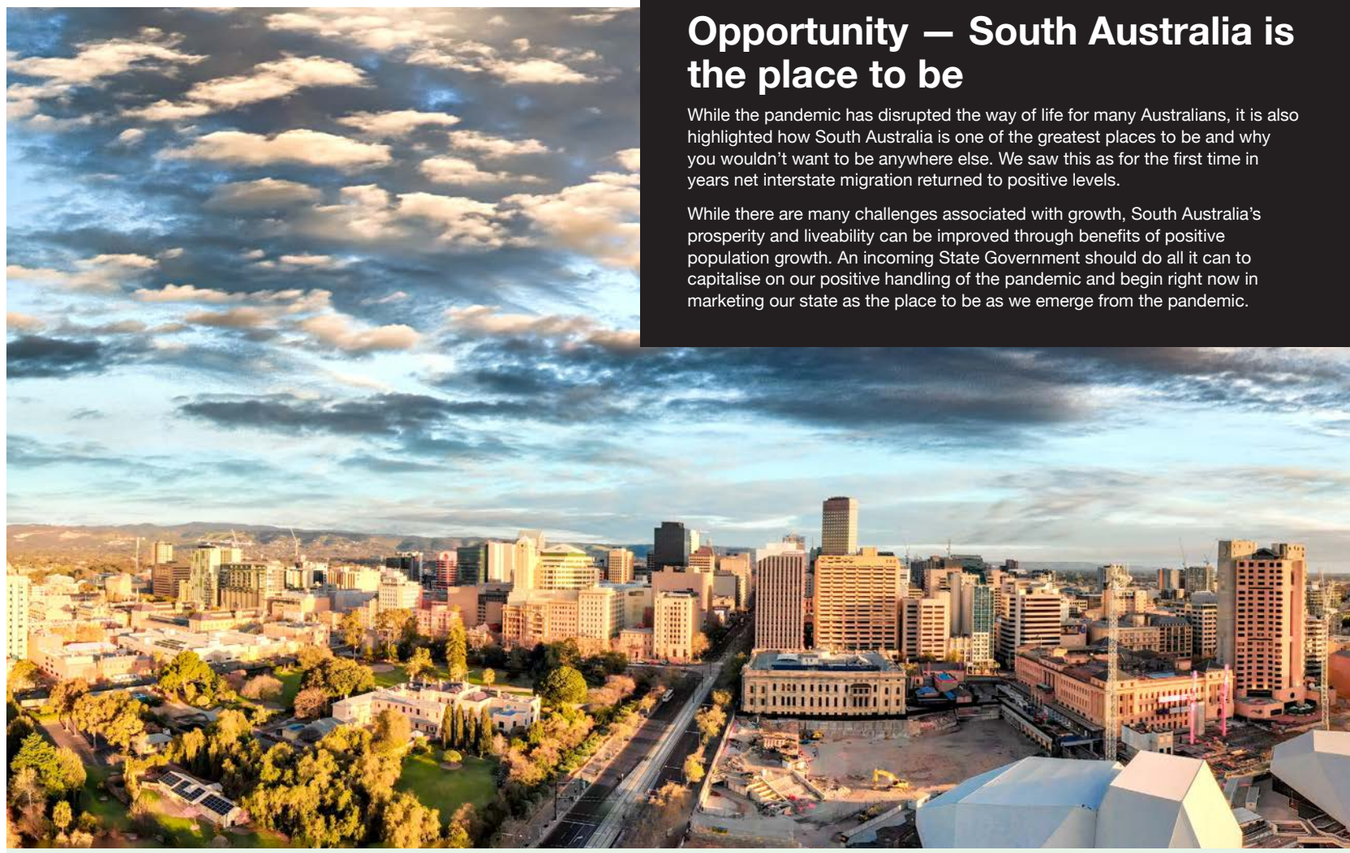
As a consequence, Adelaide now relies on assessment of its long-term strategic planning and housing needs, based on outdated assumptions, leaving South Australia facing a great hurdle in quickly responding to affordability challenges in the future — challenges already being experienced in specific parts of Adelaide.

Not only does the UDIA believe the State Government has missed the mark on this, but the conclusion is also at odds with the Federal Government’s report prepared by the Federal Government’s National Housing Finance and Investment Corporation, which states:

Adelaide is soon to enter a period of under-supply against demand and forecasts ‘supply is likely to remain soft and below demand from 2022’.

This reinforces the need for quick responses by governments and councils.

The UDIA made a comprehensive submission to the State Government and we continue to call on them to immediately act on these recommendations.



Opportunity — South Australia is the place to be

While the pandemic has disrupted the way of life for many Australians, it is also highlighted how South Australia is one of the greatest places to be and why you wouldn’t want to be anywhere else. We saw this as for the first time in years net interstate migration returned to positive levels.

While there are many challenges associated with growth, South Australia’s prosperity and liveability can be improved through benefits of positive population growth. An incoming State Government should do all it can to capitalise on our positive handling of the pandemic and begin right now in marketing our state as the place to be as we emerge from the pandemic.

Recommendations

Unashamedly plan for growth to protect our liveability and make South Australia a lifestyle destination of choice by:

G9 Invest in the development of a new real time electronic urban development monitoring tool in partnership with the UDIA, to improve state-wide planning for growth, liveability and affordability, and encourage increased private sector investment.

G10 Develop a new 30-Year Plan for Greater Adelaide[10] by establishing a tripartite (local and state government and private developer) task group to develop terms of reference and coordinated with infrastructure capacity (see recommendation B1).

