



Local Government Association
of South Australia

Expert Panel on Planning Reform Ideas for Reform

Submission



Introduction

The Local Government Association of South Australia (LGA) recognises the significance of the Expert Panel on Planning Reform's review of the South Australian planning system. There is an appetite for positive reform within the Local Government sector and Councils have entered into discussion about the future of the planning system with willingness for legislative, practice and cultural change.

The LGA has experienced a good level of engagement with the Panel during the 18 months leading up to the release of the 'Ideas for Reform' report. The views of Councils were adequately represented in the Panel's 'What we Have Heard' report and the LGA's response to that document was well received by the Panel. In that submission, the LGA outlined the following 13 Planning Reform Objectives, which have been used to assess the suitability of the Panel's reform ideas. Refer to Appendix 2 for an overview assessment of the reform ideas against these objectives.

Accessible

- Policies and processes are clear and consistent, resulting in equity, fairness and certainty.
- Opportunities for public participation in the planning system are clear, with an emphasis on influencing outcomes at the strategic planning and policy development stages.
- The pathways to development are clear and uncomplicated, with the level of assessment required matched to the level of risk of impact associated with a development.
- The appeal and review process is timely and cost effective and compliance and procedural matters are principally resolved through a non-judicial process.

Integrated

- Planning policies and processes are underpinned by triple bottom line thinking, which balances the State's economic, environmental and social interests.
- Local Government works with the State Government to develop and implement an overarching planning strategy and to ensure that all major state and local policy documents are consistent with the strategy and with each other.
- The system promotes excellence in urban and built form which improves the health and wellbeing of communities. This is underpinned by decision makers having a high level of planning and design competency.

Accountable

- Decision making at all stages of planning is transparent and decision makers are held accountable for their performance by introducing fair and reasonable performance measures.
- The development assessment process is robust but is more efficient through the removal of red tape.
- Planning policy can be updated quickly and efficiently, with amendments that are not seriously at variance with the Planning Strategy taking no more than six months to be finalised from the date of lodgement.
- There is accountability in the planning policy amendment process through the introduction of performance measures and transparency through the introduction of an online 'tracking' system.

Local Involvement

- Local Government has primary responsibility for developing and updating the local elements of planning policy and the assessment of local impacts of all development proposals.
- Elected Members have a high level of engagement and influence in the development of local planning policy, which is used to make objective decisions about development outcomes.

To inform this submission, the LGA conducted a series of consultation workshops across the State to hear the views of Council Members, staff and Development Assessment Panel Members. Approximately 190 people from 55 Councils attended one of these sessions. The LGA has appreciated the Expert Panel's participation in Local Government consultation events. The submissions made by individual Councils are also extremely important in forming the Local Government position on the Panel's work.

This submission addresses each of the Panel's 27 reform ideas individually, but also recognises the interrelationships between the ideas. Key positions are summarised on pages 4-6. However, to gain a complete view of the LGA's position, the document must be read in its entirety.

The LGA has tried to be as detailed as possible in its feedback to the Panel. However, an 8 week consultation period has not allowed for detailed investigation of these significant reform proposals. The Panel should also be aware that this consultation has taken place during a Local Government Election period, which has impacted on the level of engagement. We will continue to engage with the Panel as we give further consideration to the detail of these proposals and how they could work for communities.

Support Indicators

Traffic light indicators are used throughout the document to provide a snapshot of the overall level of support for each of the lead reform ideas. A 'supported' indicator has been used when the majority of the ideas are considered to be workable and suitable. The 'negotiable' indicator where there is further work required on the detail of a proposal, including costs and funding. A 'not supported' indicator is used when the majority of the reform ideas are not considered to be workable or suitable.



The submission contains balanced discussion of both the positive and negative aspects of each idea and responds where possible to the Panel's key questions for feedback:

- Are these ideas workable or suitable?
- How can specific ideas be improved or modified?
- What costs, benefits or other implications should be panel consider?
- What other reform ideas should be considered?

To provide clear direction to the Panel on their deliberation on a final report to the Minister, the LGA has made recommendations about each of the reform ideas. In many cases these recommendations require the Panel to undertake further investigations and/or further consultation with the Local Government sector.

In many cases, the LGA's position on reform ideas may evolve following a thorough cost-benefit analysis or how an idea would be implemented by the State Government.

Key Positions

During Local Government consultation on the Expert Panel on Planning Reform 'Ideas for Reform' report, there were several ideas and themes that consistently generated a strong level of discussion. These responses have been summarised below as the LGA's Key Positions. Refer to Appendix 1 for a summary of all LGA positions.



State Planning Commission (page 7)

There is general support for the concept of a State Planning Commission to improve coordination and consistency across Government and refocussing the role of the Minister. This support is subject to the Government and Minister trusting and empowering a Commission to independently perform its functions and being funded by the State Government.

An efficient and empowered State Planning Commission, which establishes collaborative and respectful relationships with Councils, may replace the needs for Regional Planning Boards, particularly in the metropolitan area which is not challenged by distance from a central decision maker.



Regional Planning Boards (page 10)

The idea of introducing regional planning structures warrants further investigation as it is acknowledged that there are greater opportunities for genuine collaboration and consistency between State and Local Government by operating at a regional level. The role and function of a Regional Board should result in greater input by Councils in strategy and policy decisions and not replace local planning processes that are undertaken in consultation with communities.

Detailed investigation about costs, apportionment of funding responsibilities, definition of boundaries, roles and functions, composition and appointment of members, accountability and overall efficiency of a regional model is required.

Implementation of this reform idea cannot be rushed and must not occur without a strong business case in support of the efficiency and effectiveness of a regional planning structure.



Reshaping Documents on a Regional Basis (page 21)

The idea of regional plans that improve coordination between strategy and policy and better integrate land use planning with infrastructure, public health, transport, environment and other related plans has some merit.

However, the Panel cannot underestimate the importance to communities of retaining local variation in regional planning documents. Further consideration of the potential costs, benefits and practicality of Regional Development Plans is required.



Make Changing Plans Easy, Quick and Transparent (page 29)

Ideas to improve the efficiency of policy and zoning amendments are strongly supported.

There is some caution about opening up the rezoning process to private land owners, however this may be managed by a business case or statement of justification and formalising the current third-party funded DPA process, which is ably managed by Councils.



Adopt Clearer Development Pathways (page 31)

Investigation of the most appropriate and sensible way to rationalise the proportion of development applications requiring a full merit assessment is broadly supported. This process should commence with a cross-sector examination of the poor implementation of the Residential Code.

Work should be undertaken to better describe the expectations of communities in different locations about the level at which different types of development should be regulated

Introducing a prohibited development category is supported as a way of introducing greater certainty for community and developers.

Expanding the role of private certifiers is not supported.



Take the Next Steps towards Independent Professional Assessment (page 38)

Introducing mandatory Regional Assessment Panels in place of Council appointed Panels is not supported. The LGA suggests an alternative structure where a Regional Panel of Independent and Council members is brought together on a needs basis to deal with regional major projects and regional infrastructure. Council DAPs would be retained.

Elected Members add value to the assessment process and there is an ongoing role for appropriately trained Elected Members to remain on the Assessment Panels. Data regarding approval rates and successful appeals does not support the need for change.

The registration and accreditation of planning professionals is a good idea, but requires further thought regarding costs and skill attraction.



Aim for Seamless Legislative Interfaces (page 54)

Creating a role for Councils in issuing minor statutory permits and approvals needs to be further investigated to ensure this could be resourced with funding and expertise. Councils remain wary of cost shifting.

Improving the efficiency of the statutory referral process is supported, but Panel also needs to consider the referral process from a risk-management and perspective. Specialist technical advice and direction is extremely valuable in quality decision making.

The Government must consult with Councils on the review of the statute books- assessment officers will be in a position to provide a significant number of examples of duplication and inconsistency



Adopt a Rigorous Performance Monitoring Approach (page 59)

The LGA supports a performance monitoring approach that measures and reports on the 'health' of the planning system and introduces greater accountability for all decision makers

Caution should be taken in recommending sanctions or incentives based on performance as there is potential for unintended consequences.

General Feedback

- The implementation of the Panel's ideas would require the introduction of a new Act, rather than amendments to the current Development Act and Regulations.
- The Panel's final report to the Minister must be made public and the Minister should prepare a detailed written response to the Panel's recommendations and a proposed implementation plan, which includes further consultation with Local Government.
- The idea of having a Citizen's Jury to assist with the implementation of planning reform has been suggested.
- The Panel should consider a 'Code of Practice' or Guidelines for the appointment of independent members to public planning bodies, which would include parliamentary oversight.
- The Panel's report outlines that a number of 'layers' would be introduced with Parliament, Minister, Commission, Regional Boards and Councils all playing various roles in decision making. There is concern about the combined impact on efficiency and resourcing.
- A comprehensive economic analysis of the Panel's proposed planning system should be undertaken and compared to the costs of the current system.

Reform Idea 1- Establish a State Planning Commission



Supported

Summary of the Reform Idea

This reform seeks to create an independent statutory body to provide leadership and governance across planning, development and infrastructure activities to foster a sense of distance from political arenas.

The Panel recommends the establishment of a State Planning Commission, which would have the following functions:

- providing high-level advice to the Minister and Cabinet on planning, provision of infrastructure and services, urban renewal and related issues; making its advice publicly available wherever possible
- advising the Minister on planning policies and directions and in delivering state priorities
- administering the planning system, including coordinating and overseeing engagement practices, system performance and culture
- working with Councils and other government agencies to coordinate infrastructure and policies relating to planning issues.

The Panel recommends that the Commission would:

- include independent members (including an independent chair) with professional expertise and community standing together with senior officials from relevant government agencies
- be administratively supported by the department and report through the Minister to Cabinet
- subsume the roles of existing bodies such as the Development Policy Advisory Committee and the Development Assessment Commission and their sub-committees.

The Planning Minister would retain overall responsibility for the planning system and its direction.

LGA Response

Are these ideas workable or suitable?

The LGA generally supports the idea of establishing a State Planning Commission that is genuinely empowered by the Government to carry out its functions independently. Appropriate roles for a State Planning Commission include:

- Approval and systematic review of long term regional planning strategies (including land use, transport, infrastructure plans etc.)
- Approval of rezoning and planning policy proposals
- Development and updating of state-wide planning policy
- Preparation and enforcement of a Charter of Citizen Participation
- Assessment of development applications of genuine state-significance
- Monitoring and reporting on the overall performance of the planning system
- Registering accredited professionals
- Providing advice on state planning directions to the Government
- Reporting to Parliament

- Appointment of sub-committees to deal with specific matters such as Heritage and Building Rules

All of these activities should involve consultation with Councils and communities.

A requirement to make all advice provided by the State Planning Commission to the Government is supported.

How can specific ideas be improved or modified?

Critical to the success of this model is the appointment of members with the right knowledge, skills and attitude. Included in this skill mix must be Local Government, community engagement, and economic development. Personal attributes are also important and members should be well known for a high degree of integrity, fairness and positive working relationships.

There is some concern about appointments to a Commission being made by the Minister and the potential for biased or politically influenced membership. Refer to discussion below regarding the process of appointing members

During consultation sessions, the membership of senior public servants was commonly questioned regarding their independence from Government. The LGA does support an alternative model for achieving cross-agency collaboration, but asks the Panel to consider that the Government Planning and Coordination Committee (GPCC) comprising 17 State Government CEOs was short lived and ineffective.

As with the Western Australia Planning Commission model, members with metropolitan and regional Local Government expertise should be included in a South Australian model. The LGA Board should be responsible for resolving the nominations using its established process.

In addition to making all of its advice public, a Commission (and all other planning authorities) should be required to prepare a public report showing how input received through consultation process has been addressed in decision making. Minutes or meeting notes should also be kept and made public.

What costs, benefits or other implications should the Panel consider?

A State Planning Commission must be empowered to make decisions and not duplicate roles. The LGA would not support the establishment of a Commission that does not have independent decision making powers and merely duplicates or 'rebadges' current roles in the system.

The cost of establishing and administering a system should be investigated to ensure that its roles and functions can be funded by the State Government.

What other reform ideas should be considered?

