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Reference: ACC2010/138755

30 July 2010

Ms Louise Sylvan
Presiding Commissioner
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Dear Ms Sylvan

RE: Submission to Performance Benchmarking of Planning and Zoning Systems

I write to provide you with comments on the '*Performance Benchmarking of Australian Business: Planning, Zoning and Development Assessments*' Issues Paper.

Council welcomes the Productivity Commission's proposed benchmarking study and recognises it will provide a useful comparative analysis of the nation's planning and development systems. Council looks forward to continuing involvement in the review.

The South Australian Government and Adelaide City Council are already working closely to improve the efficiency and functioning of the City in order to implement the recently released *30-Year Plan for Greater Adelaide*. This Plan aligns well with *Creating Our Future*, City of Adelaide Strategic Plan 2008-2012. Council looks forward to a closer working relationship with the South Australian Government given the increased strategic focus on the City and inner areas.

Council has, and intends to continue to be active in seeking to achieve its Strategic Plan outcomes, including residential growth and economic development, through its business plan projects, programs and policy review. As detailed in the enclosed submission, a range of projects, programs and policy has supported Adelaide City achieving workforce growth of 22% in the last 10 years, and a rate of residential growth of nine times the metropolitan average.

Council has, and will continue to be active in updating its planning controls in the Development Plan to achieve National, State and local outcomes. Refinements to planning controls are informed by robust investigations in order to ensure that a balanced approach to economic, environmental and social goals are implemented.

Council has also been active in ensuring its planning assessment task provides excellent customer service and meets KPI's set by Council.

The Australian Government, State Government and Adelaide City Council are preparing an Integrated Design Strategy (IDS), a holistic approach to city design with a view to making Adelaide a more vibrant, liveable, competitive and sustainable City.

Council is very supportive of the Australian Government's increasing involvement in urban affairs and looks forward to initiatives which strengthen partnerships and assist the Council and State Government better progress strategic planning, zoning and planning assessment matters in order to improve the way in which the City functions.

Please find attached a copy of Adelaide City Council's submission on the issues paper. I trust the submission will assist the Commission's investigations and subsequent discussion paper.

Should your office require further information or clarification, please do not hesitate to contact Michele Williams (08 - 8203 7710 or m.williams@adelaidecitycouncil.com).

Yours sincerely 

Peter Smith
Chief Executive Officer

cc: Ian Nightingale, Chief Executive, Department of Planning and Local Government
Local Government Association (SA)

PRODUCTIVITY COMMISSION ISSUES PAPER
Performance Benchmarking of Australian Business
Regulation:

Planning, Zoning and Development Assessments

Response by Adelaide City Council

Attachments

- *Creating our Future*: City of Adelaide Strategic Plan (2008 - 2012)
- *Creating our Future*: Background Paper (January 2009)
- Council endorsed letter and submission to the draft 30 Year Plan for Greater Adelaide
- Barriers to Multi-Storey Residential Development in Adelaide (Paper by Administration)
- Le Cornu Site – chronology of events

Summary Statement

Council welcomes the Productivity Commission's proposed benchmarking study and recognises it will provide a useful comparative analysis of the nation's planning and development systems. Council looks forward to continuing involvement in the review.

The South Australian Government and Adelaide City Council are already working closely to improve the efficiency and functioning of the City in order to implement the recently released *30-Year Plan for Greater Adelaide*. This Plan aligns well with *Creating Our Future*, City of Adelaide Strategic Plan 2008-2012. Council looks forward to a closer working relationship with the South Australian Government given the increased strategic focus on the City and inner areas.

Council has, and intends to continue to be active in seeking to achieve its Strategic Plan outcomes, including residential growth and economic development, through its business plan projects, programs and policy review.

The implementation of a range of projects, programs and policy review has supported the City achieving workforce growth of 22% in the last 10 years, and a rate of residential growth of nine times the metropolitan average.

Council has, and will continue to be active in updating its planning controls in the Development Plan to achieve National, State and local outcomes. Refinements to planning controls are informed by robust investigations in order to ensure that a balanced approach to economic, environmental and social goals is implemented. This approach assists Council resolve competing outcomes, such as heritage/ growth and vibrancy/ safety.

Council has also been active in ensuring its planning assessment task provides excellent customer service and meets KPI's set by Council.

The Australian Government, State Government and Adelaide City Council are preparing an Integrated Design Strategy (IDS), a holistic approach to city design with a view to making Adelaide a more vibrant, liveable, competitive and sustainable City.

Council is very supportive of the Australian Government's increasing involvement in urban affairs and looks forward to initiatives which strengthen partnerships and assist the Council and State Government better progress strategic planning, zoning and planning assessment matters in order to improve the way in which the City functions.

Issues

1. On what matters should the planning, zoning and DA related decisions and actions of governments be coordinated? How should performance on these matters be benchmarked?

State and Local Governments are cognisant of the need to coordinate strategic land-use planning within an overall planning system. Changes to zoning policy and development assessment decisions affect strategic outcomes.

The success of the coordinated implementation of planning strategies should be benchmarked against an agreed framework of sustainable goals. Performance measurement of planning and zoning systems should be based on the goals of the long term strategic plans, such as the 30 Year Plan for Greater Adelaide. The 30 Year Plan for Greater Adelaide has aspirational goals regarding liveability (including housing affordability), competitiveness and climate change resilience. Thus, the degree to which the planning system achieves these goals should be the measure.

Adelaide City Council has previously undertaken development assessment benchmarking studies with other SA Councils and some other Capital Cities. These studies have all shown difficulty in benchmarking assessment processes due to the significant variety in assessment processes and types of development that occur within jurisdictions. These benchmarking studies are listed below and can be provided on request:

- G6 Development Applications Processes 1999 Performance Monitor
- Comparative Analysis of Capital City Development Assessment Makers 2003

2. Are there particular examples of where land development and development of other urban infrastructure (such as transport and schools) are or are not well coordinated?

With the 30 Year Plan for Greater Adelaide being released in early 2010, significant opportunity presents itself for the State Government and Council to partner in achieving the Plans goals for the Adelaide City area. This is particularly the case given the sizable population targets and development potential in the City and the sustainability, liveability and business benefits from additional CBD growth. These benefits are outlined in Council's submission to the mid 2009 consultation draft of the *30-Year Plan for Greater Adelaide*

An example of poorly coordinated urban development is Buckland Park (proposed outside the fringe of metropolitan Adelaide) which will be largely car dependent and not well linked to existing infrastructure or urban development. The development will not be serviced by regular public transport in the early stages of the development. It is understood that a developer funded community bus will operate between Buckland Park and Virginia twice a day. It is unclear if the Government will supply public transport to the development as no commitment has been made at this stage.