G11 Implement recommendations provided to the State Government and State Planning Commission in response to the recent Environment and Food Production Area review and in particular:

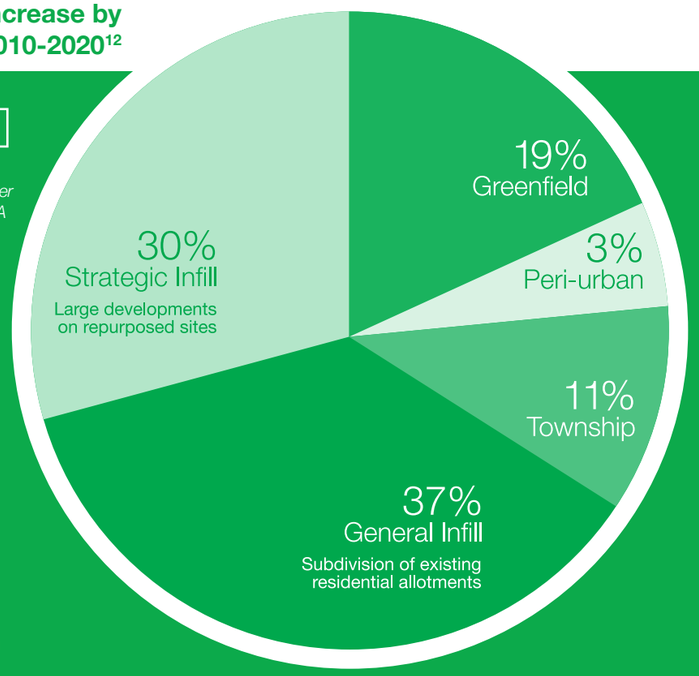
a. Ensure Regional Plans for Greater Adelaide is premised on multiple scenarios and builds in appropriate growth opportunities in locations which are sought by the market.

b. Address the over reliance in housing supply of single dwelling subdivisions and instead proactively and urgently increase land supply in market responsive locations including greenfield and large-scale brownfield areas.

G12 Independently review the operation and effectiveness of the new PlanSA e-Planning system and its impact on affordability through consultation with the development sector, councils, and utilities.

10. Referred to regional plans under the PDI Act.

Net dwelling increase by development type 2010-2020[12]



Source

Land Supply Report for Greater Adelaide, PlanSA

Part of the problem — 30-Year Plan for Greater Adelaide

The 30-Year Plan for Greater Adelaide was a useful document when first released, but 15 years on and it's time to take stock on what has worked and develop a new vision for Adelaide.

As an example, in the 2010 30-Year Plan for Adelaide it states:

By focusing growth in transit corridors we can ensure that we preserve Adelaide's distinctive urban character, leaving about 80 per cent of metropolitan Adelaide largely unchanged as a result of the Plan.

Just over a decade on, in a report released less than six months ago by PlanSA, it has been shown that development patterns have not eventuated in this way with general infill (single dwelling knock down and subdivision) representing 30%[11].

This has presented issues such as car parking, loss of tree canopy and many other issues which the State Planning Commission has had to address[13]. Some issues these create for liveability have also been articulated by the Southgate Institute at Flinders University which found that:

Neighbourhood transition is already occurring across southern Adelaide by multiple actors; however, often in ways that don't contribute to improving neighbourhood liveability. Infrastructure, streets, footpaths, open spaces, public spaces and places are maintained and constantly altered by multiple actors subject to standards that often do not conform to the optimums required to enhance neighbourhood liveability. Private built form is constantly being redeveloped via small scale ad hoc infill.[14]

Without a new plan this will go unaddressed. As can be shown in the extracts below, future land supply in the departmental reports released as recently as 2021 are for 30% of new housing supply over the next ten years form this type of development[15]. This means the demolition and subdivision of 68,000 dwellings of existing houses in existing suburbs.

With a new plan instead, we could begin a conversation about more large-scale strategic infill projects and work to unlock medium to higher density projects in appropriate areas. Better planned and more sustainable developments can include open space and, provide for suitable infrastructure upgrades. Similarly, there could be a more strategic commitment to revitalising the city centre with more residents.

The coloured areas in each of the diagrams represent demolition and rebuild areas identified by the government

Diagram 1:

Inner North

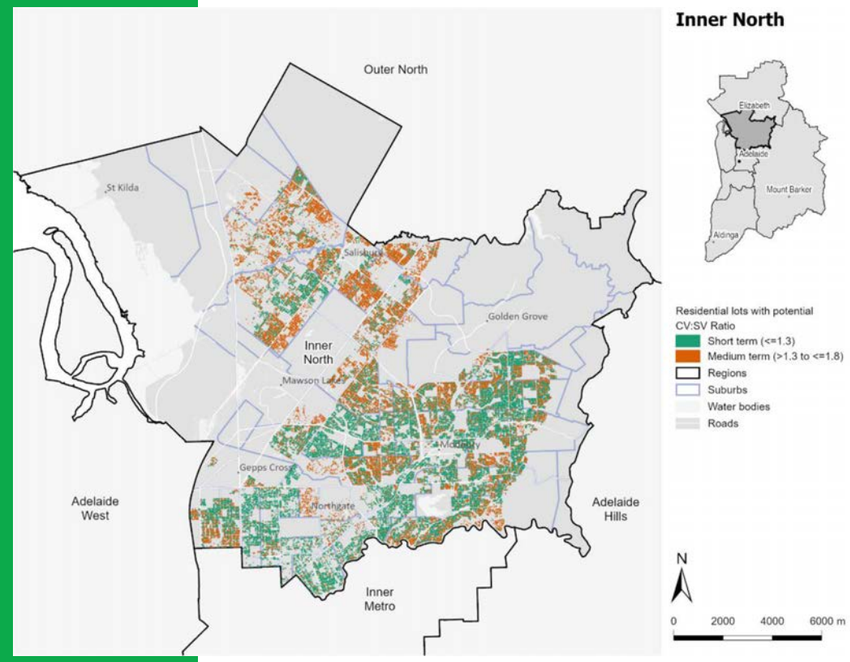
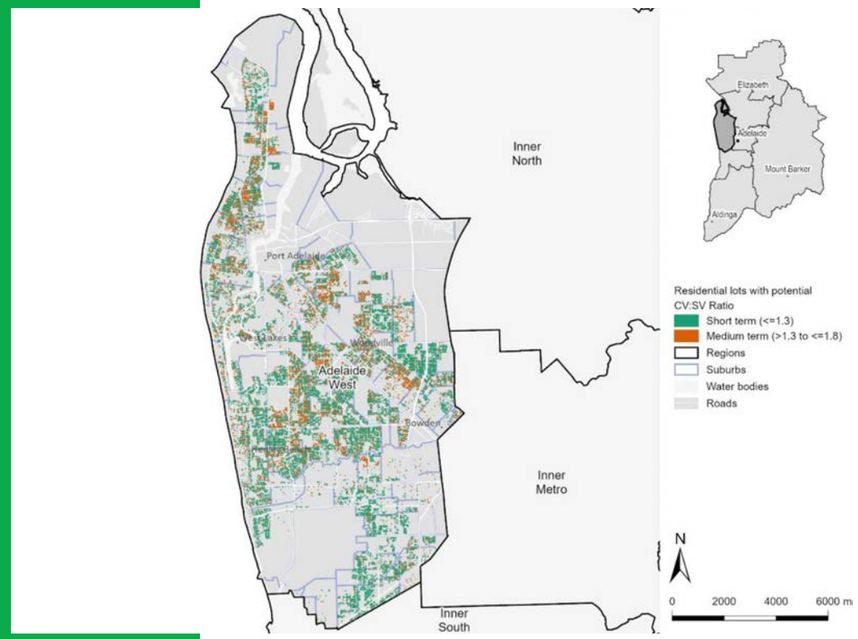


Diagram 2:

Adelaide West



Source

Land Supply Report for Greater Adelaide, PlanSA

11. Define general infill
12. Land Supply Report For Greater Adelaide, Background and Context
13. State Planning Commission Infill Guidelines
14 https://www.flinders.edu.au/content/dam/documents/research/southgate-institute/Healthy-South-HUNTT-project-brief.pdf
15 https://plan.sa.gov.au/state_snapshot/land_supply

The coloured areas in each of the diagrams represent demolition and rebuild areas identified by the government

Diagram 3:

Inner South

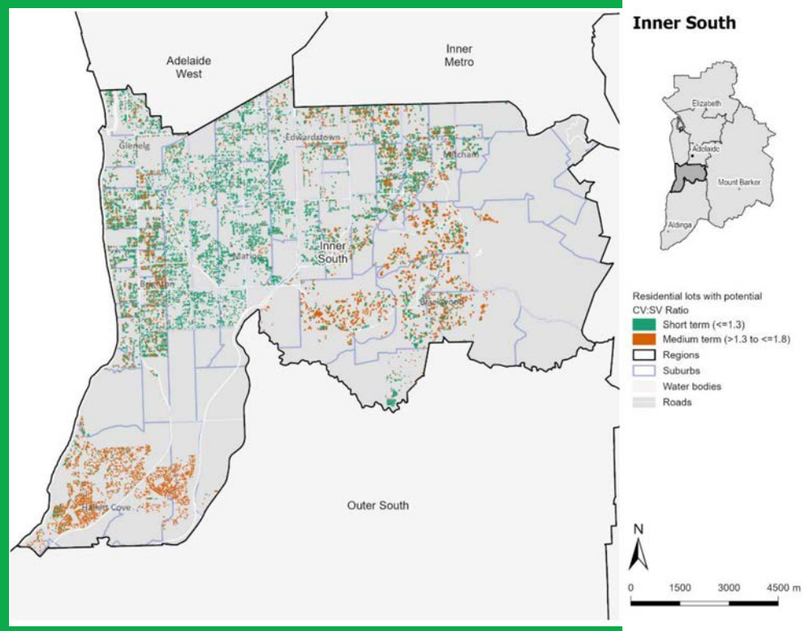
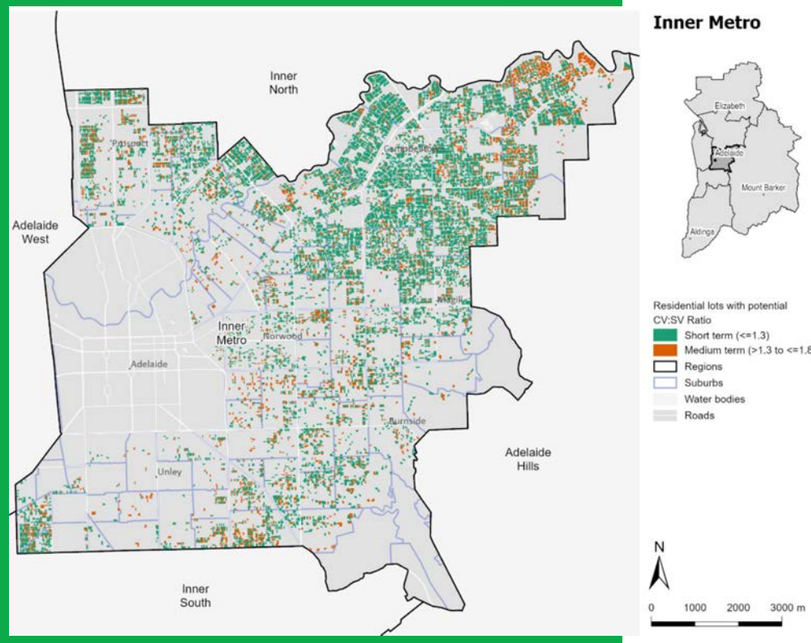