Appointment of independent members to a State Planning Commission (or any other public office) must be merit-based and transparent to improve public trust and faith in the system. In the UK, an independent Commissioner for Public Appointments regulates, monitors, reports and advises on appointments made to national and regional public bodies. The Commissioner's principles and code of practice must be followed when making public appointments. In Canada, recommendations are subject to a review by a Parliamentary Committee before a final appointment can be made.

Recommendations:

- The Panel should include a State Planning Commission model in its final report to the Minister, taking into account the points raised in this submission
- Independent appointments to the Commission should be made by the Governor or Parliament and should meet strong criteria for skills and knowledge
- The Panel should consider recommending a 'Code of Practice' for appointing independent members to planning authorities and making these appointments subject to parliamentary scrutiny
- The membership must include contemporary Local Government experience
- The LGA Board should resolve at least two nominees to the Commission with metropolitan and regional Local Government experience

Reform Idea 2- Create a Network of Regional Planning Boards



Negotiable

Summary of the Reform Idea

The Panel recommends dividing the State into regions and establishing a network of Regional Planning Boards for each region as a more effective basis for integration of processes and pooling of resources between state and local needs. The Boards would be merged with existing regional bodies and used to promote integrated regional approaches to planning and related functions. This reform echoes several recommendations in the Local Government Association's *Local Excellence Expert Panel* report published in December 2013.

The regional planning boards are proposed to:

- include members representing Local and State government, with an independent chair appointed by the Minister
- work with Councils to coordinate planning functions in each region and deliver government policy directions with assistance from the state planning commission
- prepare regional strategies, approve Council rezoning proposals, undertake public hearings and other engagement, and appoint regional development assessment panels
- Be funded through co-contributions, as agreed by participating Councils and the state government.

In the metropolitan area, boards are proposed to be organised on a sub-regional basis. A central metropolitan sub-region is proposed to recognise the special role of the city centre and inner city area.

There will be flexibility in the system to establish boards for special areas or projects.

LGA Response

In responding to this idea, the concept of Regional Planning Boards has been considered and discussed separately from the concept of a Regional Assessment Panel. During the LGA's consultation, the distinction between these two ideas was not always evident and comments attributed the idea of a Regional Board were often more focussed on Assessment Panels. Refer to Reform Idea 15 for commentary on Independent Regional Planning Assessment Panels.

Are these ideas workable or suitable?

Formalising regional structures is a topic that has generated significant discussion within the Local Government sector, both in response to this report and the 'Council of the Future' report released in 2013 by the Local Excellence Expert Panel Report. Both of these reports have generated a dialogue about the potential merits of greater collaboration between State and Local Government at a regional level. There is a groundswell of qualified support for further investigation of a regionalisation concept, but a strong degree of caution that this model cannot be implemented without detailed examination, a strong cost-benefit analysis and testing. In essence, a compelling value proposition is required before Local Government can have a more comprehensive discussion about this idea.

However, the need for change is recognised. As discussed in the previous section, the LGA supports the implementation of a State Planning Commission as a priority reform. This would allow Councils to adjust to a new working relationship with the State Government through the Commission and to consider the need for, or potential role, for Regional Boards within this new governance framework.

The LGA supports the Panel's intent of improving collaboration between Councils and the State Government to improve integration and consistency of plans and policies. It is appreciated that a regional structure would give Local Government more involvement in decisions that are currently made centrally by State Government. However, Regional Boards may prove to be an over engineered solution. Existing regional structures (such as Regional LGAs) or 'fit for purpose' Committees and working groups established on a needs basis should be considered as potential models for achieving these objectives in a more cost-effective and flexible manner.

How can specific ideas be improved or modified?

The consultation period for this report allows only enough time for a superficial discussion about this significant package of reform ideas and at this stage there are more questions than answers regarding how this model might work. The LGA will further engage with the Panel on this matter during its deliberations, including sharing the outcomes of the Regional Planning Alliance project being undertaken by the LGA and South East Local Government Association to investigate a regional model for a planning authority.

Matters that need to be further investigated before Local Government can determine its view on this model are summarised below.

Defining Regional Boundaries

Regional boundaries would need to make sense in order to work. Possible ways of defining regions may include existing LGA, NRM or planning region boundaries. None of these options provide an ideal solution and 'a one-size-fits all' approach would be inappropriate. Criteria for defining a region may extend to geographic size, population size, environmental/topographic factors, number of development applications etc.

Often neighbouring Councils will have as many differences as commonalities. This is emphasised in examples such as Kangaroo Island, provincial cities surrounded by smaller rural Councils and peri-urban Councils. Establishing sub-regions to deal with different priorities and imperatives would not be a cost effective or efficient way of addressing this issue. No matter where boundary lines are drawn, regional plans are spatial expressions of policy and must be integrated with one another. The Commission would have a role to play in monitoring consistency.

Roles and Responsibilities

The LGA is concerned about introducing too many layers in the planning system and the impact this would have on efficiency and effectiveness.

If this model was implemented, the specific roles and responsibilities of individual planning boards may differ between regions as a new structure may be able to subsume the role of other existing Boards or Committees, subject to funding arrangements.

Subject to further investigation, potential planning roles to be undertaken as a regional collaboration include development and approval of regional planning strategies, approval of SOIs and some DPAs, assessment of major projects and applications of regional significance.

The LGA supports the opportunity to consider a broad range of functions being undertaken at a regional level, but is not interested in Local Government taking on poorly resourced functions that will increase costs.

Costs and Resourcing

Both State and Local Government are already under extreme pressure to manage their budgets and are not in a position to absorb additional costs to fund a regional model, or any other additional 'layer' in the planning system. Local Government is only interested in this model if it achieves improved efficiency and cost savings- this is yet to be proven.

Unfortunately Local Government has borne the burden of increased costs as State Government passes on a range of responsibilities. This has made Councils extremely wary of this reform idea regarding the sharing of costs between State and Local Government. The funding model must be fair and equitable and based on an agreed funding formula. Local Government is prepared to fund its reasonable share of the planning system, if it delivers positive outcomes for communities.

Composition and Appointment of Members

Further consideration would need to be given to the make-up of members and how they are appointed. There needs to be a mechanism to ensure that all Councils within a region have influence over decision making on strategy and policy. Regional LGA meetings may provide a forum for wider engagement, where Mayors and CEOs can bring and discuss their Council's endorsed position on a planning strategy or policy matter.

The composition of members may vary between regions based on the particular issues specific to the region and the mix of skills and knowledge needed.

Community Involvement & Accountability

The Western Australian model includes a 'community representative' on planning committees. This idea could be considered.

Local Government is highly accountable to its community. There is a view that communities would be distanced from decision makers in a regional model and that a bureaucratic Board is not accountable to the community as they cannot be 'voted out' for unpopular policy decisions.

If this model was adopted, the LGA would expect that the Regional Board is fully accountable for the decisions it makes and that Councils would not attract liability for these decisions.

What costs, benefits or other implications should the Panel consider?

A thorough economic analysis of establishing and administering Regional Boards (and their functions) needs to be undertaken before this idea can be further considered.

If the model is not well resourced, it will have been an expensive failure.

If a regional model was to be adopted, there must be alignment of regional boundaries across all State Government agencies and Local Government regions.

What other reform ideas should be considered?

If this reform was to move into an implementation phase, a transitional approach including an 'opt-in' pilot program would be favoured

Recommendations:

- The LGA and State Government should work together with Councils to further investigate the potential merit of a regional model, including a cost-benefit analysis.
- Detailed investigation about costs, apportionment of funding responsibilities, definition of boundaries, roles and functions, composition and appointment of members, accountability, liability and overall efficiency of a regional model is required.
- If this idea was to be implemented, a transitional phase in which the model is piloted should occur.
- The LGA will continue to engage with the Panel on this matter and share the result of current investigations as they become available

Reform Idea 3- Enact a Charter of Citizen Participation

Summary of the Reform Idea

The Panel recommends the creation of a statutory Charter of Citizen Participation to replace existing prescriptive statutory requirements with a flexible, outcomes-oriented regime, emphasising early engagement to help alleviate the confusion, frustration and disempowerment that the Panel has heard many people experience when engaging with planning processes.

The statutory charter of citizen participation is proposed to:

- replace existing prescriptive consultation requirements
- be based on leading engagement practices, such as IAP2 guidelines, and will set out principles, benchmarks and suggested approaches
- allow for flexible and tailored engagement and foster community debate in planning issues and outcomes
- encourage use of digital platforms and innovative engagement techniques, but for routine matters, it will provide a suite of standard consultation practices
- be developed by the state planning commission and subject to regular review to ensure it is up-to-date with leading engagement practices
- Be subject to the scrutiny that generally applies to subordinate legislation.

Agencies and Councils will be required to develop engagement plans, consistent with the charter, for planning processes such as a Statement of Intent for a Development Plan Amendment.

LGA Response

Are these ideas workable or suitable?

The LGA strongly supports initiatives to improve the engagement of the community in planning processes, particularly during the development of strategy, policy and structure plans. It is considered that a statutory Charter of Citizen Participation, with a requirement for tailored engagement plans, would result in stronger engagement in complex planning processes.

Broadening the range of recognised engagement techniques to include technology and community based mediums is supported.

How can specific ideas be improved or modified?

The Charter should include a minimum standard for consultation that will provide a 'safety net' for communities and ensure that a reasonable level of engagement will be undertaken for all planning processes.

With any 'scalable' process, accountability and transparency are critical. There should be an easy and efficient avenue for requesting a non-judicial review of an engagement plan if it is considered to be inconsistent with the Charter. This review should be undertaken at the 'next level up' from where the decision originated. For example, if an engagement plan was

endorsed by a regional authority, the review would be undertaken by the Commission; or if the decision was made by the Commission, the review would be undertaken by the Minister etc.

Consultation on development assessment matters should not be dealt with by the Charter as there is a need for procedural consistency and preparation and assessment of engagement plans would likely result in delays. Consultation on DA matters should continue to be prescribed in legislation. The exception may be Major Projects or complex high-value development proposals with broad public impact.

The effectiveness of engagement processes should be subject to annual review and adopted as a standard KPI for all planning authorities.

To encourage participation, people need to see in a clear way how their feedback has been taken into account. The Charter would need to address this by emphasising that genuine engagement is a two-way discussion.

What costs, benefits or other implications should the Panel consider?

Community engagement is an expensive exercise and this reform is likely to result in increased costs to State and Local Government. A balanced approach to developing the Charter should be taken. Engagement requirements must avoid being 'gold plated' and should be weighed against sample response rates and resourcing realities. To ensure that requirements are set at an appropriate level, the development of the Charter should involve Councils and the community.

What other reform ideas should be considered?

This reform idea should be implemented in conjunction with Reform Idea 14- Improving Consultation on Assessment Matters.

Councils are considered to be leaders in community engagement as they understand the demographics and expectations of their communities. Some Councils are interested in exploring a model where state and regional agencies (and possibly the private sector) engage the Council on a fee for service basis to manage their community engagement processes.

Recommendations:

- The Panel should include a statutory Charter of Citizen Participation in its final report to the Minister.
- In recommending this idea, the Panel must include measures to ensure accountability, transparency and cost effectiveness.
- A Charter of Citizen Participation should not be applied to Development Assessment processes (which should be improved through a separate suite of reforms).
- In conjunction with the LGA, the Panel should investigate the feasibility of Councils providing community engagement services to government agencies on a fee for service basis.

Reform Idea 4- Allow for Independent Planning Inquiries

Summary of the Reform Idea

The Expert Panel has proposed that there should be an opportunity to initiate an inquiry into a complex planning matter and have an independent panel of experts provide an apolitical, public report on how the tension should be resolved. It is envisaged that the planning commission, regional board, council or agency could initiate an inquiry, subject to a terms of reference and a prescribed process, which would operate an arm's length from state and local government.

Inquiry reports would be published and require decision makers to formally respond to their recommendations and findings. An Inquiry Panel would not be empowered to make arbitral decisions.

LGA Response

Are these ideas workable or suitable?

This reform idea is supported by the LGA if it applies to only the more significant matters dealt with through the planning system to resolve deadlocks and improve community confidence.

Examples of matters that may be appropriate for an independent planning inquiry might include:

- Justification for the use of a ministerial call-in power for a 'Major Project'
- A contentious or complex DPA applying to a large area
- A merits review of the assumptions or investigations that have informed a planning strategy (such as the 30 year plan)
- A review of the use of interim operation for a DPA
- A review of State Planning Directions

How can specific ideas be improved or modified?

