

**Performance Benchmarking of Australian Business Regulation:
*Planning, Zoning and Development Assessments***

**Productivity Commission Issues Paper
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**Submission from the
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Government coordination and cooperation in planning, zoning and development assessments

State and Local Governments need to have a coordinated approach to the zoning of land. Based on the current zoning for the Southern Region in Greater Adelaide, the existing land supply for development would be exhausted within three to four years.

The 30-Year Plan for Greater Adelaide, developed by the South Australian Government, is a strategic land use strategy, aiming to make Greater Adelaide a more sustainable, vibrant and liveable city, guiding where people will live, how we manage population growth, ensure access to housing and essential services and land for job creation. The Plan focuses on more infill development, within the existing urban area, and identifies new strategic growth areas. Growth will be focused around transport corridors with a focus on higher density and mixed-use development.

State government Cabinet has identified five State significant areas based around transit corridors, one of which is the Southern Corridor located in the Southern Region. This is one of seven State Government regions that make up Greater Adelaide, and targets have been identified to accommodate nearly 16 percent of Greater Adelaide's new dwellings (40,500 dwellings) and new jobs (43,000) over the next 30 years. The current zoning cannot support these targets. The Department of Planning and Local Government is therefore leading a structure planning process for the Southern Corridor, from Adelaide to Noarlunga Centre and Seaford. This process will also consider linkages to surrounding areas.

Delivering on the objectives of the Plan will require an unprecedented level of collaboration between Federal, State and Local Government agencies, private developers, and the community.

For further information about structure planning see Chapter F of *The 30 Year Plan for Greater Adelaide* accessible at:

<http://www.dplg.sa.gov.au/plan4adelaide/>

Impact on competition

- *How broad and transparent are the consultation processes for assessing public and business opinion on proposed planning and zoning options?*

Consultation processes for development assessment are generally determined in Section 38 of the South Australia Development Act 1993 and Schedule 9 of the Development Regulations 2008. Public notification of an application (dependent on its categorisation) varies between notifying adjacent land owners (mail out) through to the public generally (newspaper). With a Category 1 development, applications are not placed on public notification; with a Category 2 development, notice of the application must be given to owners/occupiers of each piece of adjacent land, and with a Category 3 development, notice of the application must be given to owners/occupiers of each piece of adjacent land, owners/occupiers of other land considered to be affected by the development and the public generally (newspaper).

Under Category 2 developments, only representations received from persons entitled to be notified are required to be taken into account.

Under the Category 3 development notification process the system allows property owners that have no tangible connection with a property, or direct affect from the proposal, to put in a representation.

Appeal rights are only available to persons who have made a representation to a Category 3 development application. No (3rd party) right of appeal is available against Category 1 or 2 development applications.

- *What are some ways that governments could address anti-competitive practices in the planning, zoning and DA systems?*

The consultation process outlined in the Development Act and Regulations could be reviewed. Quite often the reason an application requires notification is not the issue being contested by a third party (particularly Category 2 development - ie. notified because proposed development is to be located on a shared boundary, however, it is the 2 storey nature of the development that is being questioned). Perhaps the only issue that should be allowed to be commented on is the one that made it a notifiable development because all other aspects of the proposal would, in normal circumstances, have been considered by the development authority only.

The Development Act has recently introduced a Category 2A form of development whereby only the owners/occupiers of adjoining properties are notified of a development application and given the opportunity to comment. (It is intended that circumstances such as where a structure is to be located on a shared boundary would be included in this category – an amendment to Council's Development Plan is required to bring this into effect as this situation is currently classified as Category 2).

- *To what extent do planning and zoning systems have the effect of unnecessarily limiting the entry of new industries or supporting the continued existence of particular industries in some locations?*

Generally policy within a Development Plan is created with a great deal of considered thought. Unfortunately, instances may occur that were never intended or foreseen by the policy. Policy that is either written too broadly or too narrowly can both create issues such as allowing unintended uses, or stifling innovation or “new types of industries”.

- *To what extent do the difficulties of dealing with fractured land ownership make it difficult for smaller developers to enter some markets? Should governments have a role in the merging of small separately-held parcels of land into larger plots in order to facilitate large-scale developments? If so, why?*

In many instances smaller developers appear to be attracted by smaller sites/developments, i.e. a site containing one dwelling being replaced with between 2 to 4 dwellings. This can sometimes result in spatially ad-hoc and inappropriately designed development (compromised setbacks, open space area and privacy). The amalgamation of smaller land parcels to create sites large enough to accommodate better designed and more functional higher density developments, which are more complementary to the streetscape and surrounding development, should be sought.

Policy needs to be included within the Development Plan that restricts redevelopment of conventional residential sites for higher density development unless the land parcel is of a size (say several 1000m²) and shape that will comfortably allow quality redevelopment to occur.

Impact on compliance costs

- *For the jurisdictions in which you operate or live, what planning, zoning or DA costs do you consider to be unnecessarily high?*

On the contrary, most local councils in SA would generally find that the regulated fees do not cover the costs associated with the DA process. This is particularly evident in relation to smaller scale applications with a development cost less than \$100,000 (\$52.00 - lodgement fee / \$32.50 for up to \$10,000 and \$89.50 for up to \$100,000 - planning assessment fee).

Development fees are set by State Government.