Diagram 4:

Inner Metro



Source

Land Supply Report for Greater Adelaide, PlanSA

reform

Transparency and accountability for home buyer levies and taxes

While essential levies and taxes add additional costs to housing, infrastructure is key when determining the liveability and affordability of living in South Australia.

Unfortunately, the regulatory and governance systems that identify, estimate, negotiate and charge for the delivery of key infrastructure, is of a poor standard. This finding was confirmed in the National Housing Finance and Investment Corporation report, *Developer contributions — How should we pay for new local infrastructure?*[16]

Challenge

Infrastructure and regulatory requirements for developer approvals

State government agencies, regulators, local government and utilities often have little or no incentive to consider the impacts of housing affordability.

When developers enter into negotiations with these bodies, the temptation to offset future budget requirements or cover investment and maintenance back logs against new developments, can often be too strong to resist.

In some cases, the regulatory systems and bodies even exclude housing affordability as a consideration, or requirements can be so stringent that they exceed 'fit for purpose' due to a total risk elimination approach.

The flow on impact of our poor systems is that those who can least afford it end up bearing the brunt — and almost always for many years over the life of a mortgage.

Historical underinvestment by state and local governments is funded by the next generation of homeowners who are already facing tougher home ownership conditions than their parents ever did.

The State Government must demonstrate leadership to reform the system and ensure greater transparency, efficiency and accountability to make better use of what is already collected.

Challenge

Developer contributions and delivery of infrastructure

Unfortunately, once developer contributions are made the mechanisms for reporting and oversight for these contributions is substandard.

State Government agencies and local government are responsible for the delivery of infrastructure, however information and reporting on what has been collected, expended and future plans for infrastructure investment is often very limited.

Sometimes this means that home buyers have already paid for amenity in a development but are faced with long waits and developers are powerless to intervene.

Developer contributions that are funded by homeowners shouldn't be subject to any less transparency than any other government functions and the system needs reform.

By better targeting what we need, promoting competition and efficiency, more new homeowners will be able to enjoy a better and more liveable community.

Read the National Housing Finance and Investment Corporation report on the UDIA SA website.
The report states:

Although developer contributions may (in theory) help ensure developers factor in and contribute to the cost of new infrastructure around housing developments, these contributions are typically complex to estimate and costly to administer. If developer contributions are unpredictable, poorly scoped or administered inefficiently, they have the potential to impede new housing supply and unnecessarily increase the cost of new housing.

Recommendations

The UDIA is calling on the incoming state government to commit to the review, identification and improvement of regulatory oversight involving developer contributions and charges.

R1. Enforceable guidelines are implemented so that:

a. Developer contributions are fit for purpose and relate to the development project in question

b. Genuine competition and best pricing principles address monopolistic behaviour.

R2. State and local government agency requirements (including utilities) can be reviewed and contested to ensure that they are not cross subsidising other activities unrelated to the development.

R3. Contributions already collected by state and local government must be reported and audited annually with detailed plans and timeframes for their use.

16. *https://www.nhfic.gov.au/research/researchreport/developer-contributions-how-should-we-pay-for-new-local-infrastructure/developer-contributions-how-should-we-pay-for-new-local-infrastructure/*

Northridge, Enfield

Invest in open space

A key determinant of liveability in a city is the amount of open space, including its quality and function, as well as the streetscapes and public realm. The best suburbs in Adelaide all boast a powerful combination of these.

Open space requirements are governed by the PDI Act and unfortunately the framework adopted to ensure Adelaide has the best open spaces is simply not delivering on its intention.

The UDIA suggests a comprehensive legislative review is required and that the State Planning Commission consult with the sector and councils on what best suits Adelaide, with a consideration to world's best practice.

How the system works now

The Planning and Development Fund (the Fund) operates under the Planning, Development and Infrastructure Act 2016 (the Act) and provides the means for open space and public realm investment across South Australia.

Monies paid into the Fund are derived from monetary payments in lieu of open space requirements for development involving the division of land into 20 or fewer allotments and also for strata and community titles. The Fund is expended in line with provisions within the Act and is administered by the Office for Design and Architecture SA within the Attorney-General's Department.

Where an application for a development authorisation provides for the division of land into more than 20 allotments, the council in whose area the land is situated may require that up to 12.5% in area of the relevant land area be vested in the council as open space or provide a financial contribution in lieu of the provision open space.

The developer not only provides land for open space but also funds, develops and delivers parks, recreation and infrastructure on this land that is subsequently divested to Council (for example playgrounds, paths and landscaping).