To overcome concerns about the independence of the process, there may be potential to utilise the existing sessional Commissioners of the ERD Court, who are widely accepted as highly skilled independent professionals.

What costs, benefits or other implications should the Panel consider?

In the Victorian model, the planning authority which requests the inquiry covers the costs. The costs are summarised below (excluding GST):

- Senior Chair (\$444 half day rates), Chair (\$429 half day rate) and members (\$388 half day rates per member)
- Mileage (cents per kilometre) based on engine capacity of vehicle (Australian Taxation Office {ATO} rates); 0.65, 0.76 & 0.77 cents per kilometre

- Accommodation and meal rates (ATO); (depending on location)
- Venue hire and associated costs; (if applicable)
- Catering for the Panel during hearings
- Photocopying at 0.20 cents per page
- Parking or travel expenses incurred
- Senior Project Officer charges (if applicable)
- Panel administration charge 11%.

These fees may be cost prohibitive for many Councils to access this process.

What other reform ideas should be considered?

The LGA supports reform ideas to improve checks and balances and improve citizen's access to sensible reviews, inquiries and appeals.

Recommendations:

- The Panel should include an Independent Inquiry process in its final report to the Minister, subject to further investigation about the cost of this process.

Reform Idea 5- Make the Role of Parliament more Meaningful and Effective



Summary of the Reform Idea

The Expert Panel proposes to expand the oversight role of Parliament in relation to state planning policies, strategic planning and system-wide zoning rules. It proposes that Parliament would have greater purpose and impact during the development of these matters, rather than scrutinising individual Development Plans.

LGA Response

Are these ideas workable or suitable?

Reviewing the role of parliament in planning matters is generally supported by the LGA, in particular providing greater oversight on strategic directions and state-wide plans which set the parameters for other planning documents.

How can specific ideas be improved or modified?

Feedback was received during the LGA's consultation that the Parliament should continue to consider Development Plan Amendments to keep up to date with planning policy issues and maintain this level of oversight. It is expected that a Minister and a Commission would also be accountable to Parliament,

The Panel has acknowledged that the Environment, Resources and Development Committee have never disallowed a DPA. This may be a reflection of the membership of the Committee being controlled by a Government majority.

What other reform ideas should be considered?

The LGA supports reform ideas to incorporate reasonable checks and balances in the planning system.

Recommendations:

- The Panel is encouraged to consider changes to the membership of the Parliament's ERD Committee as an alternative way of making the role of Parliament more effective.

Reform Idea 6- Establish a Single Framework for State Directions



Supported

Summary of the Reform Idea

The Panel recommends the development of a suite of statutory whole-of-state strategic 'state planning directions' to inform strategic land use plans and enhance the alignment, coordination and implementation of government strategic objectives.

The new state planning directions are proposed to:

- replace the policy objectives currently set out in the planning strategy, and links to other strategic plans or policies providing a single point-of-reference for Councils and planners
- provide clear guidance to regional planning boards in the development of strategic plans for each region
- include high-level targets and policies and may be supported by guidelines, which could include a statutory urban growth boundary in the metropolitan area
- be approved by the Minister with the advice of the planning commission, who will oversee the suite of state planning directions; be responsible for consulting about any proposed changes and keeping them up to date; and consider proposals by Ministers and regional boards for new or changes to directions
- be implemented by Councils through local and regional planning documents; these would be the statutory documents against which development decisions will be made
- be regularly reviewed and subject to parliamentary scrutiny.

LGA Response

Are these ideas workable or suitable?

This reform idea is generally supported by the LGA, with the qualifiers that State Directions:

- reduce the layers of plans and documents, which is currently confusing and not well integrated
- are developed in collaboration with agencies and Councils and in consultation with communities
- have sufficient status to compel better alignment between Government agencies
- are simple documents and easy to access and understand

How can specific ideas be improved or modified?

There is some resistance within Local Government to the imposition of top-down directions which impact on the discretion that Councils have to manage some local issues. However, there is also a realisation that the State Government has been elected to manage state-wide issues and some matters require a state-wide response to ensure that regions and Councils are working towards a common goal. Strong intergovernmental collaboration on these matters is essential, but it is noted that Councils that are aggrieved by a State Planning Direction could initiate an independent inquiry.

What costs, benefits or other implications should the Panel consider?

Documents would be subject to regular review and changes could be initiated by numerous authorities. The flexibility to quickly respond to emerging issues and opportunities is important, but a 'shifting of the goal posts' means that related plans and strategies can struggle to keep pace with the changes. Significant resources would be required to continuously make the consequential amendments required to maintain consistency between Plans.

Recommendations:

- Requirements for collaboration between the State Planning Commission, Government agencies and Councils in the development of State Planning Directions needs to be built into legislation
- The Panel needs to consider how consistency and integration of plans and documents can be maintained while the high level state directions are continually being reviewed and updated.

Reform Idea 7- Reshape Planning Documents on Regional Basis



Negotiable

Summary of the Reform Idea

The Panel recommends formalising integrated regional plans based on whole-of-state strategic directions, as well as Council strategies, to ensure alignment of government's broad strategic priorities as these relate to each region.

This is proposed to be achieved by replacing the 10 parts of the Planning Strategy and the State's 72 Development Plans with a smaller number of integrated planning schemes based on regions, to be known as 'regional planning schemes'. Each scheme will consist of two separate volumes - a regional strategy and a regional development plan. Further volumes covering infrastructure and environmental issues could also be included in time. The initial regional development plan will consist of the existing Council development plans.

Special arrangements in the metropolitan area will recognise both the region as a whole and its sub-regions.

Regional planning schemes are proposed to:

- be developed and maintained by Regional Planning Boards, with Councils retaining the ability to initiate local changes
- be able to be amended by the Minister
- include flexibility to deal with sub-regional and cross-regional issues, through sub-documents such as structure plans
- be regularly reviewed and subject to parliamentary scrutiny
- be supported by a rolling implementation program developed by each regional board and linked to state and local budget processes.

Legislation will be required to allow regional strategic plans to incorporate infrastructure, environmental, public health and other issues rationalising duplicate requirements under other types of statutory plan.

Regional strategies and development plans will be subject to oversight and direction through the state planning commission. To ensure alignment with state policies and funding priorities, plans will require Ministerial agreement based on the commission's advice.

LGA Response

Are these ideas workable or suitable?

Positive aspects of this reform idea, which are supported by the LGA are:

- Creating a greater role for Councils in the development and monitoring of Regional Planning Strategies
- Greater community involvement in developing Regional Planning Strategies, both directly and through Elected Member representation
- A program to update Development Plans more efficiently when a Regional Planning Strategy is revised

- Development of Regional Planning Strategies within the region to which it applies (by a Regional Board or other negotiated structure)
- Incorporation of infrastructure, environmental, public health and other issues to improve integration and reduce duplication
- Opportunity for local variations to be included in regional documents

The benefit of providing greater consistency in strategic directions and planning policy is broadly recognised by the Local Government sector, subject to important qualifiers about Council and community involvement and sensible local variations that do not need to be hard-fought.

How can specific ideas be improved or modified?

The development of local strategic plans (Community Plans) and Section 30 Strategic Directions Reports is a very important interaction between Councils and their communities. Developing plans at the local level provides the best opportunity for citizens to participate in planning processes and develop faith and trust in the system (making it less adversarial). Some Councils already chose to undertake these processes on a Regional level, but the important factor is that every Council in the region is involved in the decision making process and community engagement is managed locally.

The LGA supports sensible checks and balances, but the proposed ‘layers’ of approval and oversight may lead to delays. It is considered that the role of the Planning Commission, Minister and Parliament should be limited to ensuring that Regional Plans are consistent with State Directions and other state and regional plans.

What costs, benefits or other implications should the Panel consider?

Many Councils are concerned about the practical implications of replacing local Development Plans with Regional Plans. Potential implications are:

- Without a thorough process of achieving positive alignment, consistency and rationalisation of policy, a Regional Development Plan would be cumbersome and difficult to navigate. This was strongly reflected by Councils that had experienced amalgamation.
- Following Council amalgamations, the process of achieving consistency of policy took many years and significant resources.
- Coordinating regional goals across individual Councils can be difficult and take time
- Conflict between standardisation and local variation- only a certain level of standardisation can be expected (matters such as height, density and design criteria should remain specific to a location)

The State Government should continue to fund the development and systematic review Regional Planning Strategies- there should be no shifting of costs to Local Government. Subject to negotiation and in exchange for greater influence, Local Government may be in a position to provide in-kind support through provision of expertise and management of community engagement processes. Local Government will retain funding responsibility for development of local plans and Council initiated changes.

What other reform ideas should be considered?

The mandatory content of a Regional Planning Strategy should be prescribed in legislation to ensure that important issues are consistently addressed. There should also be scope to include matters that are specific to the Region.

Recommendations:

- Development of Regional Planning Strategies in collaboration with Local Government is an idea that warrants consideration.
- Councils must retain the right to prepare local strategic plans and directions reports. Regional planning process must include all affected Councils in the decision making process and community engagement should be undertaken at the local level.
- Notwithstanding the Panel has suggested that local variations will be an important part of regional plans, further investigation is required about the extent to which local character and values can be reflected in regional documents. This may include the preparation of guidelines or clear criteria for acceptable local variations.
- If Regional Development Plans were to be implemented, it should not be done until individual Development Plans have been thoroughly reviewed for consistency and the specific local policy that should be retained.
- A thorough cost benefit analysis of this reform idea is required.
- There must be no shifting of costs to Local Government.

Reform Idea 8- Enact a consistent state-wide menu of planning rules

Summary of the Reform Idea

The Panel accepts the recommendation of the 2008 review that the number of zones must be reduced. It is proposed to replace the South Australian Planning Policy Library (SAPPL) with a statutory state-wide planning code containing consistent zones and planning rules, similar to interstate approaches.

It is recommended that the state planning code:

- be a single state-wide repository for planning rules applying to all forms of development, adaptable to address local issues, and which will be developed and maintained by the state planning commission, subject to consultation with Councils, the community and business sectors
- contain a comprehensive menu of zones, overlays and other spatial layers for application in local development plans across the state
- will be supported by design guidelines and standards with flexibility
- will include scope for local variations to ensure that zones and overlays can be tailored to suit local and regional needs
- be updated annually by the state planning commission, with final sign-off by the Minister and subject to parliamentary scrutiny.

Councils, regional boards and government agencies will be able to propose changes to the code and associated documents.

Updates to the zones in the code will flow automatically across Development Plans using online systems, minimising delays and costs.

LGA Response

Are these ideas workable or suitable?

Councils have become accustomed to working with the State Planning Policy Library and this reform idea addresses the shortcomings of the existing process in terms of transparency, local involvement, consultation and currency of the Development Plans. Accordingly, the LGA is supportive of this reform idea in so far as it is better than the current system.

Automatic updates to the Code which flow across Development Plans is supported in terms of efficiency. However, the mechanics of this will need to be carefully considered to ensure that changes are not made without consultation, policy updates do not conflict with local variations and changes are systematic and can be planned for.

How can specific ideas be improved or modified?

A central planning policy set must be robust and provide an excellent standard of guidance to planners, developers and communities about what is and is not acceptable. Regional Councils have been particularly disappointed with the lack of meaningful rural policy against which to assess developments specific to regional areas. The LGA has found the policy

library wanting in how it deals with climate change adaptation and has recently initiated a review its climate aspects on behalf of Councils. Therefore, as suggested, the library content must be developed as a collective effort between agencies, councils, communities, and industry.

What costs, benefits or other implications should the Panel consider?

It is not uncommon for the Local Government Research and Development Scheme to receive applications from state agencies to fund reviews and revisions of the existing planning policy library. This suggests to the LGA that there are currently inadequate State Government resources committed to the updating of the library. This issue needs to be addressed if this reform idea is going to work.

It is considered that an annual review process may be too ambitious in terms of resourcing. It is suggested that the Code should be reported on annually and systematically reviewed less frequently.

What other reform ideas should be considered?

State investment in an online central planning platform is required to make this idea work efficiently.