In addition, coordination of planning between different Councils for matters such as stormwater and bicycle routes requires ongoing attention and liaison in order to achieve coordinated and effective infrastructure.

3. What costs (benefits) does poor (good) coordination between levels of government create for:

- **property developers**
- **businesses, aside from property developers**
- **government agencies and local governments**
- **residents?**

Well coordinated government action will benefit all the stakeholders listed above. Conversely, poorly coordinated action has potential to create a variety of negative social, environmental and economic impacts.

The example above of uncoordinated fringe development is a relevant example.

In addition, poor coordination creates

- Uncertainty
- Inconsistency
- Deterrent to business investment and relocation
- Time costs (for developers)
- Financing difficulty/securing anchor tenant

Good coordination leads to:

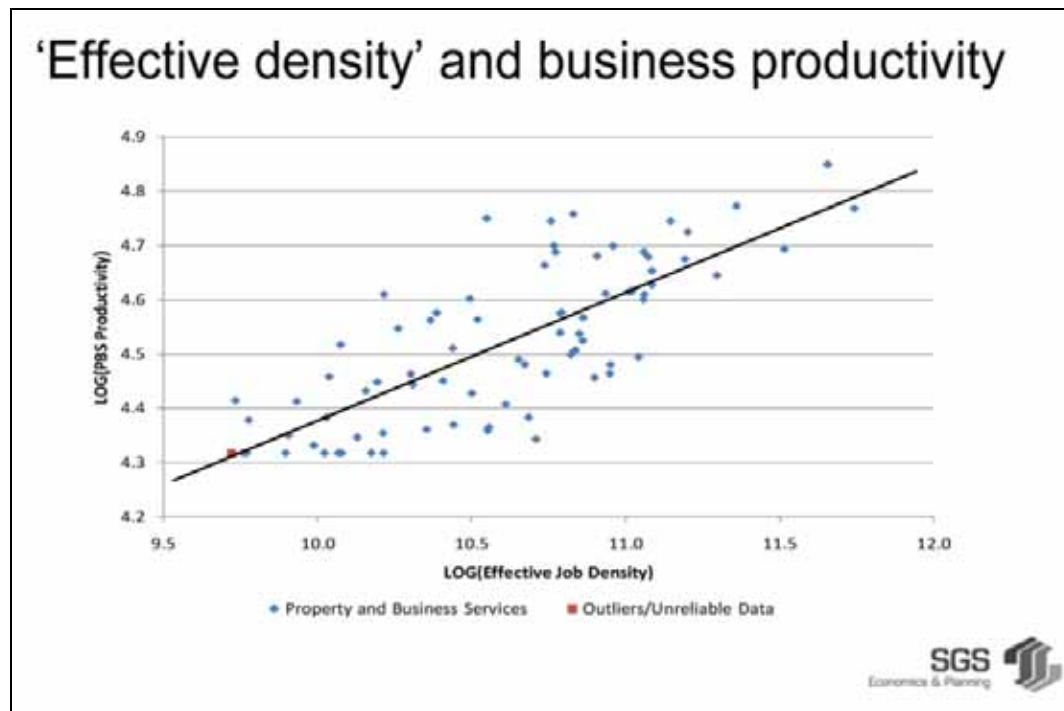
- More quality, higher value projects being delivered
- Increased willingness to invest/develop
- Greater resident knowledge and satisfaction with on-ground developments

4. What are the ways in which regulations or government processes restrict competition for land and its use? What are social, economic or environmental purposes that these restrictions serve? Could the purpose be achieved without restricting competition?

Increasing the number of people living in the City will have benefits for all of metropolitan Adelaide by relieving pressure on the urban fringes and increasing the number of people living in vibrant mixed use settings close to facilities, with a variety of transport options.

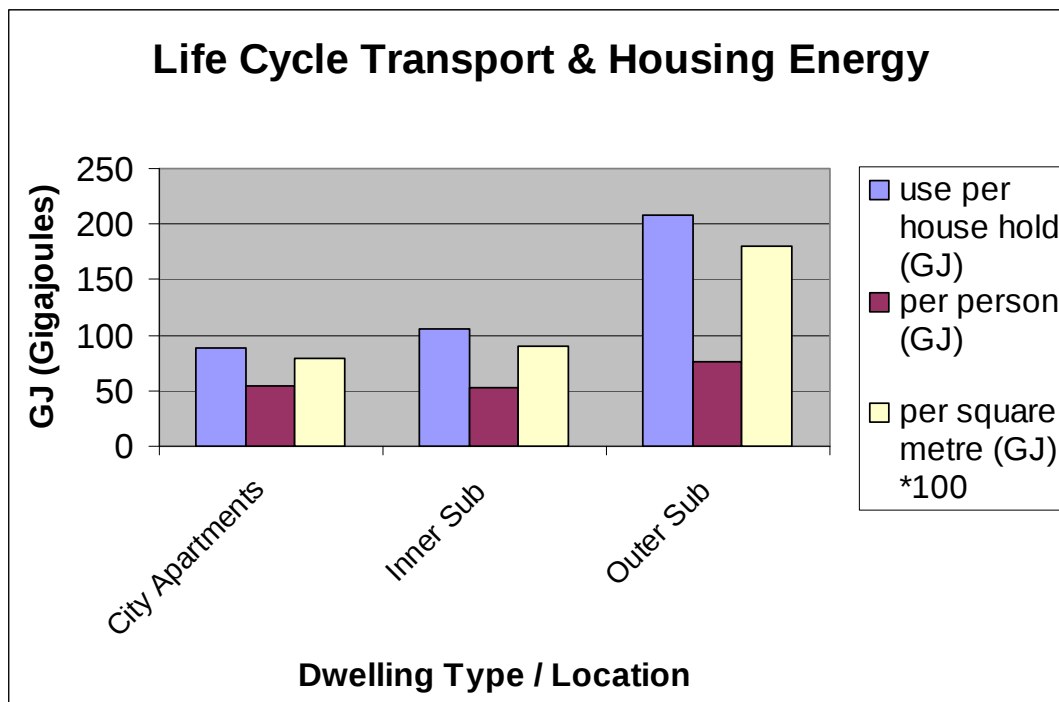
Actions that foster increased density in the City, especially affordable housing, green housing and green transport, will support the sustainable growth of not only the City of Adelaide, but metropolitan Adelaide. It is this kind of sustainable and economic growth that is supported by planning regulations and processes. These are the social, economic and environmental purposes planning restrictions seek to serve and that, where justified for these purposes, have implications for the otherwise free operation of the market to compete.

