

Housing and Urban Development (Administrative Arrangements) (Urban Renewal) Amendment Bill 2013
LGA Proposed Amendments Table
21 June 2013

Issue	LGA Comments	Amendment Sought by the LGA
Role and Functions of the URA	There has been some consolidation of the list of Urban Renewal Authority (URA) functions currently outlined in the Regulations. The LGA considers a key and essential function of the URA to be collaboration, cooperation and negotiation with Councils and given its importance to delivering good planning outcomes, we expect to see this specifically reflected within the Bill. This would send a positive message to Councils about the value the URA places on their contribution and will foster strong, positive working relationships. Removing references to Councils will send the contrary message.	Inclusion of Regulations 6(1)(f), (i) and (k) from the <i>Housing and Urban Development (Administrative Arrangements) (Urban Renewal Authority) Regulations 2012</i> in the 'Function of the URA' outlined in Clause 7C of the Bill.
Criteria for Establishing a Precinct	The purposive criteria outlined in the Bill are so broad that it does not create a clear distinction between when a precinct process should be used in favour of the existing processes under the <i>Development Act 1993</i> .	If it would be too limiting to prescribe criteria for when the Urban Renewal Act would be an appropriate vehicle for planning and delivery of development, perhaps consideration could be given to outlining the circumstances in which it should <u>not</u> be used.
	Councils have noted that despite being named the 'Urban Renewal Bill', the proposed process would also have applicability in fringe growth areas by definition of 'redevelopment of a distinct area that promotes the purposes of the Planning Strategy'. It is also noted that the legislation may also be used in regional areas of the State. As such, it is probable that the title of 'Urban Renewal' is not the most appropriate	Rename the Act the ' <i>Urban Renewal and Precinct Development Act</i> '.
	To allow for a thorough assessment to be made of a proposal to establish a precinct, a proponent should be required to prepare a business case in support of the establishment of a precinct. This would be a statutory	Prescribe in Regulations the process and detail required for a Precinct Proposal Business Case, which would include: <ul style="list-style-type: none"> • the scope and objectives of the proposed precinct development;

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	<p>application process similar to the a current Statement of Intent required to initiate a Development Plan Amendment.</p>	<ul style="list-style-type: none"> • a clear outline of the reasons that the precinct planning process will result in a better planning outcome than the use of the Development Act 1993; • an assessment of how the proposal is consistent with the Planning Strategy; • an assessment of how the proposal is consistent with the Section 30 Strategic Directions Report of any relevant Councils; • the potential social, economic, heritage and environmental impacts of the proposed precinct development; • a strategy for resolving or limiting any negative impacts the development might have on the defined precinct and the surrounding communities or areas; • an assessment of the economic viability of the proposes precinct development, including an analysis of the current and future market demand for the type of development proposed; • the role the precinct authority intends to play in servicing the development; • an indicative timeframe for the revocation of the precinct authority and hand over arrangements; and • a preliminary outline of the physical and social infrastructure (including transport) that would be required to support the proposed development.
<p>Appointment of a Precinct Authority</p>	<p>Some important questions have been raised in relation to how a Council would be structured as a precinct authority. For instance, would the entire Elected Body be appointed as the Board, or would Board opportunities be made available to employees or independent experts? When an Elected Member also serves on a Council Development</p>	<p>Include a Clause or Regulation that would clearly establish arrangements for a precinct authority relating to role, functions, reporting, conflict of interest, accountability to Government, accountability to community and other governance issues.</p>