Recommendations:

- Policy content must be developed as a collective effort between agencies, councils, communities, and industry.
- There is evidence of an existing funding shortfall to keep the policy up to date. More State Government resources would be required if this idea is going to work.
- Updates to the Code (and consequential changes to Development Plans) should be programmed rather than ad-hoc.
- Further work is required to determine how the conflicting objectives of consistency and local variation can be resolved- local variation guidelines or criteria.

Reform Idea 9- Build Design into the Way we Plan



Not
Supported

Summary of the Reform Idea

The Panel is recommending the adoption of a ‘form-based’ approach to zoning. Form-based zoning uses physical form as its organising principle rather than the separation of land uses. Form-based codes generally provide a prescriptive set of design parameters such as building height, envelope, set-backs etc. and place greater emphasis on physical form using graphics to clearly illustrate acceptable design.

The Panel is also recommending that a series of statutory design guidelines and standards be adopted.

LGA Response

Are these ideas workable or suitable?

The idea of introducing form-based codes in place of the traditional land use model is generally not supported. In particular, it is not clear how this concept would relate to rural areas. However, it is recognised that this approach may have some application in precinct master plans to be developed under the Urban Renewal Act and zones or policy areas that contemplate mixed used development

How can specific ideas be improved or modified?

Many Councils provided comments about the value of Desired Character Statements. The LGA is of the view that different urban design approaches (structure plans, master plans, design guides etc.) should be introduced to support, rather than replace the Character Statements.

What costs, benefits or other implications should the Panel consider?

Design review or separate design consent processes should be funded by the applicant through development assessment fees.

What other reform ideas should be considered?

Enhancing design competency in the assessment process would be required to properly achieve improved design outcomes. The LGA supports expanding access to a design review process. The Panel should also consider ways to better integrate universal design standards into planning guidelines, particularly relating to the public realm

Recommendations:

- A legislated form-based code should not be introduced
- Desired Character Statements should be retained and supported by other urban design approaches
- Expand the design review concept and cover costs through appropriate development application fees

Reform Idea 10- Place Heritage on Renewed Foundations



Supported

Summary of the Reform Idea

Heritage has become a point of tension in the planning system. It is often viewed as a barrier to economic development rather than a valuable cultural and tourism asset. The Panel's report refers to broadening the concept of heritage within the planning system to more than just physical structures and integrating state and local listings into the one register. A broadening of the heritage register may recognise special landscapes, building fabric and setting and to place historic markers.

The Panel would like to see more consolidation in the administration of heritage matters. Currently there are two Ministers, two departments, two statutory committees, two sets of listing criteria and numerous pieces of legislation. They propose consolidation into one integrated statute, with one statutory body providing leadership, such as the current Heritage Council or a subcommittee of the proposed Planning Commission.

The Panel would like to see an audit of all existing listings, so that heritage attributes can be better described and maintained. Current listings are described as being too vague, which creates uncertainty about what can and cannot be achieved in the development of the site. They also noted a lack of helpful resources available to property owners and assessment bodies to guide how properties should be maintained and adapted.

The Panel's ideas seek to address the financial barriers to heritage listing. Many Councils already use a range of financial incentives to help heritage property owners maintain and preserve their properties. The Panel recommends that these incentives be considered as part of the legislative framework.

While it is not specifically outlined in the recommendations, the report alludes to the removal of 'quasi-heritage controls' such as 'contributory items' as these controls are confusing the separate issues of character and heritage (and seen as devaluing the importance of heritage).

LGA Response

Are these ideas workable or suitable?

The LGA supports ideas to improve clarity to owners of heritage properties about what they can and can't do. This includes the development of comprehensive guidelines or 'code of practice' and an audit and redescribing of existing heritage properties to reduce subjectivity in the assessment.

There is value in establishing one independent statutory body (a sub-committee of a State Planning Commission) to manage and advise on heritage matters. Local Government would continue to manage local heritage listings and incentives.

How can specific ideas be improved or modified?

The ongoing recognition and protection of Character Areas is very important to many Councils. Rather than being criticised as 'quasi-heritage' controls, these special policy areas should be valued for ensuring that we will have a healthy stock of new heritage properties in the future to tell the story of our post-1940's society. Local Government would be pleased to work with a State Planning Commission to develop better guidelines for policy makers about character protection- and how it differs from Heritage.

The need to introduce heritage certification is questionable. The Heritage Advisory Service which operated in South Australia until State Government funding was cut in 2012 was highly successful in bringing heritage expertise into Council assessment processes. This cost effective approach is favoured over private certification, which has been demonstrated to create costly administrative and compliance burdens.

What costs, benefits or other implications should the Panel consider?

Many Councils assist heritage property owners through financial subsidies. Operation of these programs should remain at the discretion of individual Councils. Rate concessions and subsidies can have a significant financial impact on the delivery of Council services.

An audit of exiting heritage listed properties is likely to be expensive and time consuming. This responsibility should not be imposed on Councils and must be subject to further negotiation about the best way for this idea (which has merit) to proceed. Moving forward there needs to be clear guidelines for listings to ensure that further audits are not required in the future.

What other reform ideas should be considered?

The Panel should give further regard to the protection of Aboriginal heritage and the specific ways in which it can be better integrated with the planning system. The LGA has previously had discussions with various agencies about this matter and there are reports that should be made available to the Panel for their consideration.

Recommendations:

- Move ahead with the integration of legislation and listing and consolidation of existing heritage bodies into one independent statutory body.
- Undertake further review of better integration of Aboriginal Heritage within the planning system.
- Restore the State Government funded Heritage Advisory Service in favour of introducing private heritage certifiers.
- Through the State Planning Commission, provide comprehensive guidelines or a Code of Practice for the maintenance and adaptation of heritage properties.

Reform Idea 11- Make Changing Plans Easy, Quick and Transparent



Supported

Summary of the Reform Idea

The Panel heard a multitude of issues about the current Development Plan Amendment process. Concerns included long timeframes to make changes, insufficient consultation for complex proposals, the effectiveness of parliamentary oversight and the role of the Minister, particularly relating to the use of interim operation provisions. Currently, zoning changes are initiated only by Councils and the Minister, restraining others with a direct interest in zoning outcomes, such as Government agencies, land owners, infrastructure providers and regional bodies.

The Panel considers that by expanding the number of bodies authorised to initiate amendments to Development Plans, local planning rules would be more responsive, contemporary and up-to-date; lowering costs to government and Councils and making the current practice of private sector funding for zoning changes more transparent.

The Panel recommends:

- replacing statements of intent (SOI) with simple one-page initiation documents and allowing for approval of a rezoning program rather than individual rezoning approvals
- authorising a wider range of parties to update zoning including government agencies, infrastructure providers and land-owners (subject to criteria) as well as Councils, regional planning boards and the Minister
- transferring the Minister's existing powers to approve SOI's and authorise amendments to the state planning commission and regional boards, with the Minister retaining a call-in power within a prescribed timeframe
- identifying clear timeframes on Councils, the planning commission, agencies and Ministers at each stage of the zoning process
- limiting interim operation powers to issues where there are genuine adverse issues.

LGA Response

Are these ideas workable or suitable?

The LGA supports the following ideas:

- Reducing the scope of the Statement of Intent document and streamlining the process
- Applying for approval of a program of amendments, rather than individual changes
- Refocussing the role of the Minister and empowering a State Planning Commission (or Regional Board) to approve rezoning and policy proposals
- Requiring a community engagement plan, which is tailored to the scope and complexity of the proposal, to be approved and implemented
- Introduction of reasonable performance measures such as clear timeframes at each stage of the zoning process.
- Tightening the criteria for interim operation.

How can specific ideas be improved or modified?

The Minister should retain the right to call in a decision on a zoning change, but only in circumstances that meet a clear set of legislative criteria and upon advice from the Commission (commensurate with the proposals regarding the call in a of Major Project).

The current 'developer funded DPA' process actually works well in practice, but can be controversial within communities because it is not recognised in the legislation. Councils should continue to manage private requests for rezoning if the proponent presents a satisfactory business case or statement of justification. If the process is legislated, it will remove the need for ad-hoc agreements to be negotiated between the Council and the developer, which currently adds time and cost to the process.

A DPA Engagement Plan should recognise relevant consultation that has previously been undertaken by the planning authority to reduce process duplication and prevent consultation fatigue. For instance, there may be an argument for a revised engagement plan if the Council has recently developed a masterplan for the subject area in consultation with the community.

For the more complex or controversial DPAs, an engagement plan may include consultation at the SOI stage, which would improve participation, transparency and help to focus investigations.

What costs, benefits or other implications should the Panel consider?

A more efficient DPA process should result in savings to Councils. This should be confirmed through economic analysis.

What other reform ideas should be considered?

The Panel should consider introducing different pathways for DPAs of varying scope and complexity. Minor amendments (which would need to be defined) should not always require a full DPA process. The pathways may also include Council self-certification or approval if agreement on objectives can be achieved at the start of the process.

Negotiations for infrastructure provision and funding are causing significant delays to rezoning processes. Despite best efforts to reform the DPA process, these delays will continue until infrastructure plans are truly integrated with land use strategies and supported by implementation plans. As discussed in Reform Idea 23, an equitable framework for infrastructure funding is also essential in a reformed planning system.

Recommendations:

- The Panel should include these reform ideas in its final report to the Minister, subject to the private DPAs being managed by Councils within a legislated process.
- Where relevant, consider recently undertaken consultation on the same matter when developing or approving an engagement plan.
- Consider developing different 'DPA Pathways', with a streamlined approach for minor amendments.

Reform Idea 12- Adopt Clearer Development Pathways

A circular orange icon with a white border containing the word "Negotiable" in white text.

Summary of the Reform Idea

According to the Panel, Councils and other planning authorities are required to use far too many resources undertaking a full merit assessment of 'low-risk' development. This might include developments such as verandas, fences and some changes in land uses (such as converting an office to a shop). On this basis, the Panel has recommended a review and revision of development pathways, development definitions and the concept of a change in land use.

The Panel has used the Development Assessment Forum (DAF) '6 track' assessment model as a basis for considering appropriate development pathways. Based on their assessment of this model, the Panel is recommending a 5 pathway system be introduced, including:

- Exempt (existing- proposed to be expanded)
- Complying development (existing- proposed to be expanded)
- Merit assessment (existing- proposed to be significantly reduced)
- Performance-Based assessment (may contain elements of the non-complying and major projects model)
- Prohibited (new)

The Panel considers that this reform will provide greater clarity in the assessment process and target planning resources where they are needed most. Reviewing and revising definitions is intended to remove inconsistent interpretation between Councils.

Minimising the requirements for a 'change in land' approval use is also recommended by the panel, particularly in mixed-used zones.

LGA Response

Are these ideas workable or suitable?

The LGA supports looking at ideas to decrease the proportion of applications that require a full merit assessment and better alignment between the level of potential 'impact' or 'risk' and the level at which the proposal is assessed. During consultation sessions, the Panel has provided statistics that show that South Australia has a significantly higher proportion of merit assessments than other jurisdictions and this creates concern about our State's competitive position.

However, the concept of 'low risk' development can be subjective as it is based on a personal view or expectation about what should be 'controlled'. Also, the level of risk associated with a particular development is linked to its location. For instance, the impact of minor structures such as carports and verandas is likely to be significantly different in low density, high density and rural areas. Therefore, the LGA emphasises that exempt or complying pathways cannot be universally applied without the expectation community backlash. There would need to be a strong business case for the proposal in order to proceed in the face of community opposition (which would undoubtedly be directed at Councils).

It is not clear how the Panel's promotion of exempt and complying pathways aligns with their objective of improving design outcomes. As evidenced by the incredibly prescriptive design details stipulated in Land Management Agreements in new sub-divisions, quality neighbourhood character are achieved through a high level of design control. If we want good design outcomes, this does realistically put a limit on the number of proposals that can be dealt with through a simple 'tick-a-box' assessment.

The proposal to implement a 'prohibited' category of development is supported. Administratively this may be difficult 'list' and must be accompanied by a review of the development definitions with the intent of simplifying the defined land uses. The 'prohibited' category should not be referred to as a 'pathway' as this creates confusion.

How can specific ideas be improved or modified?