Challenge

Urban infill contributions going to the wrong place for the wrong thing

Each time a property in Greater Adelaide is subdivided, developers are subject to a fee of more than $7,900 per new allotment. This fee, which is passed on to homebuyers, is contributed to the State Government's Planning and Development Fund — funds flagged for investment in open space and public realm. However, where these dollars actually get spent would shock many South Australians.

The current process is outdated and where the funds are spent has no regard for where they derived from.

More often than not, funds are allocated to councils and projects that have the greatest capacity to deliver, rather than the greatest need for investment in amenity and infrastructure, an outcome that is largely the result of the matched funding criteria.

In fact, a large portion of the funds collected from suburban Adelaide are used to fund the State Government's regional projects.

Further, the formula and strategy for what is collected bears no resemblance to what already exists on the ground or is available to residents.

Every dollar contributed by homebuyers to open space should be spent on open space and more of it in the local area from which it was collected; on innovative projects that meet needs and deliver value for communities.

The incoming state government must stop using a dedicated open space fund to address other infrastructure investment or needs, including the redirection to fund the creation and implementation of the new 'Planning and Design Code' — despite the fact the state government collects millions of dollars in fees that should have been used to fund this project.

Challenge

Lack of strategic planning for coordination of open space

Councils should be planning strategically for open space in their area with clear objectives and coordination.

Currently, due to the short-term budget considerations of some councils, developers are requested or forced to make cash payments in lieu of open space.

Further, though inconsistent with the Green Adelaide Regional Landscape Plan and in conflict with creating more sustainable urban environments, instances of developers being instructed by councils to install concrete or hard surfaces rather than sustainable green landscaping so the council can avoid ongoing maintenance costs and obligations when the open space is divested to them, are becoming all too common.

The incoming state government must play a role in ensuring councils develop strategic plans, address the varying standards of open space across council areas, and ensure there is a coordinated approach across the greater metropolitan area.

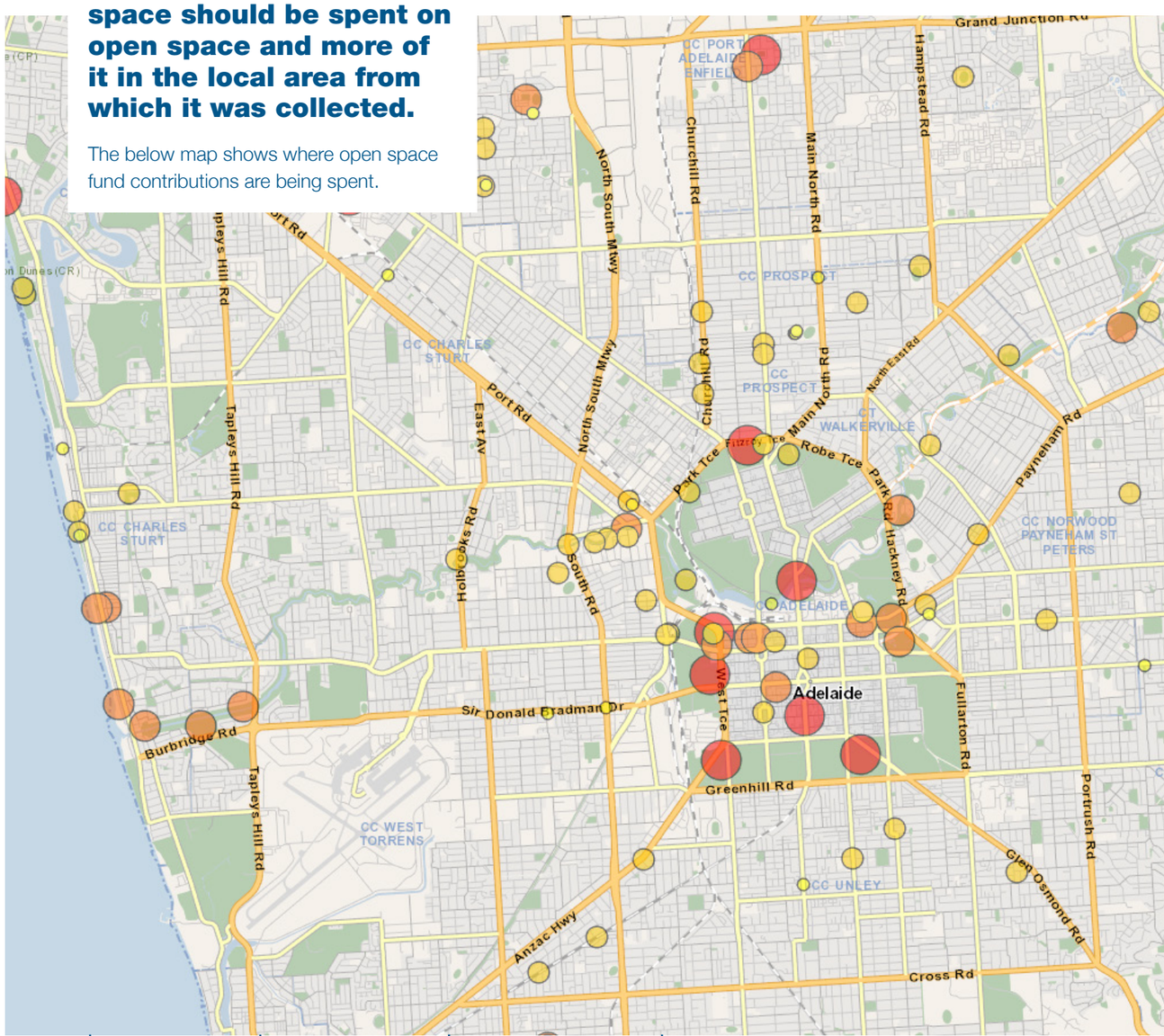
Better planning will benefit residents in the long term and maximise the contributions the developers make through their future investment decisions.