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	<p>Assessment Panel, a clear distinction is made between their role as a Panel member and their role under the <i>Local Government Act 1999</i>. Further consideration needs to be given to the interaction between the <i>Urban Renewal Act</i> and the <i>Local Government Act</i> in relation to the roles and responsibilities of an Elected Member.</p>	
	<p>Further consideration is also required of how a precinct authority would be structured in the likely event that two or more Councils jointly apply to be appointed as the authority.</p>	<p>Relevant amendments to the Bill or Regulations to provide clarity of these arrangements.</p>
	<p>The LGA agrees with the Government that precinct planning processes should not be opened up to private sector applicants. We also agree that statutory powers should only be exercised by a public authority accountable to elected officials. Notwithstanding, it is not clear whether the Bill would actually prevent the private sector from acting as a precinct authority or having direct influence on a precinct authority in a joint venture arrangement.</p>	<p>Relevant amendments to Bill or Regulations to appropriately limit private sector influence on precinct planning processes, without restricting potential for joint venture arrangements.</p>
<p>Consultation Processes</p>	<p>The broad powers available to a precinct authority to amend Development Plan policy, certify complying planning approval and make important service delivery decisions warrant a reasonable standard of consultation, regardless of the scale of development.</p>	<p>The Bill (or Regulations) should prescribe minimum consultation requirements that can be 'scaled-up' for large developments, rather than standards that are vulnerable to manipulation by being 'scaled-down'.</p>
	<p>The <u>requirement</u> for a Community Reference Panel to be established and the role and composition of such a group needs to be further considered.</p>	<p>Prescribe the requirements for a Community Reference Panel and Design Review Panel in Regulations.</p>
	<p>Membership of the Community Reference Panel needs to include local businesses and institutions in addition to residents. This will provide for more balanced representation of local issues.</p>	

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	<p>The same applies to a Design Review Panel.</p> <p>It is imperative that relevant Councils are represented on a precinct authority or the consultative panels or committees it establishes. The LGA would like to reinforce the value that Councils bring to the table through their close connection to local communities and detailed knowledge of local issues. Development outcomes will be adversely affected if this connection is lost through the precinct planning process</p>	<p>Relevant amendments to the Bill or Regulations to require Councils to be represented on a precinct authority and any committees it establishes.</p>
<p>Handing Over Arrangements</p>	<p>Hand over arrangements are by negotiation between the precinct authority and the Council. These negotiations should occur during the planning process and an agreed hand over plan, including an agreed timeline and funding arrangements should be required as part of the Precinct Implementation Plan. This should be required in the Bill and the detail of what needs to be included in this agreement can be a matter that is subject of Regulations.</p>	<p>The matters to be considered as part of a precinct implementation plan should be prescribed in Regulations and include an agreed hand over plan between the Council and the precinct authority (if the Council is not the precinct authority).</p> <p>Provisions for what should be included in a hand over agreement should also be provided in the Bill or Regulations.</p>
	<p>The Bill needs to better contemplate what would happen in the event that the Council does not agree to accept ownership and management of an asset. There is considerable potential for this to occur if the development proceeds without due regard to the views of the relevant Council and is a likely consequence of inadequate 'scaled down' consultation processes. Revocation of a precinct authority can not be permitted without a hand over agreement.</p>	<p>Relevant amendments to the Bill or Regulations to address this issue.</p>
	<p>There is no 'sunset clause' which would wind up a precinct authority of its obligations after a period of time. Given this creates an indefinite period of responsibility, who would be</p>	<p>Relevant amendments to the Bill or Regulations to address this issue.</p>

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	responsible for managing a precinct if the URA ceased to exist or Council boundaries were changed? It is important to take this long term view to avoid future issues.	
Community Housing Development	<p>Community Housing Associations are entitled to a mandatory 75% rebate on Council rates. Since this legislation was introduced in 2009, the LGA has been made aware of the significant growth in the numbers of eligible Housing Associations seeking to gain access to the rebates. Consultation with Councils indicated that the total value of rebates increased significantly from the 2010-11 year to the 2011-12 year. For the 37 respondents the total value increased from \$1.045m to \$1.653m, an increase of \$0.608m (58%).</p> <p>We raise this in the context of this Bill because the recent spate of announcements about community housing projects and housing affordability programs have created an assumption that community housing development could be a significant feature of precinct planning processes. If this is the case, the Government needs to be aware that Councils may be extremely reluctant to take over ownership and control of assets in these precincts given the financial impacts of providing a full range of services with a significantly reduced rate base.</p>	Amendments to the Bill or Regulations to provide an exemption for the mandatory Community Housing rebate to apply within a precinct and for this exemption to be continued following the revocation of the precinct plan.
Servicing	The Bill needs to better contemplate how a precinct would be serviced during the life of the precinct authority. A clear servicing plan should be developed as part of the Precinct Implementation Plan which outlines who is providing the services, who is paying for the service, who is collecting the revenue and how the revenue is being collected (rates, levy service charge etc.). This should be required in the	<p>The matters to be considered as part of a precinct implementation plan should be prescribed in Regulations and include an agreed servicing plan between the Council and the precinct authority (if the Council is not the precinct authority).</p> <p>Provisions for what should be included in a servicing agreement should also be provided in the Bill or Regulations.</p>