The difference between merit and performance-based assessment is not clearly articulated in the Panel's report and has created confusion during the consultation process. This should be clarified in the Panel's final report.

What costs, benefits or other implications should the Panel consider?

Removing matters that are currently assessed on merit from the assessment system entirely would require positive public education through a highly visible awareness campaign. This was missing in the implementation of the Residential Code and may be a factor in why it was negatively received by communities, Councils and developers and has ultimately failed.

What other reform ideas should be considered?

There is unlikely to be a significant reduction in the number of merit assessments unless the complying criteria are clear and incontestable. The LGA led a feasibility study of an online Residential Code checklist that could be used by Councils and applicants to test whether a proposal met the criteria of the Code. At the time, the conclusion was that there would be too many instances where a definitive result could be produced due to gaps in the data layers available at the time. The LGA is keen to further explore this idea and suggests that the Panel considers this approach.

Recommendations:

- A review of development pathways and development definitions is supported
- Work should be undertaken to better describe the expectations of communities in different locations about the level at which different types of development should be regulated
- Clearer distinction needs to be made between merit and performance based assessment pathways
- The Panel should review the implementation of the Residential Code and identify why it has failed to reduce the proportion of merit assessments
- Changes to development pathways would need to be widely advertised to the community

Reform Idea 13- Provide for Staged and Negotiated Assessment

Processes



Not
Supported

Summary of the Reform Idea

The Panel heard that the current processes in the planning approval process are inflexible and don't respond to the complexity of a significant project. Often a prospective developer may want to test the development potential of a particular site. However, to receive any level of certainty that a project could proceed they are required to submit a complete application which goes to a very fine level of detail. This is seen by the Panel to be a waste of time and resources for both the developer and the planning authority. To address this issue, the Panel has presented the following ideas:

- Breaking the planning and building consent processes into smaller steps such as land use, building envelope, design, finishes and landscaping etc.
- Incorporate design consent, design statements and design review into the assessment process for complex developments
- Incorporate other statutory consents into the planning consent process
- Clearly define the information requirements at all stages of the assessment process and establish a quick complaints handling mechanism to resolve disputes
- Allow applicants to stage the assessment process at their discretion including 'in-principle consents
- Introduce a formal pre-lodgement agreement for staging of consents
- Provide a statutory indemnity for assessment officers for good faith advice given prior to the lodgement of an application

LGA Response

Are these ideas workable or suitable?

The idea of breaking consents into smaller steps is not supported on the basis that it would be inefficient and impractical. It's not clear where the community would be engaged in a staged process. However, there is merit in a separate design consent process for more significant developments.

The idea of in-principle consents (other than design) is not supported. Concerns relate to the frustration that would be caused if a development was to be refused at the later stages of a consent process. If the Panel was to proceed with this idea, it should only be done if there was some advantage to the obtaining of finance and the development sector was prepared to wear all of the risk of staging the consent.

Better defining requirements for the provision of information accompanying an application is supported, but a proponent should not be able to formally dispute a legitimate request for further information.

A formal pre-lodgement advice process is supported. This would assist with ensuring that assessments are not held up with additional information requests or negotiating amendments. The statutory indemnity for assessment officers is a great idea. To spend the required time working with a developer at the pre-lodgement stage, the Council must be able to charge a reasonable fee for this service.

How can specific ideas be improved or modified?

Many Councils provided comments about the value of Desired Character Statements. The LGA is of the view that different urban design approaches (structure plans, master plans, design guides etc.) should be introduced to support, rather than replace the Character Statements.

What costs, benefits or other implications should the Panel consider?

Design review or separate design consent processes should be funded by the applicant through development assessment fees.

What other reform ideas should be considered?

If a staged consent approach was to be implemented, the LGA agrees with the idea of a formal up-front pre-lodgement agreement about how the assessment would be managed.

The use of reserve matters in place of stage consent is an idea worthy of further consideration. Reserve Matters are not widely used by some Councils as they are seen as too open to challenge and limited in their application.

The concept of pre-lodgement referrals could also be a more prominent feature of a reformed planning system.

The concept of 'prohibited' development introduces a level of certainty that is currently not supported in the system. If certainty is to be a feature of a reformed planning system, the Panel should consider reframing planning policy to include 'must' and 'will' in place of 'should' or 'shall', particularly for design criteria.

Recommendations:

- A staged assessment process should not be included in the Panel's final report to the Minister
- A formal pre-lodgement advice process with a statutory indemnity and an appropriate fee is supported.
- A design consent process is supported for developments above a certain threshold- say 5+ storeys

Reform Idea 14- Improve consultation on assessment matters



Supported

Summary of the Reform Idea

Public consultation on assessment matters is a complex matter. The Panel describes hearing from community members that there is too little public involvement, from developers that there is too much involvement and from Councils that the rules are not clear. The Panel's investigations on this matter have led them to make 7 recommendations about how the current framework can be improved.

- There should be notices attached to properties that subject of development proposals as part of the consultation process
- Information about development should be published on a state-wide online portal
- Notification, consultation and appeal rights should be linked to the development pathway rather than treated as separate issues
- There should be an abbreviated notification process if the applicant has engaged with the neighbours in a pre-lodgement process
- Limits should be placed on the matters that are subject to appeal and appeal rights should be linked to the level at which a project is assessed
- Rights of judicial review for development pathways should be retained
- Councils should play a formal mediation role between the applicant and neighbours, with good faith indemnities applied

LGA Response

Are these ideas workable or suitable?

The objectives of these ideas are supported by the LGA as it is recognised that the current processes are often unclear, open to interpretation and do not always follow common sense.

Attaching notices to development sites is an idea that works well in other jurisdictions and would be appropriate within metropolitan areas and townships for developments of interest to the neighbourhood. The idea is not relevant in rural areas with limited vehicular and foot traffic. In other jurisdictions, the sign is sent or emailed to the applicant and it is their responsibility for erected it within a set of guidelines. Photographic evidence is provided to the planning authority to ensure that it has been erected correctly. This is an idea that could be trialled on a volunteer basis.

Improving access to planning information online is strongly supported. However, previous endeavours to pursue this idea have failed due to lack of investment and leadership. Individual Councils have independently improved access to information by publishing searchable development registers, but this may be out of reach for small Councils. This idea will not become a reality without upfront investment from the State Government to establish and a subscription charge to fund ongoing maintenance. Changes to copyright laws would be required to enable lodgement plans to be made available online.

Determining the correct notification category for a development application can be complex and can be open to interpretation and, therefore, contestable. The level of notification and participation does not always logically align with the scale or complexity of the proposal. This may be symptomatic of the number of amendments that have been made to this section of the Regulations. The LGA supports a review of notification triggers to bring more common sense back to the process.

How can specific ideas be improved or modified?

Recognising pre-lodgement agreements between neighbours and applicants is a good idea in theory. Unfortunately Councils who have used a 'neighbours consent' approach to notification have experienced manipulation of the process and intimidation or coercion of vulnerable community members. If the integrity of the process cannot be protected, the idea should not be implemented.

The mediation process is also a good idea in theory to reduce the matters going to appeal. However, assessing officers would feel conflicted in their role of providing an objective planning assessment if they were required to mediate neighbourhood disputes. Taking on this role would also require training and ongoing skill development that may be expensive and would add additional pressure to planners and potentially increase assessment time. Community mediation providers would be better placed to provide this service at the expense of the parties. Community education is also important to challenge expectations and create more awareness about the matters that can be dealt with through the planning system.

What costs, benefits or other implications should the Panel consider?

Recent State Government comments about the development assessment process have been based on the premise that better engagement at the policy level will reduce the need for public comment on development applications. This principle is not supported, as it is extremely difficult to engage the community until they are directly affected by a proposal. The LGA agrees that efforts need to be directed towards improving engagement at the policy level, but not at the expense of engaging at the assessment level.

What other reform ideas should be considered?

The length of the notification period often draws criticism from communities and should be reviewed. This may include statutory restrictions on notification over the December holiday period.

Many Councils used to provide Category 1 courtesy notifications to neighbours when a development was proposed on or near a boundary. This process had the positive impact of increasing awareness, but had the unintended consequence of creating an expectation that neighbours could influence the decision making process.

Recommendations:

- Proposals relating to site signage, access to online information and reviewing notification categories is supported

- Recognising pre-lodgement agreements between applicants and neighbours should not be pursued if the integrity of the process cannot be protected
- A mediation process is a good idea, but Councils are not best placed to provide this service due to lack of formal mediation skills and impact on objectivity in assessment
- Public notification periods should be reviewed as this is a common cause of community complaint
- The Panel should consider the benefits of a 'courtesy notification' process and look at ways to improve informal notification of 'Category 1' developments, without creating an expectation of formal consultation.

Reform Idea 15- Take the Next Steps towards Independent



Not
Supported

Professional Assessment

Summary of the Reform Idea

The Panel is of the view that political considerations should have limited influence over individual decisions. Rather, elected representatives (including the Minister) 'should focus on strategic policy decisions rather than the operational details of assessment'. To this end, the Panel has made a number of recommendations:

- Existing assessment bodies should be replaced by regional-level assessment panels
- Regional level panels would handle some matters currently dealt with by the DAC and matters dealt with by Council Development Assessment Panels
- Council planning managers would present recommendations to a regional panel, which would be managed and coordinated centrally
- Membership of regional panels would consist of accredited professionals
- Accreditation of professionals would be administered by a subcommittee of the planning commission and managed through professional organisations
- Accredited professionals would be required to undertake regular training
- Higher level matters (state significant development) would be handled by the planning commission
- Where specialist advice is required, panels would be able to call in specialist professionals and local advice. Elected Members may be called on to participate in discussions about a development (but not in decision making)
- It is envisaged that Panels will deal with matters that have been contested by community members (through a formal notification process for instance) and are within the merit and performance-based assessment pathways
- All applications would be lodged with Councils and the 'pathway' etc. would be determined by Council staff. Council staff would require delegation to present recommendations to the regional panel on behalf of Councils. This would retain the current process
- Low-risk matters would be handled by accredited council staff or private consultants. The role of private certifiers would be expanded
- Accredited professionals and assessment bodies would be audited by the planning commission and receive and act on complaints

LGA Response

Are these ideas workable or suitable?

The LGA has never supported the mandating of Regional Development Assessment Panels and is yet to be presented with any data or factual evidence that supports the need for this change. The legislation currently allows for the establishment of Regional Panels and the limited take up of this option by metropolitan and regional Councils shows a lack of imperative. The LGA supports further investigation of the merits of a regional model, including regional panels, but would oppose their implementation at this time when there are many unanswered questions about governance, funding and accountability.

The role of Elected Members on Development Assessment Panels has elicited interesting discussion within the Local Government sector. Comments about the current role of Council Members on Panels were positive, particularly from Independent Members. Negative aspects related not to the performance of EMs on Panels, but to a preference not to be on the Panel in order to talk to communities and developers about development proposals in an unconstrained way.

Some common positions that were put forward are summarised below.

- Development Assessment data does not support the need for this reform
- Elected Members on Panels provide an important feedback loop back to the Council on planning policy issues
- Many EMs choose not to be Panel Members for many reasons, but support their Elected colleagues taking on this role
- Independent DAP members commented that they value the local input of Elected Members on the Panel and this results in better decision making
- Without Elected Members on a Panel, there is no public accountability (this issue is exacerbated if Panel's operate at a Regional level)

Many planning practitioners commented that there has been no notable difference in DAP decision making post-2007 when the majority independent members on Panels was introduced. This speaks to the inadequacy of policy, rather than its interpretation and application by CDAPs.

Key facts that indicate that the current DAP structure is working are:

- Only 0.05% of all development applications in one year resulted in a successful appeal to the ERD Court.
- Less than 2.5% of development applications lodged in one year resulted in a refusal
- Each year, less than 10% of development across the State are referred to a Panel for a decision

In forming this idea, the Panel may not have had adequate regard to the challenge and cost of attracting skilled professionals to fill Independent Member roles in regional areas. It is not uncommon for a regional Council to hold a DAP only once every 12-18 months due to the difficulty and cost of assembling a Panel.