The framework should also provide flexibility to work with developers of large strategic infill sites so that developers can utilise the contributions in that development area, thereby benefiting the new residents and also those who live nearby.

Large strategic infill sites provide exciting opportunities to provide new, innovative and useable open spaces for surrounding residents, and by leveraging the investment by developers, even more can be achieved.

Every dollar contributed by homebuyers to open space should be spent on open space and more of it in the local area from which it was collected.

The below map shows where open space fund contributions are being spent.



Source

location.sa.gov.au

River Torrens Linear Park

Even though Linear Park is a stormwater management space, the River Torrens delivers an important visual amenity, environmental quality, micro-climatic impact and recreational value, regardless of an individual's inability to occupy the water body itself. Quality open spaces such as Linear Park should be considered as prime open space.

Many councils also impose a minimum open space size on the pretence that it is cheaper to maintain a few larger spaces than a larger number of smaller spaces. Sometimes this could resulting in nothing more than dry land grassed areas that are slashed by a ride-on mower twice a year.

The development of smaller areas of open space but to a much higher standard of usability and visual amenity should be our goal, to ensure that a greater number of residents are in closer walking distance to a reserve.

Challenge

Growth areas

In growth areas and larger sub-divisions, the development contribution of 12.5% of open space is often problematic due to the outdated framework.

South Australia needs a contributions system which dedicates open space funds to the area in which they are collected and recognises the contemporary ways in which multipurpose open spaces can provide valuable amenity.

Currently, councils typically discount the contribution value of open space where it has a dual use, for example open spaces with stormwater detention facilities. This is the case notwithstanding there are numerous examples of successful combinations of open spaces and stormwater management throughout metropolitan Adelaide, where storm water infrastructure, such as storm water retention and detention basins, can provide strong local aesthetic amenity, recreation and biodiversity opportunities.

With more innovative and alternative uses recognised as legitimate and desirable uses of open space, not only can our suburbs feature better quality spaces, but also improve housing affordability.

Read the UDIA Submission to Parliament of South Australia Natural Resources Committee for the Inquiry into urban green spaces, on the UDIA website.

The UDIA provided a list of important factors that should be considered how these contributions need to be spent.

Smaller ‘pocket reserves’ can be designed and delivered with sustainable maintenance in mind when considered as part of a broader integrated open space scheme.

Penneys Hill Estate, Hackham

Recommendations

R4. Facilitate better urban amenity and accessibility by committing to reviewing and reforming operation of the Planning and Development Fund and open space contributions to create a fairer, more flexible and effective system that is reflective of contemporary development trends including:

a. The requirement for each council to develop and publish an open space strategic plan outlining the objectives, maintenance and investment plans approved by the state government.

b. State government to develop a metropolitan wide open space plan encompassing each council area.

c. Clear and transparent reporting of all open space contributions made to the Planning and Development Fund and expenditure from it annually by post code.

d. Mechanisms for more contributions made to the open space fund to be accessible for use in the areas collected for a wider range of uses.

e. Repealing parts of the PDI Act to prohibit the use of open space contributions for departmental systems or operational expenditure.

R5. Reviewing and reforming the operation of the PDI Act and regulations to create a fairer, more flexible and effective system reflective of contemporary development trends in new development areas that:

a. Incorporates all open space uses into the 12.5% contribution at 100% value towards that open space contribution, where the land can be demonstrated to have one or more of a revised list of open space values such as those identified earlier.

b. Restricts the ability to impose unreasonable minimum open space areas on individual reserves by recognising within the Planning and Design Code the multiple uses and sizes of reserves required to serve a multitude of functions, where the quality and functional relevance of the space can be demonstrated.

c. Recognises the value of landscaped streetscapes and urban plazas as major contributions to urban amenity which should form part of the contribution towards open space.

Better and more community infrastructure

A key component of successful growth is the provision of infrastructure.

To successfully grow our population and economy, much more work on planning and increased investment for trunk infrastructure, roads, stormwater and public transport is required. Without it, our liveability is at risk.

Challenge

The missing middle of infrastructure

At a local level, developers deliver transport, social and environmental infrastructure, some even provide schools and childcare facilities, retail precincts and medical services — they are rising to the challenge.

State and Federal government partnerships provide much of the major infrastructure such as expressways. For some areas in the north that are booming (much like Angle Vale), it's no surprise the Northern Connector and Northern Expressway have played a crucial part in that.

The biggest challenges we face are what might be described as the 'missing middle of infrastructure'. It's the type of infrastructure joining suburbs and communities together and it has been overlooked.

Currently, developers fund and build vast amounts of infrastructure, while state and local government infrastructure such as connecting roads and schools are frequently lagging — often not built until there is a public outcry or call for it.

The infrastructure challenges we face are symptomatic of an absence of a coordinated vision and the sharing of responsibilities between state and local government — which usually means that no one takes the lead with blame shifted to the development sector.