A planning system which seeks to foster city/inner suburban consolidation enhances business competitiveness and a sustainability benefit.



Source: Spiller, M (2009) Placemaking – Beyond the Florida thesis and what it means for Adelaide

A productivity dividend is realised when job density increases.



A sustainability dividend is realised by city living.

Zoning sets out the desired land uses that are appropriate in one area in the context of a long term strategy. To a large extent, the market will determine if it is feasible to use land for business or residential purposes. Zoning thereby has an influence on the cost, development potential and availability of land for different uses but within the context of goals of the sustainable and economic growth of the metropolitan area.

Certain planning restrictions serve to protect certain areas e.g. park lands, or for wider community benefit, such as the heritage value of particular buildings.

The City workforce has experienced significant growth of 22% in the last 10 years. The attached *Creating our Future: Background Paper* (January 2009) in Section 1.1 provides data on recent growth in workers, students and retail, and also contains detail regarding Council's own initiatives to foster workforce and student growth. These initiatives have been aligned to strategic plan outcomes.

The City residential population has similarly experienced significant growth in the last 10 years (more than nine times the rate of growth of the metropolitan area). The attached *Creating our Future: Background Paper* (January 2009) in Section 1.3 provides data on recent growth in residents, and also contains detail regarding Council's own initiatives, such as the Strategic Property Program. These initiatives have been aligned to strategic plan outcomes.

There are ongoing tensions within metropolitan Adelaide regarding where large scale commercial/retail growth (in particular) should occur. The tensions are primarily centred around facilitating growth either in the City centre, regional centres and land within the Adelaide Airport.

Retail

An example of where land use policy has interacted with wider competition goals is recent publicity regarding centre zones creating an unfair advantage to major retail competitors (e.g. – Woolworths and Coles).

A policy of a hierarchy of centres has been, and continues to be, a central strategy in State Government land use strategy, i.e., the *30-Year Plan for Greater Adelaide*. The centres policy is essential in underpinning the achievement of public transport efficiencies and in maintaining the value and efficiency of expensive public and private infrastructure and services.

Development outside of centres is much more difficult to service with public transport, and is also often remote from educational, cultural and other services and facilities. Development outside of centres also weakens the business synergy from collocation with other activities in centres.

Office

Competition is also for office space. A rezoning proposal in Mile End South sought to establish an office park outside of the CBD and established centres. Council commented that:

- The rezoning facilitated an office park in a location substantially inconsistent with the Metropolitan Adelaide Planning Strategy.
- That insufficient justification existed for the rezoning, particularly regarding its impact on demand for offices in existing zoned centres (including the Adelaide City Centre).
- The rezoning would erode industrial land supply.

Council's comments at that time were supported by a cost-benefit analysis of a hypothetical 800 person office building to test the costs of out-of-city office development. The analysis concluded that on a net present value basis, a city centre location would have benefits that would cover the additional costs of a city centre location more than eight times over. Whilst a city centre location would be indicatively about \$1.0 million more costly than a non-city centre, over a 20 year period, a city centre location would:

- Reduce other business costs in a relative sense by some \$1.9 million;
- Produce net benefits for employees of some \$4.9 million; and
- Provide more broadly based community benefits in the order of \$1.6 million.

More details on the rezoning (which was eventually approved) and the office park, which is now being constructed, can be provided upon request.

5. Do some governments (and their regulators) or government processes restrict competition more than others? If so, what are the ways in which they do this?

No comment.

6. Are there particular examples where planning, zoning and DA systems are especially effective at encouraging competitive outcomes?

The Adelaide (City) Development Plan (statutory land use document) encourages a wide range of land uses throughout the Council area, thereby encouraging and facilitating competition. For instance, larger scale commercial and residential development is desired in the Central Business Area and Mixed Use Zones that cover the northern part of the City centre. Similarly, there are areas where only low-scale residential and low-intensity commercial development are desired.

The zoning framework reflects the types of land uses and physical appearance that is desired in various parts of the City. The process of amending zoning takes into account economic, environmental and social outcomes desired through long term strategic plans.

Competition is not a matter that is taken into account in the assessment of a development application in SA.

7. Which regulatory requirements on developments unnecessarily restrict the final use of a site?

Under the *Development Act 1993*, consents and approvals are valid for 12 months to substantially commence and 3 years to substantially complete. Applicants can apply for extensions of time, which are commonly granted, particularly for larger commercial projects (i.e. multi-storey office developments).

The 12 month period is frequently insufficient to enable large projects to commence work. This can impact on the developers' ability to maintain financing for a project and potential contracts. It is possible for applicants to apply for extensions to the 12 month period.

Consideration should also be given to more flexible building code requirements on heritage buildings. Some requirements do not affect safety but may incur substantial costs which cause the project to be unviable.

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

The South Australian planning system sets criteria for public consultation in the *Development Act 1993*. Councils are required to liaise with government agencies and adjoining Councils when they are proposing changes to zoning. Whilst basic statutory consultation is required associated with community consultation, many Councils, including Adelaide City Council, go well beyond the minimum statutory requirements. For instance, in a recent Development Plan Amendment to change zoning policy, Council:

- phoned all affected residential and business property owners affected by heritage listing
- individually wrote to key business and industry stakeholders, such as property, business, heritage, resident and industry groups
- wrote to local Members of Parliament

9. In assessing the potential impact of rezoning an area/site, do governments consider the potential benefits and costs of competition for the local economy and community? If so, how are these considered and what factors are taken into account?

Council does investigate the potential benefits and costs of a change to zoning.

In a change to the Development Plan to heritage list buildings, a Business Impact Analysis commented on the extent to which the proposed changes may affect business within the City, including what the implications may be in terms of business remaining within the CBD or moving to inner suburbs. This information is available upon request.

Council has flagged to the State Government an intention to investigate opportunities for increasing development potential through a Population Capacity Development Plan Amendment. Further increasing development potential provides more opportunities for a range of business activities to take place. An increase in opportunities will create an increase in the number (and therefore competition between) City businesses.