The conclusion reached by the LGA is that Elected Members can add value to the assessment process (at a CDAP or RDAP level) and appropriately skilled or qualified Council Members should not be excluded from being appointed to a Council or Regional Development Assessment Panel. The remaining members should be independent accredited professionals. All Members should be required to undertake periodic mandatory training and professional development. The LGA also supports to introduction of performance measures which monitor both the efficiency and effectiveness of Council assessment processes to make them more transparency and accountable.

Following on from comments made on Reform Idea 2, the LGA is willing to further investigate the concept of establishing regional development assessment panels, but it is not supported for implementation at this time.

Registration and accreditation of professionals to undertake the most complex planning assessments is broadly supported, but it is imperative that the difficulty in attracting qualified and experienced planners to regional areas is not ignored. Further consideration is required of how to balance accreditation requirements with resourcing realities, particularly for Councils which deal with very few development applications but cannot afford to 'buy in' expertise for low-medium risk developments.

How can specific ideas be improved or modified?

If a model of independent Regional Assessment Panels was to be introduced, there should be a limit on the number of Panels an individual can participate in to avoid empowering a small number of individuals to make a large proportion of development decisions across the State.

What costs, benefits or other implications should the Panel consider?

The accessibility of Regional Development Assessment Panels to Councils and community members was a common concern expressed to the LGA. This may be addressed to an extent by rotating the meeting venue and promoting virtual participation. However, internet access is often unreliable in the more remote areas that would greatest benefit from teleconferencing or other methods of virtual participation. There is also doubt about how comfortable many community members would be using this technology.

If the Government was to proceed with a Regional Development Assessment Panel model, there may be industrial and other employee classification issues that Councils will need to address. For example, employee salaries can be linked to their level of delegated decision making.

What other reform ideas should be considered?

There is merit in the idea of having a Regional Development Assessment Panel to consider applications of regional significance. This may be a Major Project, a piece of infrastructure that crosses Councils boundaries or a significant proposal that would have impacts beyond the boundaries of the Council. Currently these applications would go to DAC and Councils would participate through a referral process. The Panel's model may include the ability for Councils to establish a Regional Development Assessment Panel with their neighbours to deal with these matters in place of the DAC. This Panel would operate separately from the Council Development Assessment Panel, which would continue to deliberate on its usual matters. The Regional Panel would comprise of an independent chair, independent accredited members and a Council appointed member from each Council (appropriately trained EM, staff or independent). Non-Council appointed members could be decided by the State Planning Commission and selected from a list of nominees put forward by the Councils (which would probably be their best and brightest CDAP Members).

Each Council would be responsible for the sitting fees for its appointed member and the remaining costs would be shared by the Councils. In this model, development application fees would be shared between the participating Councils, rather than shared between the Council and the State Government. If one Council in the Region did not feel that it had a

strong enough interest in the Agenda item(s), they could chose not to send their representative to the meeting.

In many areas, it is envisaged that this Panel would only need to meet infrequently as required and would not result in significant costs.

Other ideas relating to the ongoing operation of Council Development Assessment Panels include:

- Continue to provide the opportunity for meetings to be held in confidence at the discretion of Councils
- Develop standard meeting guidelines that enhance participation by representors, which may include the opportunity for them to ask questions of the Panel or clarify their position if they been misunderstood
- Investigate the option for an Officer's recommendation report to be presented to Council for comment prior to being presented to the DAP for consideration.

Recommendations:

- Mandatory Regional Development Assessment Panels are not supported by the LGA
- A Regional Development Assessment Panel should be established in addition to a Council Development Plan to occasionally (as required) hear matters of regional significance (in place of DAC)
- The LGA supports the continuing role of Elected Members as contributing decision makers on Development Assessment Panels
- The Registration and Accreditation of planning professionals requires further thought regarding costs and skill attraction.
- The Panel is asked to consider the issues with the current private certification system prior to making hasty recommendations about expanding this system.

Reform Idea 16- Enhance the Transparency of the Major Project Process



Supported

Summary of the Reform Idea

The Panel heard that there is room for improvement in the assessment of major projects, in particular there has been concern expressed about the looseness of the criteria that allows a project to be declared a major project or called in by the Minister. The Panel also heard concerns about lack of transparency or due process due to the lack of appeal rights and penalties for non-compliance.

The Panel has recommended that:

- Major projects of regional significance be dealt with by a regional assessment panel using a 'performance-based' assessment pathway
- Replace the current declaration process with a Ministerial 'call-in' power that is based on tighter criteria
- Advice from the planning commission must be sought before a Ministerial call-in power can be used
- Each major project would require either ministerial-regional concurrence or a full Cabinet decision with approval by the Governor
- Judicial review rights be reinstated for major projects an associated crown development and infrastructure approvals
- Environmental impact assessment processes align with federal laws
- Mining approvals be brought into the planning system as part of the major projects process

LGA Response

Are these ideas workable or suitable?

All of the reform ideas relating to Major Project Assessment are supported by the LGA. Refer to comments made on Reform Idea 15 regarding the potential Regional Assessment Panels.

How can specific ideas be improved or modified?

Mining approvals should also include mining exploration. There was a view expressed to the LGA that 'borrow pits' should not require a development application.

What costs, benefits or other implications should the Panel consider?

Local Government is not well skilled or resourced to deal with mining matters. If mining was to be better integrated with the planning system (which is worthy of consideration), a clear development pathway would need to be developed, including consideration of the relevant authority.

What other reform ideas should be considered?

When the Minister exercises a call-in power for a Major Project, a publicly available report should be prepared outlining the reasons.

Recommendations:

- The Panel should include its ideas about Enhancing the Transparency of Major Project Assessment in its final report, with further clarity about ideas around mining approvals.

Reform Idea 17- Streamline Assessment for Essential Infrastructure



Supported

Summary of the Reform Idea

The Panel has noted that South Australia does not have an infrastructure-specific assessment pathway which prioritises the assessment of essential infrastructure.

The Panel has concluded that the following recommendations would improve the assessment of essential infrastructure:

- Establish a separate pathway for assessing essential infrastructure. Categories of essential infrastructure will be determined by the planning commission
- Approval of essential infrastructure should be linked to strategic impact assessment and identified infrastructure corridors and sites
- Detailed assessment should be confined to design guidelines. This could include registration of replicable infrastructure designs
- Place the position of Coordinator General within the planning commission and expand the role to include the streamlined approval of essential infrastructure
- Exemption classes for infrastructure should be reviewed as part of a state-wide planning code

LGA Response

Are these ideas workable or suitable?

All of the reform ideas relating to Assessment for Essential Infrastructure are broadly supported by the LGA, subject to the definition of 'essential' and inbuilt Council and community involvement. Refer to comments made on Reform Idea 15 regarding the potential role of Regional Assessment Panels.

How can specific ideas be improved or modified?

The definition given to essential infrastructure will be important to the LGA in future legislative proposals. It should include a mix of 'hard' and 'soft' infrastructure, including recreational facilities and open space. Wind Farms must not be considered as essential.

Recommendations:

- The Panel should include ideas for streamlining assessment for essential infrastructure in its final report.
- The ideas should reference how communities would be engaged in an infrastructure assessment pathway.
- The definition of essential infrastructure must include open space and recreational facilities

Reform Idea 18- Make the Appeals Process More Accessible



Supported

Summary of the Reform Idea

In its report, the Panel has outlined that the appeal and enforcement processes dealt with through the Environment, Resources and Development Court appears to be working well for the most part. However, the Panel acknowledges that processes could be revised for a number of matters to avoid unnecessary delays. To make the appeals process more accessible, the Expert Panel is recommending the following:

- Establish a regional merit review process such as re-hearings by regional assessment panels
- Enable an official in the department or the court to deal with procedural disputes rapidly with a further appeal to the full court
- Allow for binding arbitral directions at compulsory conference hearings, rather than relying on agreement by the parties
- Consider allowing the court to impose costs in limited cases, on similar grounds to the tribunal's legislation

LGA Response

Are these ideas workable or suitable?

The Panel's ideas for improving the appeals process are broadly supported by the LGA.

How can specific ideas be improved or modified?

There have been circumstances where a Council has been unhappy with the decision made by the Council Development Assessment Panel on significant developments and there has been frustration expressed that the Council has nowhere to go to for a non-judicial review of the decision. Within the proposed model there may be scope for a Council to endorse a motion within a certain timeframe for a merit review process, which may be a re-hearing by the Planning Commission.

In order to make the appeals process more accessible, the Court should promote attendance by telephone or video conferencing and also written submissions.

Recommendations:

- The Panel should include ideas for making the appeals process more accessible in its final report.
- Consider mechanisms for a Council initiated rehearing of DAP decisions on high-risk applications with broad community impact.
- Promote alternative ways of engaging in the appeal process that are currently available (teleconference, written submissions etc.)

Reform Idea 19- Provide more effective enforcement options



Supported

Summary of the Reform Idea

The integrity of the planning system depends on having an effective enforcement and compliance process. Communities need to have confidence that non-compliance will be dealt with quickly and effectively. The Panel heard from Councils and the LGA that enforcement options needs to be reviewed and revised to provide more sanctions as a deterrent. The Panel has recommended:

- Enforcement of minor or simple matters should be dealt with through more administrative sanctions such as expiations, enforcement notices and enforceable undertakings
- Allowing the courts to impose non-monetary penalties such as adverse publicity orders, compensation/offset orders and business improvement orders
- Creating more monetary penalties
- Allow for civil penalties or damages as an alternative and in addition to criminal sanctions
- Impose shared liability for non-compliance on specified professionals responsible for development, subject to reasonable care defences
- Improve links with other regulatory areas such as consumer affairs
- Require assessment to be aligned with enforcement and more accessible through an online portal
- Allow for the planning commission to issue enforcement guidelines to help coordinate enforcement activities more effectively

LGA Response

Are these ideas workable or suitable?

Ideas to provide more effective enforcement options are broadly supported. Councils spend a significant amount of money on compliance and enforcement and matters often go unresolved- this needs to be addressed. Ideas that are particularly attractive to Local Government are:

- The ability to place a charge on a development site where illegal building work has occurred as a commercial benefits penalty
- The role of the Commission in issuing guidelines and providing support to Councils
- Building improvement notices
- Multiplier penalties

What costs, benefits or other implications should the Panel consider?

The administrative costs of issuing and enforcing an expiation can often outweigh the value. It is important that this is not considered as a revenue stream for Local Government that might justify taking on additional responsibilities.

What other reform ideas should be considered?

Councils become extremely frustrated when they must undertake compliance and enforcement activities when they were not the relevant authority that issued the consent. There is a strong view that ongoing responsibility for managing the consent should sit with the assessment authority, which received the assessment fees. This is particularly relevant to private certifiers and in relation to conditions imposed by DAC.

Recommendations:

- The Panel should include ideas relating to more effective enforcement options in its final report.
- Refocus enforcement and compliance responsibilities so that they sit with the relevant authority.

Reform Idea 20- Reinforce precinct-based urban renewal



Supported

Summary of the Reform Idea

The Panel's report outlines their support for the 'precinct planning' approach that is described in Urban Renewal Bill which passed through both Houses of Parliament in October 2013. However, the Panel has recognised a need for legislative levers to facilitate urban renewal on a smaller scale (neighbourhood regeneration). The Panel is also recommending:

- Greater opportunities for private sector investment in urban renewal
- Government bodies should galvanise business and community involvement/investment in urban renewal
- Incorporate streetscape design standards and guidelines as part of urban renewal projects
- Improve the coordination of public housing with urban renewal priorities

LGA Response

Are these ideas workable or suitable?

The LGA supported the passage of the Urban Renewal Bill through both Houses of parliament after negotiating a significant number of amendments with the Government. It is recognised that the precinct planning model will need to be reviewed as it tested.

How can specific ideas be improved or modified?

Consideration needs to be given to the relationship between the Urban Renewal Act and the traditional planning system and clear guidance given regarding where one should be used in place of the other.

What costs, benefits or other implications should the Panel consider?

There needs to be strong recognition that the precinct development process does not end with the completion of construction. Urban renewal must be supported by a long-term management strategy that considers the servicing and maintenance of regenerated neighbourhoods.

Recommendations:

- The LGA supports the implementation and testing of urban renewal processes (precinct planning) subject to ongoing monitoring and review.