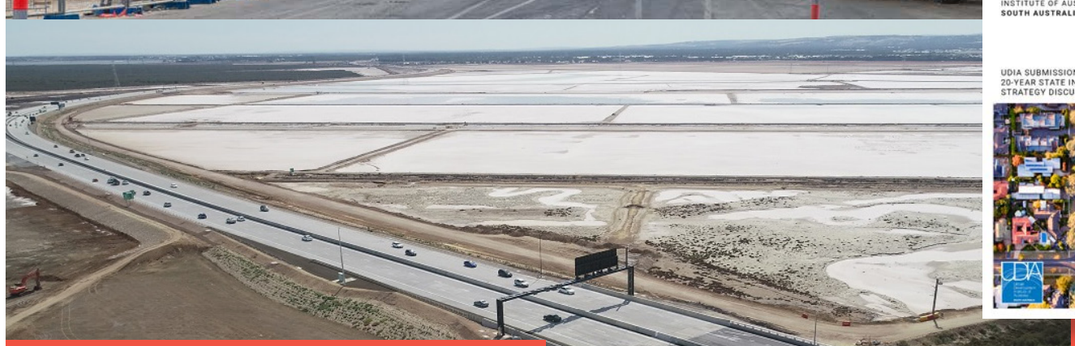
The PDI Act and other pieces of legislation are deficient in this area, both in the identification and measurement of what is required and the different views of councils about the infrastructure they require.

An added problem is that Infrastructure SA has not made this a key area of focus and is also relying on an under resourced State Planning Commission take the lead.

With more strategic leadership, planning and emphasis on a coordinated approach, the incoming state government can invest in this infrastructure upfront and with more confidence.

King William Road redevelopment

The Northern Expressway and the Northern Connector have been game-changers in terms of developments being able to occur in those areas.



In time, different developments in the north will become connected suburbs and government must take the lead. People in growth areas like the north of Greater Adelaide are no less entitled to access to public transport, good schools and other infrastructure than anyone else.

Read the UDIA 20-Year State Infrastructure Strategy Discussion Paper submission

Challenge

Cost of essential utility infrastructure

Similarly, a corporatised and privatised provision of trunk infrastructure through regulatory regimes that are governed by different legislation does not allow for the best coordination, pricing and efficient delivery of key infrastructure for an innovative urban development.

In addition to state and local government infrastructure, it is critical that we revisit third party access rules for all essential infrastructure. If South Australia is to have a user pays system, it cannot exist in the absence of competitive alternatives to lower costs for developers and ultimately consumers.

A future state government should commit to the bring all these disparate interests together so that efficiencies can be unlocked and more and better infrastructure can be delivered.

Recommendations

B1 Include in the Infrastructure SA charter an increased focus to better recognise the relevance of urban development to the state economy and to consider a suite of infrastructure projects directly aimed at unlocking identified areas for growth.

B2 Create an Urban Futures Infrastructure task force that includes representation from Infrastructure SA, State Planning Commission, state government agencies, local government, utilities and the UDIA to investigate capacity analysis of essential infrastructure in the greater metropolitan areas for both infill and growth areas to unlock areas for growth.

B3 Develop agreed terms of reference for an independent review of competition and pricing mechanisms related to core urban development infrastructure and consider amending third party access arrangements and/or state government guidelines to increase efficiency of infrastructure delivery and improve housing affordability.

B4 Within 12 months of election, review and reform all legislative mechanisms that guide infrastructure access, standards, levels of competition and pricing related to urban development by state and local government.

2019 UDIA Infrastructure Roundtable

As a thought leader on this issue, the UDIA called for a more collaborative and coordinated utility infrastructure delivery strategy for South Australia in its Grow Reform Build platform released in early 2018.

This call was also made in the context of the legislative requirements under the Planning Development and Infrastructure Act that requires the State Planning Commission to report on land supply.

Stop taxing production of housing

The more supply of housing provided, the lower prices are kept and housing affordability is improved. That's why it is important to do all we can to ensure the development process and environment for business is as efficient as possible.

Challenge

Create environment that supports more efficient delivery

Read the UDIA Submission to Parliament of South Australia Natural Resources Committee for the Inquiry into urban green spaces, on the UDIA website.

The UDIA provided a list of important factors that should be considered how these contributions need to be spent.

Along with a myriad of risks and other challenges in the development process, one factor impacting the supply of housing is the imposition of land tax on developers if they hold stock unsold as at 30 June.

Most developers are not long-term landowners that receive rent, however they are treated as such so charges are passed on to home buyers as part of the sale price.

The current system discourages developers from developing large land holdings which can impact supply through certain parts of the year. It means developers are forced to produce smaller stages and stop operating as efficiently as they otherwise could, leading to higher prices. In some cases, it means a total halt to production — the consequence if they don't is to raise prices.

A consumer could end up paying an additional $4,000 as a result — an amount that gets added to the price and generally the value of a mortgage. When one considers that this is borrowed by the homebuyer for the life of their loan, the cumulative effect to that homeowner is massive.

In a report prepared by the South Australian Centre for Economic Studies, an independent analysis was completed around the operation of land tax and impacts on the development sector. The report recognised the issues faced by the development sector and made specific recommendations that land tax exemptions should exist for the development sector.

State government schemes exist in both Queensland and Western Australia recognising this very fact and providing mechanisms to address it. We are calling on an incoming South Australian government to implement a sensible reform that does not discourage the production of new housing.

Recommendation

B5 The UDIA calls on a new state government to introduce land tax exemptions for recently created titles held by developers as trading stock that remain unsold as at 30 June.