As this change may involve increasing the height by which buildings can build, the investigations will also consider impacts from additional overshadowing on pedestrian amenity, implications for demand for additional movement, and the interaction of additional height with airport operations associated with Adelaide Airport.

These investigations highlight the interrelated nature of one change on broader social, environmental and economic outcomes.

10. 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?

Planning and zoning systems place opportunities and restrictions on development on any given area or piece of land.

In the City, the planning and zoning system prevents the entry of some industries because it is recognised that large scale manufacturing is not suited to the City environment or the desired service focus of City business into the future. This is partially because the land values are too high. The City is trying to encourage residential and commercial business growth in the context of macroeconomic trends.

The current zoning in the Central Business Area does not preclude the development of automotive repair businesses for instance, but factors such as land prices and development potential mean that other land uses are more desirable (i.e. – highest and best use). Existing automotive repair businesses are also impacted by a rise in property values. The land becomes more valuable for a ‘higher order use’ such as office buildings, and over time well be redeveloped.

Councils are obliged to conduct a review of their zoning every five years to determine the degree to which it aligns with the State Government’s 30 Year Plan for Greater Adelaide. This review also takes account of trends, for example, in industry, population, business and environment. This review flags long term changes to zoning needed as well as minor refinements. These can pick up “unnecessary” barriers. For example, Council has identified that multi-media display technology is emerging and as such, the zoning needs to be reviewed. This will occur in the next year. Information on Council’s review of its zoning (called a Development Plan Review) is available upon request.

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

Anti-competitive practices that arise from the planning system are in place in order to achieve broader economic, social and environmental outcomes (see question 4).

Ways that government can address or review the implications for competition of the planning system include:

- Having a clearly articulated planning strategy (such as the 30 Year Plan for Greater Adelaide) that is reported on and reviewed with consultation from time to time.
- Regularly reviewing the zoning (as occurs from time to time in SA called a “Development Plan Review” under Section 30 of the *Development Act 1993*) (see 10 above)
- Regular reviews of the planning assessment system.

The timelines for responses appear to be mostly based in the legislation. In addition, limiting third party appeals for some types of development means that potentially existing businesses that could be expected to appeal a similar land use commencing close to them (thereby increasing competition), may not always be able to do this.

12. 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?

Fractured ownership is a barrier to coordinated redevelopment of limited City land.

Council Strategic Property Program

Adelaide City Council has been intervening in the market by land banking strategic sites in the CBD for many years in order to create viable sites with increased development potential. This assists achieve long term strategic outcomes as well as to remove problematic / non-complying land uses. Urban design guidelines

associated with these sites are created to ensure Council's strategic objectives are met with any proposed redevelopment (e.g. residential growth including affordable housing outcomes, energy efficient design, quality urban design).

Through Council's Strategic Development Program, sites have been consolidated and developed to deliver strategic goals. Redevelopment of the Council's former Halifax Street Depot was completed in this way, providing some 240 new dwellings. The Vaughan-Palais redevelopment in the East End off North Terrace has provided a mix of 146 new apartments, including student accommodation. Redevolutions of the Balfours/Bus Station site, which is underway, will provide the largest addition yet to the City's housing stock at around 1,300 new dwellings.

Working with the State Government to facilitate development of affordable and special needs housing has been an important part of Council policy. Most recently, agreement has been reached for transfer to the State Government of the supported Common Ground project of 38 apartments forming part of the Council's Bus Station redevelopment, the Council contributing the land value. This is a ground-breaking approach in Australia for housing a mix of low income and homeless people, based on a model successfully applied in New York by former 'Thinker in Residence' Roseanne Haggerty. A further Common Ground project has commenced construction incorporating the former Sands and McDougall building on Light Square.

Changes to Planning Controls

Council amended the Development Plan in January 2006 to provide increased development potential of land on larger allotments (i.e. allow higher densities). This incentivises land owners and property developers to consolidate smaller allotments in order to achieve a higher economic return, and a greater intensity/built scale of development which assists the desired population growth outcomes.

The ability of a land owner to acquire multiple sites into a single consolidated ownership is limited by the ability of that owner to finance such acquisition. The current market for building houses in greater Adelaide is characterised by many developers of one to two storey dwellings, and a limited number of developers targeting the multi-level apartment market. The Development Plan in the City encourages site amalgamation in order to realise medium and high rise forms of development for sustainable population reasons. The constraint to realising the medium to high rise forms of development is a limited number of developers prepared to operate in the medium to high rise markets.

Whilst site amalgamation entails consolidated sites are difficult for smaller developers to acquire, as the 30-Year Plan for Greater Adelaide envisages the majority of the greater Adelaide area is to remain for one to two storey dwellings, many opportunities for smaller developers will remain in greater Adelaide into the future.

Conversely, large sites that may be consolidated through site amalgamation are at greater risk of remaining vacant for extended periods of time due to the greater risks associated with medium and high rise forms of development (refer 15 below).

A constraint on bringing about site consolidation is different owners interests in the future of their land, including individual owners in strata corporations, which may hinder the ability to realise a significant redevelopment project.

Information on Council's strategic property program and January 2006 zoning change is available.

Barriers to Density

The attached Barriers to Density paper and recommendations in the attached Council submission to the draft 30 Year Plan for Greater Adelaide identify a number of regulatory and fee barriers that impact on the ability of private developers to bring an actual redevelopment project to the market. These barriers have been reviewed by the Urban Development Institute of Australia and the Property Council of SA

Reviewing these barriers with a view to their adjustment to better align with outcomes sought in the 30 Year Plan for Greater Adelaide would assist developers bring high density forms of development to the market.

13. Are appeals to zoning and DA applications by competing businesses a regular part of operations for some businesses? Why are they made? Where third party appeals are possible, what might be effective ways of identifying and preventing those that contain no substantive complaint?

Not a regular problem within the ACC area.

The *Development Act 1993* and Adelaide (City) Development Plan limits third party appeals to a very small percentage of overall applications within the Adelaide City Council area. There have been no third party appeals in the last 12 months.

14. Are there examples of ‘gaming’ occurring in zoning and DA processes?

See 13.

15. Do developers who ‘partner’ with governments for particular projects and/or undertake government preferred projects receive differential treatment in the zoning and/or DA process? Does this differ depending upon whether the decision maker in the process is a local council, state/territory planning department, or a minister? If differential treatment occurs, is it justified in achieving planning objectives?

Concerns of differential treatment have been a topic of some discussion within SA.