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	Bill and the detail of what needs to be included in this agreement can be a matter that is subject of Regulations.	
	The LGA strongly advocates that the servicing of defined precincts be consistent with the level of service provided by the Council to the surrounding areas. Providing a higher or lesser frequency of service within a precinct is likely to establish an 'us and them' mentality between new and established communities and hinder negotiations on hand over arrangements. A serving plan needs to be developed in consultation and agreement with the relevant Council.	Relevant amendments to the Bill or Regulations to require consultation and agreement with the relevant Council on a servicing plan.
	In relation to waste collection, the LGA is of the view that the Public and Environmental Health Regulations 2006 compel metropolitan Councils to provide a weekly kerbside waste collection to residential properties. This legislation will need to be reviewed if it is intended that a precinct authority could take responsibility of waste collection.	Relevant amendments to legislation to grant an exemption for Councils to offer a weekly kerbside waste collection in precincts where the precinct authority has taken responsibility for waste collection services.
Financial Impacts on Local Government	The LGA is satisfied that a precinct authority may need revenue raising powers to recover the costs of high amenity precinct development. However, we remain firm on the view that any revenue raised by the precinct authority should be <u>in addition</u> to the ordinary rates collected by the Council. It may be argued that while the precinct authority remains, the Council would have a reduced service provision role within a precinct, as the authority might be maintaining the roads, parks and gardens, collecting the waste and providing public lighting etc. However, even in the event that the Council has no service provision role within the precinct, there is still an expectation that the Council will provide and maintain services that directly benefit the residents of the precinct,	Relevant amendments to the Bill or Regulations to address this issue.

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	<p>such as access roads, sporting facilities, libraries, public spaces, community events, social inclusion services. The LGA submits that taking funding away from the services currently enjoyed by the broader community is not the way to achieve harmonious urban renewal.</p>	
	<p>If there is sufficient evidence to support the payment of rates to the precinct authority in place of Councils, a clear mechanism is needed that would require the precinct authority to provide an adequate level of funding to the Council to cover the costs of delivering services both within and external to the precinct that deliver a direct benefit to precinct residents.</p>	<p>Relevant amendments to the Bill or Regulations to address this issue.</p>
	<p>The Bill needs to better describe the level of consultation required with the relevant Council prior to the conferral and exercise of a statutory power that will have a short or long term impact on Local Government. Clear expectations for consultation requirements should be subject of Regulations.</p>	<p>Relevant amendments to the Bill or Regulations to address this issue.</p>
	<p>The precinct authority should be required to prepare a public report outlining the reasons that it has departed from the advice of the Council in relation to the exercise of a statutory power and provide an assessment of the impact of this decision.</p>	<p>Relevant amendments to the Bill or Regulations to address this issue.</p>
<p>Detail of Precinct Plans</p>	<p>The LGA agrees that precinct plans will need to contain sufficient detail to justify the streamlined certification process and conferral of powers outlined in the Bill</p>	<p>Key matters required to be addressed in the Precinct Master Plan and Implementation Plan should be prescribed in Regulations. This may include, but not be limited to, transport and traffic management, agreed servicing plan, agreed hand over arrangements, infrastructure provision plan and infrastructure funding agreements and construction and staging timeframes. The Regulations should also outline the matters that must be included within these agreements.</p>

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Transitional Provisions	The LGA understands the intent of the transitional provision provided within the Bill. It will enable existing projects such as Bowden and Tonsley to utilise the precinct arrangements without having to repeat consultation processes that have already been undertaken. However, the wording of this Clause does not align with this intent. The LGA strongly recommends this Clause be amended to reflect the actual intent and prevent future criticism of a precinct authority unfairly or unreasonably bypassing consultation processes.	If the Government is to pursue this, projects to which these transitional provisions would apply should be prescribed.

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