Reform Idea 21- Allow for more effective provision of open Space, parks and urban greenery

Summary of the Reform Idea

The Panel has recognised that the planning system needs to place greater emphasis on open space, parks and urban greenery. They have considered that the arbitrary open space contribution rate of 12.5% is out of step with contemporary needs and expectations and have recommended a number of process and framework revisions which seek to enhance the provision and quality of open space provided as part of development proposals. The Panel is recommending:

- Funding mechanisms for open space, parks, and other public assets be incorporated into the existing Planning and Development Fund
- Open space schemes be recalibrated to provide greater opportunities for regional collaboration and funding
- Alignment and coordination of legislation affecting open space and other public assets
- A review of infrastructure legislation to ensure alignment with improved management of the public realm

LGA Response

Are these ideas workable or suitable?

Reform to the open space funding and provision regime used in South Australia is supported by the LGA, provided the objective is to provide communities with more high quality open space that meets their needs.

The LGA would caution the proposal to roll all related funding mechanisms into one fund as this would potentially broaden the focus of the Planning and Development Fund and make it more competitive. This is already seen as inequitable in areas experiencing high levels of low yield land divisions do not receive direct funding, but must compete for grant funding with those Councils that do experience high level of greenfield development and receive direct funding.

How can specific ideas be improved or modified?

Local Government has done some excellent work on reviewing the current arrangements for provision and funding of open space and will provide copies of these reports to the Panel. These reports are particularly relevant to infill development, which is considered to be disadvantaged by the current system. These reports dismiss the effectiveness of a blanket 12.5% open space provision rate and focus on defining open space needs within a context. For instance, it was found that high density development would require more than 12.5% to satisfy local and regional needs.

Reforms about open space provision must also address the quality and usability of the space provided.

Recommendations:

- The LGA supports a review of the open space provision and funding regime with the objective of providing communities with more high quality open space that meets their needs
- The LGA recommends that the Panel consider recent Local Government commissioned reports on this subject
- The LGA does not support the consolidation of funding programs relating to open space.

Reform Idea 22- Provide incentives for urban renewal



Negotiable

Summary of the Reform Idea

The Panel has recognised that market factors are currently stalling urban renewal and to stimulate neighbourhood improvement in an economic downturn, the development sectors needs to be offered financial incentives. These incentives would be offset against public benefits such as urban renewal, affordable housing and other desirable development outcomes. Such incentives might include:

- Development bonuses
- Building upgrade finance
- Improvement levies
- Discounts to property taxes and rates

LGA Response

Are these ideas workable or suitable?

The LGA supports mechanisms to bolster private investment and innovative longer term funding arrangements that reduce the upfront costs of development.

The question of whether the mechanisms proposed by the Panel are the most effective and equitable is a matter for further investigation. The LGA has an MOU with the key Development Industry Peak Bodies and this will provide a framework for better understanding the issues and the proposals.

How can specific ideas be improved or modified?

There is obvious concern that granting concessions on Local Government rates will need to be offset or will impact on service delivery. The argument is often made that Councils eventually recover the costs due to the increase in rateable properties. The LGA worked with Councils and Deloitte Access Economics to develop an Economic Impact Assessment Model which provides projected 'point in time' costs and revenue for a development scenario. This model will be of value in further investigating these ideas.

What costs, benefits or other implications should the Panel consider?

The implementation of this idea is a matter for further investigation and consultation with government, industry and communities.

Recommendations:

- Ideas regarding urban renewal incentives require further consideration and must have the objective of not creating disadvantage to existing communities through reduced service delivery.

Reform Idea 23- Create new tools for infrastructure funding and delivery



Supported

Summary of the Reform Idea

The Panel has heard the frustration of the private and public sectors about the lack of coordination and guidance about infrastructure provision and funding. It has certainly been recognised by the LGA as a significant barrier to non-contentious development. There has certainly been a lot of work produced in South Australia on this topic over many years. The Panel has contributed the discussion by providing the following ideas:

- A framework is required to govern planning, integration, funding and delivery of infrastructure
- The framework should include legislation to identify infrastructure needs and triggers. These should be identified as part of regional planning schemes. Funding and financing should be dealt with separately
- Strong government oversight and coordination is required. Tools such as levies, bond products or metro-wide improvement levies should be considered
- Oversight of any levies will be independent and directly linked to the infrastructure required. There may be a role for price-setting regimes including the Essential Services Commission
- Statutory augmentation charges for infrastructure should be standardised with clear criteria for their use
- Infrastructure design standards should be used to avoid 'gold-plating'

LGA Response

Are these ideas workable or suitable?

The LGA is a strong supporter of introducing a formal framework for the provision and funding of infrastructure. There is nothing new in the Panel's report about how this might be dealt with, but it is hoped that the Panel's recommendations may create some traction. Particular ideas that the LGA supports are:

- Integration of land use and infrastructure plans
- Formal infrastructure funding mechanisms that equitably apportion responsibility to all spheres of government, industry and community
- Providing levers to Councils to 'lock in' infrastructure commitments from developers and other spheres of government
- Oversight of infrastructure coordination and delivery- this might be a role for the Coordinator General or the Planning Commission.
- Introducing a high level of transparency and accountability in how development levies (or other streams) would be used and acquitted

How can specific ideas be improved or modified?

The Panel's ideas are sound, but they are not new. There needs to a strong commitment from State Government to pursue an infrastructure funding and delivery framework rather than the continued preparation of reports and studies.

What costs, benefits or other implications should the Panel consider?

An infrastructure funding and delivery model must include social and community infrastructure- including recreation and open space.

What other reform ideas should be considered?

Given the dearth of research that has been undertaken on this topic by State Government, Local Government, industry and academics, there is not a limited supply of models to consider. The key objectives from a Local Government perspective are equitability, long-term thinking, accountability and simplicity.

Another key issue for Councils is resourcing for the ongoing maintenance and upkeep of infrastructure. A long term view to costs must be taken by all parties.

Recommendations:

- The LGA is supportive of an infrastructure funding and delivery framework of the nature described by the Panel and looks forward to further discussion with State Government, industry, Councils and communities.

Reform Idea 24- Aim for seamless legislative interfaces

Summary of the Reform Idea

The Panel has recognised that there is currently too much duplication and inconsistency in legislation. There is a long list of legislation that is directly linked to the Development Act and the Panel has recommended an audit of the statute books to identify licences, permits and processes that can be repealed or transferred to the planning system.

For those licences that are transferred into the planning system, the Panel considers that assessment panels could be delegated with the authority to issue minor approvals or permits.

The majority of the Panel's ideas in this section relate to the statutory referral process where state agencies or bodies are asked to formally comment or provide direction on matters requiring specialist knowledge of matters outside of the planning system. The Panel is of the view that this process is often unnecessary, inefficient and poorly managed. In response to these reported issues, the Panel has made a number of recommendations relating to statutory referrals:

- The use of referrals should be limited to where there are other statutory approvals or permits required
- Agencies should be required to have a policy which details the criteria on which advice is based and the types of conditions that may be imposed
- Referral timeframes should be rigorously enforced and the absence of a response will be deemed as agreement
- Agencies will be able to provide advice to planning authorities, but through a different stream to referrals

Other ideas put forward by the Panel include:

- Audit the statute books to identify duplication and inconsistencies with planning laws
- Licences and permits that duplicate planning processes should be repealed or transferred to the planning system
- Assessment panels should be issue minor statutory approvals or permits as delegates of the home agency
- Fragmented environmental and infrastructure laws should be reviewed and consolidated

LGA Response

Are these ideas workable or suitable?

The ideas regarding better integration of legislation and improvements to the referral process are broadly supported for further investigation. The LGA is particularly interested in ensuring that access to specialist advice is not lost (creating higher risks) and costs are not transferred to Councils to administer permits that they are not resourced to manage.

How can specific ideas be improved or modified?

Councils rely on quality advice being provided by referral agencies as assessment officers are not technical specialists in all areas of the Development Plan. Often Councils would prefer the advice provided to be in the form of a 'direction' (either relating to the decision or the imposing of conditions) to resolve liability issues. As an example, the Coast Protection Board is better placed to make informed judgement about the potential impacts of sea-level rise, whether these impacts can be managed, and the potential long term costs of management and mitigation activities. The potential risks and costs of uninformed decision making in vulnerable environments warrants more than the provision of advice to an assessment officer. The LGA asks the Panel to consider the referral process from a risk management perspective rather than focussing on process efficiency

Rigorous enforcement of referral timeframes is supported to improve efficiency. However, timeframes for complex matters need to allow for thoughtful consideration of the issues.

A 'cleaning up' of the statute books needs to involve formal consultation with Local Government. Assessment Officers in Councils are extremely well placed to provide advice on this matter- particularly those in regional areas who deal with a broad range of responsibilities.

What costs, benefits or other implications should the Panel consider?

Local Government is concerned about picking up responsibility for permits and statutory approvals that it is not adequately resourced or skilled to perform. The idea of Councils having a new responsibilities at a regional level will be investigated (as outlined in Reform 2), but is not supported without a strong cost-benefit analysis.

What other reform ideas should be considered?

Regional Councils consistently referred to the conflicting 'rules' of different referral agencies, with NRM and CFS requirements often cited as being contradictory. The Panel has not contemplated how this tension would be resolved in a reformed planning system.

All referral process should be done electronically and linked to a central planning portal.

During consultation with Councils, the following issues regarding inconsistency of legislation included:

- Dealing with the clean-up of dilapidated buildings and sites is dealt with in multiple Acts (Development Act, Local Government Act, Public Health Act, Housing Improvement Act etc.)
- The interface between the Copyright, freedom of information and the Development Act in relation to copying and publishing of plans needs to be resolved- particularly to move towards an central planning portal.
- The relationship between the Character Preservation Acts and the Development Act is often unclear as one must seek to further the objects of another

- Intervention by the Small Business Commissioner in development assessment decisions (refer Light Regional Council matter)
- Waste Management Regulations which require Councils to offer a three-bin kerbside collection system are impeding design innovation in waste management systems, particularly for multi-unit development. Waste management must be considered as an essential element of any subdivision and design assessment.

This list would be significantly expanded through further consultation with Council assessment and policy officers.

Recommendations:

- Councils' role in issuing minor statutory permits and approvals needs to be further investigated to ensure this could be resourced with funding and expertise
- Consider the referral process from a risk-management and liability perspective
- Consult with Councils on the review of the statute books- assessment officers will be in a position to provide a significant number of examples of duplication and inconsistency

Reform Idea 25- Adopt an online approach to planning

Summary of the Reform Idea

This reform seeks to establish a compatible and integrated framework for online planning and building information available to all users of the system, including the establishment of a joint funding or co-contributions mechanism to fund the development, maintenance and upgrade of compatible e-platforms.

The Panel recommends:

- establishing a central online portal with a common data standard to provide input into and access planning information, with links to council and government agency websites
- using e-planning to achieve automatic updates to regional planning schemes, and enable transactions such as development applications, referrals and consultation to be conducted
- creating a joint local-state governance body for e-planning through the state planning commission
- providing a sustainable revenue stream through a co-contributions regime from government agencies and councils, based on a detailed costing analysis
- legislating to provide a basis to rely on e-planning online data to an evidentiary standard required by courts and tribunals
- adopting a phased-in approach to the roll-out of e-planning.

LGA Response

Are these ideas workable or suitable?

The idea of a central online planning portal is widely regarded as having significant and broad benefits to all sectors. This is supported by the LGA as a priority reform.

How can specific ideas be improved or modified?

This reform could be fast-tracked by a strong commitment from State Government to invest in the development of this system. A business case is required.

The State Planning Commission should be responsible for maintaining the portal.

What costs, benefits or other implications should the Panel consider?

The LGA emphasises that this reform will not work if Councils have to fund the development and ongoing administration of the system- it would be significantly under resourced and would not reach its full potential. The reform also won't work if all Councils are required to purchase new equipment (large scanners etc.) or change/update their land management software.

Rural Councils spoke about unreliable and intermittent internet connection and speeds. This may limit the feasibility and benefit of an online model for regional/remote Councils.

Individual Councils would need to be consulted about the contribution they could make to an online planning system. To discuss this positively, the potential savings of having an e-planning system should be quantified.

Other ways of funding the system would be a surcharge on development application fees and a subscription cost to regular updates of development registers and system data.