Recommendation Summary

Grow

G1	Create and fund a cross-government task force led by the State Planning Commission with representation from the building and development sector to develop a new housing affordability and ownership action plan.
G2	Allocate responsibility and accountability for housing affordability and liveability across all government ministerial portfolios.
G3	Incorporate a Housing Affordability and Sustainability Impact Statement into all relevant Cabinet submissions to ensure cost impacts of new policies on consumers are minimised.
G4	Implement a continuing requirement for a State Government review of the cost impact of all policy decisions on construction and development standards.
G5	Create focus on housing affordability and ownership by considering appropriate amendments to the Planning Development and Infrastructure Act 2016 and associated regulations.
G6	Commit to an investigation of economic reform for the provision of housing in South Australia including: a. The development of a regulatory impact statement on all fees, charges and regulations related to the provision of housing b. A transitionary pathway to reducing reliance on inefficient taxes and charges c. Options for the deferral of up-front taxes and charges for consumers to improve affordability d. Immediately abolishing stamp duty on all new residential, owner occupier, off the plan housing construction below the median house price to improve affordability and increase housing supply.
G7	Commit to a moratorium on new value capture taxes and charges.
G8	Commit to a moratorium on new or changed inclusionary zoning policies without engagement and agreement of the development sector.
G9	Invest in the development of a new real time electronic urban development monitoring tool in partnership with the UDIA, to improve state-wide planning for growth, liveability and affordability, and encourage increased private sector investment.
G10	Develop a new 30-Year Plan for Greater Adelaide[17] by establishing a tripartite (local and state government and private developer) task group to develop terms of reference and coordinated with infrastructure capacity (see recommendation B1).
G11	Implement recommendations provided to the State Government and State Planning Commission in response to the recent Environment and Food Production Area review and in particular: a. Ensure Regional Plans for Greater Adelaide is premised on multiple scenarios and builds in appropriate growth opportunities in locations which are sought by the market. b. Address the over reliance in housing supply of single dwelling subdivisions and instead proactively and urgently increase land supply in market responsive locations including greenfield and large-scale brownfield areas.
G12	Independently review the operation and effectiveness of the new PlanSA e-Planning system and its impact on affordability through consultation with the development sector, councils, and utilities.

17 Referred to regional plans under the PDI Act.

Recommendation Summary

Reform

R1	Enforceable guidelines are implemented so that: a. Developer contributions are fit for purpose and relate to the development project in question b. Genuine competition and best pricing principles address monopolistic behaviour.
R2	State and local government agency requirements (including utilities) can be reviewed and contested to ensure that they are not cross subsidising other activities unrelated to the development.
R3	Contributions already collected by state and local government must be reported and audited annually with detailed plans and timeframes for their use.
R4	Facilitate better urban amenity and accessibility by committing to reviewing and reforming operation of the Planning and Development Fund and open space contributions to create a fairer, more flexible and effective system that is reflective of contemporary development trends including: a. The requirement for each council to develop and publish an open space strategic plan outlining the objectives, maintenance and investment plans approved by the state government. b. State government to develop a metropolitan wide open space plan encompassing each council area. c. Clear and transparent reporting of all open space contributions made to the Planning and Development Fund and expenditure from it annually by post code. d. Mechanisms for more contributions made to the open space fund to be accessible for use in the areas collected for a wider range of uses. e. Repealing parts of the PDI Act to prohibit the use of open space contributions for departmental systems or operational expenditure.
R5	Reviewing and reforming the operation of the PDI Act and regulations to create a fairer, more flexible and effective system reflective of contemporary development trends in new development areas that: a. Incorporates all open space uses into the 12.5% contribution at 100% value towards that open space contribution, where the land can be demonstrated to have one or more of a revised list of open space values such as those identified earlier. b. Restricts the ability to impose unreasonable minimum open space areas on individual reserves by recognising within the Planning and Design Code the multiple uses and sizes of reserves required to serve a multitude of functions, where the quality and functional relevance of the space can be demonstrated. c. Recognises the value of landscaped streetscapes and urban plazas as major contributions to urban amenity which should form part of the contribution towards open space.

Recommendation Summary

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	B4	Within 12 months of election, review and reform all legislative mechanisms that guide infrastructure access, standards, levels of competition and pricing related to urban development by state and local government.
	B5	The UDIA calls on a new state government to introduce land tax exemptions for recently created titles held by developers as trading stock that remain unsold as at 30 June.

Sources

Page	Source	Source Link
14	sa.gov.au	*https://www.sa.gov.au/topics/planning-and-property/researching-a-property/median-house-sales-by-quarter*
15	sa.gov.au	*https://www.sa.gov.au/topics/planning-and-property/researching-a-property/median-house-sales-by-quarter*
15	Australian Government Productivity Commission Industry report — First Home Ownership, March 2004	*https://www.pc.gov.au/inquiries/completed/first-home-ownership/report/housing.pdf* chapter 1, page 3
17	2021 Demographia International Housing Affordability	*http://www.demographia.com/dhi.pdf*
17	CoreLogic	*https://news.anz.com/content/dam/news/articles/2021/November/ANZ_CoreLogic_Housing_Affordability_Report_2021_Final_lr.pdf*
19	2021–22 State Budget	*https://www.statebudget.sa.gov.au/budget-papers/2021-22-Budget-Statement.pdf*
23	Grattan Institute	*https://grattan.edu.au/wp-content/uploads/2018/03/901-Housing-affordability.pdf*
26/27/28	Land Supply Report for Greater Adelaide, Plan SA	*https://plan.sa.gov.au/state_snapshot/land_supply/land_supply_reports_for_greater_Adelaide*
35	location.sa.gov.au	*www.location.sa.gov.au/viewer*

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