Use of Major Project process

Section 46 of the *Development Act 1993* enables the Minister to declare a project as being a “major project” or “major development”, thereby removing the project from the normal planning process, which often involves local government decision making power being removed.

The legislative criteria to designate “major project” are broad, with some of the discussion within SA suggesting that more tightly defined criteria are needed for transparency and governance accountability, and in order to lessen concerns regarding differential and favoured treatment. Council suggests that tighter criteria are needed, including a close alignment to the 30 Year Plan for Greater Adelaide. Such criteria should be developed in a consultative manner.

It is also considered that there is insufficient checks and balances in the major project process as currently established in Section 46 of the *Development Act*. This includes *Development Act* Section 48E expressly precluding the option of judicial review through the courts of a decision of the Minister, State Government or the Development Assessment Commission.

The normal planning process involves applications being assessed according to the Development Plan policies. This means that developers in bidding to acquire a site understand what the rules are and the level of risk they take when bidding for a site. When a site is designated as being subject to the major project process, the assessment rules are different, entailing that the value of the land is affected, usually resulting in inequitable development gain.

The major project process can add significant time to the assessment of applications as there are a series of additional legal requirements placed on the development. It is rare for a major project to take less than 12 months to gain approval.

Former Le Cornu Furniture Showroom Site Case Study

The experience with the Le Cornu site in North Adelaide (as documented in the attached chronology of events) indicates that even with numerous planning approvals being granted over many years, the site remains vacant

to this day. The September 2008 gazettal of a planning approval for the development has not, as at July 2010, been enacted by the current owner.

In 2007, a six level mixed use project on the Le Cornu site was given major project status.

The major project designation resulted in reduced community consultation for the proposed six level building from that which would have occurred if the proposal was not declared a major project.

The outcome of the major project assessment has been to grant a planning consent to a six level building (where the Development Plan zoning envisages three levels, with this three level zoning confirmed via professional investigation and extensive consultation as part of a Development Plan Amendment).

The six level planning consent is likely to have increased the value of the land. If the land is placed on the market, the owner would be expected to seek to recoup that increased value. Provided the major project designation remains, a potential buyer could seek to obtain a planning consent within the major project rules. With the increase in land value, it could be expected that there would be lesser potential purchasers, thereby increasing the risk of the site remaining undeveloped.

Other Comments

Issues arise with absentee landlords with little interest in the long term strategic development of their land. Absentee landlords also neglect their buildings, reducing the appeal and attraction of the street in which a run-down building exists, further impacting on investment prospects.

Options should exist to enable local Councils to impose cost penalties on owners who do not develop or adequately maintain their land. The current *Local Government Act* does not include rating provisions that can be readily used to incentivise the development of new, more appropriate land uses where a particular land use is seen as undesirable or underutilised (eg vacant land). In the case of vacant land, the relevant rates legislation does not permit Council to increase rate levies on individual sites (such as the Le Cornu site) as the same rule would have to apply to all parcels of vacant land in the City regardless of the size (e.g. small residential parcels). The use of Council rates as a leverage instrument to foster development on underutilised land is too blunt an instrument in its application in its current form to be effective or reasonable.

There has also been commentary in the local media over the last one to two years regarding the lack of transparency of developers payments to political parties, and how this may or may not influence the approval process for development projects, particularly when linked to subsequent major projects and rezoning for large projects. In the context that development approval processes need to be based on agreed planning outcomes, be conducted in a transparent manner, and be independently determined, that this matter of transparency of developers payments to political parties needs clearer parameters.

16. How do planning/zoning/DA decisions on council or state-owned land affect the competitive environment? Are these decisions transparent and even-handed? If not, in what ways could the process be improved?

The Adelaide City Council has a proud history of promoting new forms of development on Council owned land. For instance, the Balfours/Bus Station development, Vaughan Place/Palais mixed use development, the Whitmore Square affordable housing development, the redevelopment of Council's former depot in Halifax Street for residential development and a new affordable housing project in Sturt Street (in the early stages).

Some of the aims of these projects are to provide social benefits through offering different types of development (e.g. affordable housing), providing economic and business opportunities and to revitalise certain parts of the City. These can have positive impacts on the surrounding communities and often lead to an increase in development demand. These projects also offer opportunities to push beyond traditional design approaches and achieve better design outcomes than used in the market housing sector.

As part of its' strategic property program, Council interacts with private developers in a variety of ways. For example:

- Any actual development project needs to obtain a planning consent. As Council has a commercial interest by way of its ownership in the land, it is legally unable to be the planning authority, with this role being undertaken by the State Government's Development Assessment Commission.
- For the Balfours/Bus Station project, Council initiated a proposal to rezone the land it owned in order to enable the preferred redevelopment concept to be able to obtain a planning consent. Whilst Council initiated the rezoning, the rezoning process followed the usual *Development Act 1993* steps of investigation, consultation and review, with the final decision being made by the State Government Minister for Urban Development and Planning, and the Minister's decision being reviewed by Parliament's Environment, Resources and Development Committee.

These processes ensure that Council, where it has a commercial interest, remains at arm's length, with the final assessment of the planning outcome being determined by the State Government.

17. Is information on proposed developments available to local communities and all potential land buyers or users during the planning/zoning/DA processes in a complete, effective and timely manner?

Under the Land and Business (Sales and Conveyancing Act), Section 7 statements provide details of current proposed zoning changes which have commenced public consultation. Prior to this, potential land buyers are not advised of zoning changes.

Council's Business Plan outlines its annual plan for changes to zoning, and this is consulted about and publicly available. Summary information on the program of zoning changes is available on Council's website. Part 8 (above) outlines communication associated with community consultation on zoning changes.

In relation to development applications, the following information is publicly available:

- Register of development applications, produced monthly and placed on Council's website (required by legislation)
- On-line DA tracking system where any member of the public can search any parcel of land for 'real-time' update on any development applications submitted and the current status of those applications (Council service)
- Applications on notification are notified direct to owners/occupiers of adjacent land, made available in Council offices/libraries, on Council's website and listed in the local newspaper. The Council's website includes proposal plans and provides the opportunity to make on-line submissions.

18. What are some examples of planning/zoning/DA processes which do not adequately consider the implications for competition?

The Environment, Resources and Development Court (ERD Court) have made a number of decisions/judgements concluding that competition is not a planning consideration in the assessment of planning applications.