Recommendations:

- The development of an central online planning portal is strongly supported as a priority reform
- A business case to support State and Local Government investment in the planning system is required
- Cost recovery through a 'user pays' system should be considered

Reform Idea 26- Adopt a rigorous performance management approach

Summary of the Reform Idea

One of the issues that emerged for the Panel from consultation was that measurement tools and performance benchmarks should be more available to support planning and development policy and individual developments. The Panel considers that such tools will improve system integrity while highlighting circumstances that might require short or long-term action or policy change.

The Panel recommends that the new State Planning Commission be responsible for:

- monitoring overall system performance
- regular public reporting on areas for improvement
- annual reporting to cabinet on the performance of the system and achievement of strategic priorities, prior to being tabled in Parliament
- establishing targets to review Regional Planning Schemes and monitoring the performance of Regional Planning Boards
- intervening in cases of non-performance by Agencies, Regional Boards or Councils.

Funding incentives linked to this performance-monitoring regime may be explored by the government.

LGA Response

Are these ideas workable or suitable?

In a broad sense, the LGA is supportive of performance measures and is currently working with a consultant to consider a KPI approach to measuring the 'health' of the system. Importantly, the emphasis of performance management cannot be on how long it takes to receive a development decision. This is an arbitrary measure that provides no value in identifying 'kinks' in the system, as timeframes can be influenced by a range of factors. The efficiency of the assessment process is obviously important, but KPIs should focus on the quality of the outcomes that are achieved as a result of planning processes as the best measure of how they are performing.

How can specific ideas be improved or modified?

The LGA is currently working with Councils on a set of innovative KPIs for a planning system and will share the results of this study when it is completed.

What costs, benefits or other implications should the Panel consider?

Careful consideration needs to be given to the use of sanctions or incentives based on performance. This may have unintended consequences that impacts on the quality of development outcomes such as 'short-cutting' due to unreasonable pressure.

What other reform ideas should be considered?

The Panel should consider how performance measurement links to current reports provided by Councils, including system indicators, ABS data and the Local Government Grants Commission return and whether we can get better value from these time consuming processes.

Recommendations:

- The LGA supports a performance monitoring approach that measures and reports on the 'health' of the planning system and introduces greater accountability for all decision makers
- Caution should be taken in recommending sanctions or incentives based on performance as there is potential for unintended consequences.

Reform Idea 27- Pursue culture change and improved practice across the system

Summary of the Reform Idea

The Panel has recognised that a new planning framework would need to be supported by a positive and enabling culture and practices. The Panel has concluded that the State Government must take a leadership role in developing the culture and values of the planning system. The Panel has recommended:

- The planning commission have a coordinator of planning excellence to lead changes to the system's culture;
- Development of a code of planning excellence that forms a charter for customer service;
- The planning commission should work with Local Government, the public service and professional organisations on cultural change;
- The planning commission will issue practice notes and guidelines;
- Introduce professional accreditation and regular training and development; and
- Establish a complaints handling framework under the planning commission.

LGA Response

Are these ideas workable or suitable?

The LGA acknowledges that the culture of the planning system is currently a barrier to efficient and effective processes and outcomes. The level of trust, faith and respect between State and Local Government and between Governments and communities must be improved to move forward with a new planning system.

What costs, benefits or other implications should the Panel consider?

Council planners reinforced that they are already bound by the PIA Code of Ethics, legislated Code of Conduct and their own employment conditions. Adding another Code or Charter is likely to duplicate these existing layers.










What other reform ideas should be considered?











An MOU or Heads of Agreement between Local and State Government about how they will work together in the planning system is a good idea as this will set the tone for the ongoing relationship.









Recommendations:

- The LGA supports the improvement of the culture of the planning system and recognises that this is an important reform
- The Panel should give independent consideration to how the relationship between state and local government in the planning system can be enhanced








Appendix 1- Summary of LGA Positions







Reform Idea	Indicator	LGA Position	Page
Reform 1- state planning commission		The establishment of a State Planning Commission to improve integration, coordination and long-term thinking within State Government is supported. Considerations include appointment of independent members and relationship with Councils.	7
Reform 2- Create a network of regional planning boards		The LGA supports further investigation of a regional planning model. However, there is not a strong enough value proposition to support implementation at this time.	10
Reform 3- Enact a Charter of Citizen Participation		Improving engagement with communities is strongly supported. Considerations include the integrity and accountability of this model.	14
Reform 4- Allow for independent planning inquiries		This reform idea is supported by the LGA if it applies to only the more significant matters dealt with through the planning system to resolve deadlocks and improve community confidence. Considerations include the cost of accessing this process.	16
Reform 5- Make the role of parliament more meaningful and effective		Emphasising the role of Parliament at the strategic and policy level of the system is supported, in addition to retaining an oversight role. The membership of the Committee should be reviewed.	18
Reform 6- Establish a single framework for state directions		This idea is supported, subject to reducing 'layers' and collaboration and consultation on directions.	19
Reform 7- Reshape planning documents on a regional basis		This model warrants further investigation regarding the practicality of a Regional Development Plan. Local variations must be reflected in strategy and policy.	21
Reform 8- Enact a consistent state-wide menu of planning rules		Councils have become accustomed to working with the State Planning Policy Library and these reform ideas address some of the concerns about transparency and consultation. This model would need to be much better resourced than the current library.	24
Reform 9- Build design into the way we plan		Better design guidelines and techniques are supported, but the concept of form-based codes is considered to go too far. Desired Character Statements should be retained and supported by better visual guides.	26

Reform 10- Place heritage on renewed foundations		Making heritage more positive and easy to understand for property owners is supported. Restoring the State Government funded Heritage Advisory Service is favour instead of introducing private heritage certifiers.	27
Reform 11- Make changing plans easy, quick and transparent		Improving the rezoning process is a must and the Panel's ideas are broadly supported. Formalising the 'third party funded' DPA process is supported in place of a privately managed DPA.	29
Reform 12- Adopt clearer development pathways		Making the assessment process easier to navigate is supported, as well as rationalising the resources required to assess 'low-risk' development. Caution is recommended in terms of meeting community expectations and losing robust processes	31
Reform 13- Provide for staged and negotiated assessment processes		Staged approvals are generally not supported due to being complicated and inefficient. However, a design consent for complex development has merit. Formalising a pre-lodgement advice process is also supported.	33
Reform 14- Improve consultation on assessment matters		The reform ideas are generally supported, subject to considerations about costs and integrity. Councils question their role in providing mediation as they should remain objective and the process requires specialist skills.	35
Reform 15- Take the next steps towards independent professional assessment		Introducing mandatory Regional Assessment Panels is not supported. Elected Members add value to the assessment process and there is an ongoing role for appropriately trained Elected Members to remain on the Assessment Panels.	38
Reform 16- Enhance the transparency of major project assessment		The reform ideas are supported, subject to further consideration about mining approvals and resourcing.	42
Reform 17- Streamline assessment for essential infrastructure		The reform ideas are supported, subject to a sensible definition of essential infrastructure (including open space) and Council and community involvement in the process.	44
Reform 18- Make the appeals process more accessible		The reform ideas are supported. The Panel should consider mechanisms for a Council initiated rehearing of DAP decisions on high-risk applications with broad community impact.	45
Reform 19- Provide more effective enforcement options		The reform ideas are supported. Planning enforcement and compliance responsibilities should be the responsibility of the authority that issues the consent.	46

Reform 20- Reinforce precinct-based urban renewal		The LGA supports the implementation of the precinct planning process outlined in the Urban Renewal Act	48
Reform 21- Allow for more effective provision of open space, parks and urban greenery		A review of legislated open space contributions is supported to improve the provision and quality of open space, particularly in higher density areas. Local Government has undertaken quality research on this matter.	49
Reform 22- Provide incentives for urban renewal		Ideas regarding urban renewal incentives require further consideration and must have the objective of not creating disadvantage to existing communities through reduced service delivery.	51
Reform 23- Create tools for infrastructure funding and delivery		The LGA is supportive of an infrastructure funding and delivery framework of the nature described by the Panel, subject to further discussion with State Government, industry, Councils and communities.	52
Reform 24- Aim for seamless legislative interfaces		Improving the efficiency of the statutory referral process is supported, but Panel the also needs to consider the referral process from a risk-management and liability perspective.	54
Reform 25- Adopt an online approach to planning		Creating a central online planning portal is supported. Further investigation of costs is required and the model won't work without strong State Government investment.	57
Reform 26- Adopt a rigorous performance monitoring approach		Performance monitoring of the system is supported, providing the focus is on the overall 'health' of the planning system and not on arbitrary measures. Improving accountability is supported, with caution about sanctions or incentives.	59
Reform 27- Pursue cultural change and improved practice across the system		The LGA recognises that reform must be accompanied by a change in the culture of the planning system. The culture should be positive, respectful and solutions focussed.	61

Appendix 2 – Overview Assessment of the Reform Ideas against LGA’s Planning Reform Objectives

Reform Objective	Indicator	Comments
Accessible		
Policies and processes are clear and consistent, resulting in equity, fairness and certainty.		The Panel’s ideas address this objective by greater policy consistency in Development Plans, reviewing assessment pathways, improving consultation on assessment and reviewing the appeals process.
Opportunities for public participation in the planning system are clear, with an emphasis on influencing outcomes at the strategic planning and policy development stages..		The Charter of Citizen Participation and changes to notification of applications would advance this objective. Further clarity is required regarding the interaction between proposed Commission and Regional Boards and Communities.
The pathways to development are clear and uncomplicated, with the level of assessment required matched to the level of risk of impact associated with a development.		The Panel’s reform ideas about development pathways are consistent with this objective. Detail is required about ‘how far’ the Government would go with the removal of matters from the system.
The appeal and review process is timely and cost effective and compliance and procedural matters are principally resolved through a non-judicial process.		The proposed re-hearing process and changes to the compulsory conference process address this objective. Independent inquiries provide another avenue, but the cost effectiveness is of concern.
Integrated		
Planning policies and processes are underpinned by triple bottom line thinking, which balances the State’s economic, environmental and social interests.		Reform ideas are strongly driven by an economic agenda. The Panel’s ideas have the objective of achieving better alignment and coordination of agency plans. Improvements to heritage, open space, social infrastructure delivery are proposed.
Local Government works with the State Government to develop and implement an overarching planning strategy and to ensure that all major state and local policy documents are consistent with the strategy and with each other.		Improving collaboration at a regional level between state and local government is a key reform theme. There is some concern that a Regional Board may be an over engineered solution and requires much further investigation.
The system promotes excellence in urban and built form which improves the health and wellbeing of communities. This is underpinned by decision makers having a high level of planning and design competency.		There are proposals to better incorporate design into the assessment process that are supported, but wide application of form-based Codes would be a step too far. It is proposed that planning professionals would need to be accredited to undertake some planning functions.

Accountable		
Decision making at all stages of planning is transparent and decision makers are held accountable for their performance by introducing fair and reasonable performance measures		The Panel's report does feature performance monitoring, but there are questions about how accountable a fully independent body would be.
The development assessment process is robust but is more efficient through the removal of red tape.		Finding greater efficiency in the assessment process has featured strongly in the Panel's report. There is some doubt about whether the process would remain robust if there is a dramatic reduction in the 'things' that are assessed. The Panel's ideas also appear to introduce more 'layers' to the process.
Planning policy can be updated quickly and efficiently, with amendments that are not seriously at variance with the Planning Strategy taking no more than six months to be finalised from the date of lodgement.		This objective has been satisfied by the Panel's report. However, testing of the model would be required to determine if a 6 month timeframe could be achieved.
There is accountability in the planning policy amendment process through the introduction of performance measures and transparency through the introduction of an online 'tracking' system.		The Panel has proposed that timeframes would be imposed on all stages of the rezoning process, and information about planning processes would be available on an online planning portal.
Local Involvement		
Local Government has primary responsibility for developing and updating the local elements of planning policy and the assessment of local impacts of all development proposals.		The role of individual Councils in a regional model and the level of influence that could be achieved requires further consideration. Better collaboration on regional strategies is supported.
Elected Members have a high level of engagement and influence in the development of local planning policy, which is used to make objective decisions about development outcomes.		The Panel's report makes several references to Councils retaining local policy variations and having the ability to initiative changes to state and regional planning documents. There is concern about how this would work in practice.