- *Where rezoning of land is undertaken, does it occur in a timely manner? What slows the rezoning of land? Can delays be shortened while still allowing the rezoning process to be consultative and transparent?*

There are parts of the rezoning process (Development Plan Amendment) that could be undertaken in a more timely manner. In particular the initial stage – ‘Statement of Intent’ (SOI). Councils prepare a statement outlining what it is they are proposing, why it is needed, and the investigations they will undertake during the process to ascertain the appropriateness of the change and the issues that require addressing. This statement is forwarded to the Minister via the South Australian Department of Planning and Local Government (DPLG) for agreement of the DPA’s intentions and the process. The SOI can often be with the DPLG for an extended period of time whilst comments are sought from the various government agencies and/or issues raised by an agency are asked to be addressed by Council before the SOI can be further considered. The requirement for agency comment at this stage of the process is questioned as agency comments are also sought at a later stage as part of the investigations. Answers to some agency comments cannot be addressed at the SOI stage as it is the investigation of that issue that provides the answer.

Although generally providing comments that relate directly to their core business activities, it may be beneficial for the DPLG to liaise with the various government agencies so that a more co-ordinated and strategic view of any issues raised is provided to council. There have been situations where comments and views from separate agencies have been at odds with each-other/counter-productive.

- *To what extent do the risks associated with the timing and outcome of DAs deter some developers from undertaking projects?*

If a developer wishes to enter into a contract on land that is subject to development approval for an intended use/development, a developer may decide not to proceed if the development:

- is at variance to the intentions of the Council's Development Plan;
 - requires a public notification process, so a longer assessment time period is required;
 - if a 3rd party is likely to lodge an appeal.
- *Is the uptake of state planning/zoning policies/overlays consistent between regions or local government areas?*

The South Australian Department of Planning and Local Government has intentions for all local councils to undertake the “Better Development Plan” (BDP) conversion process on their Development Plans. This is intended to result in a consistent

structure (layout) and consistent policy within each Council's Development Plan, making it easier for developers, the public and persons associated with the development industry to work with. This conversion rollout is anticipated to take place over a number of years.

Impact on efficiency and effectiveness in the functioning of cities

Collaborative partnerships between all levels of government and government sectors is essential if local conditions and community needs are to be taken into consideration and fed into the wider plans that may be put in place by the State Government. For example, the Clovelly Park site in Marion (ex-Mitsubishi Assembly Plant) which consists of 61 hectares of land was recently acquired by the State government, and master planning is currently being undertaken in relation to the site and its future use. The City of Marion sits on the steering group guiding the development of the site, and provides input to the collaboration from a local perspective.

State government ownership of the Clovelly Park site, may also have some impact upon competitive practices in relation to land use within the region. For example, the site has been proposed as a Cleantech site, however there may not be enough capacity in the Cleantech sector for the site to function exclusively in this manner.

Ease of doing business

- *What challenges do governments and communities face in pursuit of liveability goals? How can these be addressed by planning, zoning and DA systems?*

Southern Adelaide including the City of Marion has identified urgent initiatives for the region, which include:

- Workforce Development
- Employment Land Supply
- Transport Linkages
- Broadband
- Regional Marketing/Investment Attraction

These initiatives driven by the Southern Adelaide Economic Development Board seek to create an environment within the south that focuses on making it a highly desirable place in which to live, work and run a successful business. One that is serviced by fast, efficient transport links allowing easy access to other part of metropolitan Adelaide. Planning, zoning and DA systems need to support these economic development goals which endeavour to ensure accessibility to employment opportunities.

Also, it is important to ensure there is separation between incompatible uses but promoting a mix of different but compatible uses which allow persons to work, shop, socialise and access public transport within a walkable distance of where they live. In order to achieve this mixed use, areas require the creation of a more compact/higher density form of living which includes a variety of housing types to cater for the mixed needs of the community.

Ensuring adequate supply of land for different uses

- *What are the social, environmental and economic reasons for which governments may wish to control the supply of appropriately zoned sites for development?*

To ensure that appropriate social infrastructure, facilities for daily needs and access to public transport is available for future residents of an area. Fringe residential developments in the past have sometimes been isolated for a considerable amount of time before they are adequately serviced by public transport, schools, health services, shops, etc.

There can be a need to limit the premature use of valuable productive land on the fringe areas of the metropolitan region. Even though zoned for a particular use (i.e. Residential) it is fundamental that other areas within the existing metropolitan area capable of being developed are developed first, and perhaps at a higher density than other areas that have previously been developed to maximise the use of existing infrastructure (social, service etc).

- *Are the current methods employed by planners for determining forward demand for different uses of land appropriate? If not, why not and how could they be improved?*

Generally much use is currently made of census demographic figures and often isolated modelling may be undertaken in regard to future economic, retail and employment demand. The census is only undertaken every 5 years so can be quickly out of date and due to limited funding limited expert projections are undertaken.

The current '30 Year Plan for Greater Adelaide' requires councils to develop more accurate projections/modelling of demographic, economic and employment figures to better plan the direction that the council should be moving towards.

- *What impact would limiting opportunities for third party objections/appeals and so fast-tracking projects through planning and DA processes have on the supply of land for different uses?*

This situation would obviously free/speed up the process but would not provide those adjacent land owners, with a legitimate issue relating to potential impacts from a project, from having an opportunity to provide the relevant authority considered comment on the same.

The current appeals process through the Environment Resources and Development Court (ERD) can at times be extremely slow. The time between evidence being given at a hearing and a decision being made has taken up to 3 months.