When Council Development Plans are not regularly updated, they can fail to keep up with development trends (e.g. bulky goods outlets). Refer to 10. (above) regarding Council's Development Plan Review of its zoning. As a general comment, the process of zoning land has to justify why the zoning is needed for the broader community good. Invariably, this means that the zoning seeks to minimise the undue impacts of particular building work or land use to a level that is acceptable, and to maximise the community benefit by co-locating uses (such as in centre zones). Overtime, zoning has become more flexible, with the intent to focus policy directions on the planning outcome being sought, and leaving the 'how to' (design response) up to the proponent of the development.

19. To what extent does influence by interested parties, particularly those who may be politically active within the community, affect the decision-making processes? Does this improve or worsen outcomes? In what way? Do the views of these parties typically reflect the broader community sentiment?

These influences vary from Council to Council.

In South Australia, independent Development Assessment Panels (DAPs) have been established to differentiate between planning authority and local government roles and thereby strengthen decision making based on planning considerations. DAPs comprise a mix of 5, 7 or 9 members (Council can decide how many) with a majority of the members being independent professionals and the minority being elected members (Councillors).

In changing zoning, interested parties are invited to comment, and measures put in place in an endeavour to obtain broader community input. It is important to consult widely and directly to groups (eg resident groups) that often represent different interests. By doing this, Council often receives a variety of feedback and perspectives.

All comments are treated equally and the planning merits of the comments weighed up. Within this, interested parties tend to put forward the concerns of their interest. In some instances, an insightful comment by an individual may lead to a useful change in zoning standards.

These different views are reviewed by Council, and then subsequently reviewed by the State Government prior to determining the appropriate zoning standard.

20. Are there particular examples where planning, zoning and DA systems are especially effective at minimising unnecessary compliance costs for business?

The processes of planning assessment, and of reviewing zoning standards, involve the planning authority needing to justify particular constraints for the wider public good. Thus, the matters seen as “necessary” to be complied with are often arrived at following negotiation and a process of review. No specific example can be given.

21. Where electronic DA processes have been implemented, have they had any material impact on compliance costs?

To date, electronic lodgements have been limited to land divisions in South Australia (state wide application through EDALA lodgement system with State Government). The development industry and Council’s have shown a strong preference for using the EDALA system to lodge and assess development applications.

22. Do the requirements to be met for development approval vary unnecessarily between jurisdictions?

Yes, requirements for development approval can vary between jurisdictions. In particular, the level of information needed to accompany an application can vary for the same type of development in different Council areas due to local characteristics that are important in a local area (e.g. heritage compatibility and achieving a compatible mix of land uses are important characteristics in the Adelaide City Council area)

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

Not known

24. What measurable factors would best be used to compare the compliance burden of planning, zoning and DA processes across jurisdictions?

- A comparison of similar types of applications to help benchmark the various approaches.
- Costs associated with lodging similar type applications (i.e. change of land use, minor house addition).
- Types of works that consent is required for (i.e. internal building alterations, signage)

25. 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?

The rezoning of land requires Councils to work with the State Government to progress and finalise. Rezoning processes commonly take several years to complete. The process needs to be simplified and made more time efficient.

The key determinant as to the timeliness of rezoning is the degree to which the proposed rezoning aligns with the State Government's *30-Year Plan for Greater Adelaide*. The rezoning for the Balfours/Bus Station project, which facilitated a significant regeneration project within the CBD, took 13 months.

Where there are multiple desirable outcomes that need investigating and consultation to determine appropriate balanced policy outcomes, the timelines extend. For example, balancing growth and heritage, or balancing City vibrancy with safety. One benefit of the *30-Year Plan for Greater Adelaide* is that the strategic plan has quantified population targets and a framework that makes proposing zoning changes more certain as the strategic goals are clearer. Nonetheless, the detailed investigations needed in some circumstances extend both the time and the cost.

The other element that is essential but adds time is ensuring the proposed zoning is defensible in planning assessment within the court system. Legal advice is essential to assist council staff in writing proposed zoning so that the intended planning assessment outcomes are able to be supported (if and when challenged) through the courts system.

26. Are DAs conducted in a timely manner? What aspects of the DA process (for example, pre-application assistance, tracking systems, appeals and external agency referrals) could be improved without compromising the integrity of the decision-making process? What form could such improvements take (for example, greater use of exempt or self-assessment approval tracks)?

System Efficiency Improvements

Adelaide City Council has undertaken regular user surveys with applicants as well as a number of projects to improve the efficiency of the DA system. User survey reports can be made available.

The introduction of tracking systems, improved systems and procedures and reduced assessment timelines (average around 20-30 statutory days for all delegated decisions, noting that Council's KPI is 40 days) has entailed that overall performance has improved. Nonetheless, increased communication on the progress of an application and shorter processing times remain the key concern of applicants.

Adelaide City Council won the 2007 National Property Council of Australia Award for Innovation in Local Government. The nomination assessed development assessment regarding:

- *Deliver a development assessment process that demonstrates the advancement of best practice principles;*
- *The independent application of objective rules and tests linked to stated policy intentions;*
- *Provides for timely and transparent decision making;*
- *Applies an assessment track appropriate to the proposal;*
- *Demonstrates efficiency of process in dealing with assessment from other agencies or authorities.*

Information provided by Council to obtain this national award can be provided.

The Development Assessment Systems & Processes (DASP) project has also helped to refine DA processes. This project re-developed Council's application database, adopting a workflow method that tailored the assessment process and tasks to the complexity of the development application being considered. The outcome was a more intuitive system that assists minimise the risks of important steps in the assessment processes being missed, provide staff with reminders of overdue tasks and provide improved and more flexible reporting capabilities. This project was part of a nomination that won a PIA State Award in Local Government Process Management Initiatives in 2006.

3D Model to Assist Assessment of Development Applications

The City of Adelaide has created a 3D City Model, as a key tool to assist in planning for the City's future (<http://www.adelaidecitycouncil.com/development/3d-city-model.html>). This can be used to:

- assist in assessment of development applications for new buildings, enabling accurate overshadowing, overlooking and simulation of how the building will look within the City context; and
- provide extracts to assist architects and building designers to develop their buildings in a simulated real environment to refine their proposals.

Public Notification of Development Applications

Development applications are publicly notified consistent with public notification categories set out in the Adelaide (City) Development Plan and by procedures set out in the *Development Act 1993*.

Around 10-15% of applications are notified within the City of Adelaide. All submissions received as well the applicant's response become public documents. Council places all applications being notified on its website including copies of proposal plans and allows for submissions on-line.

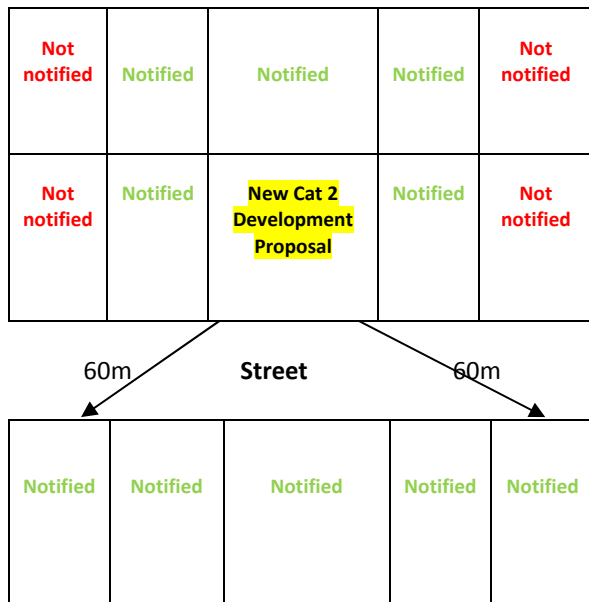
There are 3 main categories of development for the purposes of public notification (Category 1, 2 or 3). Category 2 & 3 applications must be placed on public notification for 10 business days.

Category 1 developments are exempt from any public notification requirements.

Category 2 developments require neighbouring properties immediately 'adjacent' the development site to be notified. This includes properties within 60 metres of the site separated by roads and lanes.

In the diagram below, this requirement has the effect of notifying property owners right next to (touching the property) and property owners across the road, but does not permit the notification of property owners a couple of allotments away on the same side of the road (often less than 60 metres). On occasions, the property owners not notified have genuine concerns with a proposed development but no opportunity to lodge valid objections. This matter needs further consideration by the State Government.

Category 3 developments (often larger scale proposals) are required to notify the same minimum number of property owners as Category 2, place an advertisement in a paper, and also notify any additional property owners the relevant authority (usually Council or State Government officers acting under delegation) considers would be directly affected to a significant degree by the proposed development.



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

No specific information is available; however clear planning controls that provide certainty in the development process is commonly stated as a key consideration for developers. Development Plans are not always clear with their policy guidance and expression in relation to aspects of development proposals. This can add uncertainty for developers undertaking projects. Ongoing refinements to the Development Plan are essential to both assist achieving strategic plans and in order to increase certainty. It is important for Development Plans controls to have some flexibility and certainty.

Timing also has a big influence as land holding costs have to be factored into the length of time it takes to assess development proposals, and the risk of additional time taken to assess proposals. The June 2008 State Government planning reforms have introduced a series of changes to further stream line the development assessment system.

Council has KPI's in terms of median time for granting planning consent of 40 days (delegated decisions) and 90 days (decisions by the Development Assessment Panel).

Undertaking large projects, the forms of which are increasingly desired through TOD forms of development sought in *30-Year Plan for Greater Adelaide*, have multiple risks. Councils help to facilitate the processing of applications where ever possible by encouraging preliminary meetings with applicants and giving appropriate priority to larger development proposals.

Lack of certainty in approval process is a significant risk that may restrict developers from purchasing underdeveloped sites.

Applicants often seek a staged Building Rules Consent process for large scale developments to allow for demolition before the entire replacement building is given Building Rules Consent and Development Approval. Developers seek this to reduce time delays in the application process and costs. However, by granting Development Approval in a staged manner, there is no mechanism for Council to require the developer to complete the whole project where the work does not proceed past demolition. Where this occurs, the outcome can be sites that remain vacant and visually unappealing for extended periods of time, loss of an economic use of an existing building and where the building is of historic or character value, the loss of that building.

28. Is the uptake of state planning/zoning policies/overlays consistent between regions or local government areas?

This has not always been the case, with varying degrees of consistency in zoning expression for similar land areas in different Councils. Different approaches to zoning have arisen where:

- different Council's have adapted past zoning practice in different ways for their areas
- physical and land use reasons have justified differences
- past State Government practices have supported differences in zoning, and less consistency.

The State Government recently released a *30-Year Plan for Greater Adelaide* which sets high level strategic land use directions for Greater Adelaide. Council's will be required via Review's of the Development Plan to increasingly update the Development Plan in their area to align with the 30 Year Plan. Concurrent with this, for a number of years, the State Government's Better Development Plans (BDP) project has been aiming to improve consistency and expression in Development Plans across the State.

The main strategic benefit of BDP is a more efficient planning system for South Australia as a whole arising from all Development Plans (when converted) being the same in structure, expression and content. This makes the Plans easier to use. With the BDP approach being introduced (Adelaide City Council has commenced a Development Plan Amendment to convert the Development Plan into the BDP format), this will lead to greater less duplication and clearer policy expression.

29. Do particular zoning or DA conditions (such as hours of operation) create costs — either directly or through lost opportunities? If they do, how significant are these costs and lost opportunities?

Adelaide City Council only limits the hours of operation of the premise where it has a planning purpose. This is mostly limited to licensed premises (hotels, late night entertainment venues) and is necessary to balance the economic benefits with the social and community expectations around achieving compatibility between land uses in a mixed use environment and social impacts (such as behaviour & public safety).

The key challenge regarding the appropriate mix and operating hours of late night licensed premises is adopting policy that balances outcomes of City vibrancy and safety for growth in workers, residents and entertainment, in the context of 30 Year Plan objectives.

A vibrant night life sector contributes to the competitive advantage of the City in terms of business growth. Similarly, a vibrant night life sector contributes to the attraction of the City for visitors and residential growth. The sector contributes to the City for business competitiveness and liveability, these being 30 Year Plan Objectives.

However, where the availability of alcohol and the concentration of licensed premises increase, and as closing times extend later into the night, interstate and overseas experience demonstrates that community harm reaches unacceptable levels. This is mirrored in Adelaide's experience.

The SA Police report "Alcohol and Crime, late night liquor trading and the real cost of a big night out in the Adelaide CBD" addresses the strong relationship between late night (particularly 24 hour) trading, alcohol misuse, offending, public disorder and injuries in Adelaide's late night economy.

The report:

- explores the characteristics of drinking environments and the easy availability of alcohol and its supply that influence the drinking choices (including binge drinking) people make and their impact both on individual levels of alcohol-related harm and their impact on the amenity of the City community.
- suggests that even if every licensed premise was well-run and complied entirely with the letter of the law, there would still be substantial level of problems, simply because of the overall level of alcohol availability related to the extended trading hours during which it is sold.

Balancing vibrancy and safety requires a coordinated approach between State Agencies and with Council. Under the auspices of the Capital City Committee (joint State Government/Adelaide City Council Committee established under the City of Adelaide Act), joined up strategies across agencies are progressed.

30. Which cities should be included in the benchmarking for this study?

Metropolitan Adelaide should be included for benchmarking in this study. The South Australian planning system has been affected by substantial reforms introduced in June 2008. Many of these reforms were aimed at stream lining the planning process and placing greater emphasis on moving the planning system away from low risk, small scale development towards strategic planning of the City over the next 30 years.

31. What characteristics make a city more/less liveable and easy for businesses to operate in?

- Clear strategic directions
- A strong Centres policy (including limiting piecemeal commercial development)
- Limited growth of fringe areas and increased consolidation in established areas
- Policy flexibility in the statutory planning system
- Coordinated tiers of Government, including coordinated infrastructure provision (such as community services)
- A well resourced public and private transport system to reduce car dependency, maintain efficient traffic flows and improve long term household sustainability
- Accessibility and ease of parking
- Adequate industrial land supply (The State Government has an Industrial Land Strategy)
- Increased housing diversity (including affordable housing for low to moderate income key city workers)
- Existing networks (suppliers/customers etc)
- Business assistance and services programs
- A good quality public realm, that is clean, safe, well maintained and signed
- Well integrated design of the public and private realm

The State Government and Adelaide City Council are preparing an Integrated Design Strategy (IDS), a holistic approach to city design with a view to making Adelaide a more vibrant, liveable, competitive and sustainable City.

32. What challenges do governments and communities face in pursuit of liveability goals?

Adelaide City Council's vision for the City is "A vibrant, populous and sustainable Capital City built upon Adelaide's heritage and lifestyle". In seeking to achieve this vision, the following outcomes are sought:

- A populous Capital City
- Unique heritage, Park Lands and City Design
- An accessible and connected Capital City
- Culturally vibrant City
- Economically prosperous City
- Environmentally sustainable City

There are many challenges in achieving these outcomes. The attached background paper: *Creating our Future* (from page 12), details specific challenges which affect the ability to achieve each of the above outcomes.

Responses involve a wide variety of measures, which invariably involve a whole of government and community response.

33. How can these be addressed by planning, zoning and DA systems?

Many of these issues can be dealt with by good strategic and policy planning which should (ideally) consider their relevance and factor them into the policy settings that are established in the Development Plans (statutory documents).

34. What are some examples of the ways in which planning, zoning and DA regulations, or the way in which they are implemented, adversely impact on the functioning of cities?

Poorly coordinated land releases on the fringe impact on the liveability of both the proposed and the existing surrounding communities. This also results in dissipated availability of limited public sector funds for hard infrastructure (roads/drains) and soft infrastructure (public transport, quality schools, social services).

Similarly, limited public and private coordination and less priority on inner areas and the CBD as regeneration areas through supportive soft and hard infrastructure and appropriate policy settings doesn't foster market demand for inner living and working.

An April 2010 Discussion Paper on the "*Barriers to Multi-Storey Residential Development in Adelaide*" prepared by Council staff (with review and commentary by the Urban Development Institute of Australia and the Property Council of SA) identifies a number of regulatory and financial measures [such as stamp duty and public open space fees] that if adjusted, would work to further foster the desired urban "TOD" form aspired to through the 30 Year Plan for Greater Adelaide. The paper is circulated with this submission.

35. What measurable factors would best be used to compare the impact of planning, zoning and DA systems on the functioning of cities?

- Accessibility
- Spatially based health statistics
- Modelling to show how growth affects efficient movement of traffic
- Demand for new development in certain areas (can demonstrate success or otherwise of new developments)
- General cost of land
- General cost of housing
- Percentage of public transport usage including cycling.
- Costs associated with approval processes

36. Where it has occurred, what effect has the removal of local government from decision making processes (and replacement by state agencies or regional planning panels) had on the efficiency and effectiveness of the functioning of your city?

In mid 2008, the State Government decided that development proposals costing more than \$10M be determined by the State Government's independent Development Assessment Commission (DAC) as distinct to the Council's independent Development Assessment Panel (DAP).

This decision has entailed these \$10M applications are now "commented" on by the Council's DAP and then determined by the State's DAC, thus duplicating the assessment by an independent panel, potentially extending the timeframe for applicants [thereby increasing costs] and resulting in duplication in processing with Council's planning assessment staff undertaking the majority of the work of assessment to report to the Council's DAP and then the State DAC.

This process also duplicates work for the applicants in providing information and seeking comment from the DAP then seeking approval from the DAC.

This mid 2008 decision has reduced the decision making role of the local City population as represented by the Elected Member's on council's DAP. The mid 2008 decision means different interpretation of the statutory Development Plan by the State's DAC in comparison to the Council's DAP. This entails that developers cannot rely on the consistent application of the Development Plan, further diminishing certainty.

The transparency of decision making processes by Council's DAP also differs from the State DAC:

- Council's DAP adopts the practice of hearing objectors and considering the merits of a proposal, and making a decision in public.
- The State DAC hears objectors in public but moves into confidence to consider the merits of a proposal and then make the decision. Whilst the DAC's decision is made public, its process of consideration to arrive at its reasons as to why it makes its decision is not made public.

Where proposals are "commented" upon publicly by Council's DAP and then a decision made in confidence by the State DAC differs to the comment from Council's DAP, Council's DAP is not able to obtain information as to the rationale for the DAC's decision.

The determination in confidence practice of the DAC was recently referenced by the State Minister for Urban Development and Planning as being appropriate in order to lessen the risk of "grandstanding" or politicisation of the planning assessment task that is intended to be judicial and impartial in nature.

The open and fully transparent practice of Council's DAP to make decisions on planning applications of less than \$10M and to comment to the State DAC on projects exceeding \$10M is a decision of the DAP, with it having the ability to go into confidence if it wishes. Whilst it has this option, it has not been exercised, with the DAP being comfortable to make decisions in public as a means of balancing the role of a planning authority with public transparency and accountability.

The table below documents the fees received with development applications for projects exceeding \$10M as a proportion of total development application fees within the City.

YEAR	TOTAL APPLICATIONS	TOTAL > \$10M APPLICATIONS	TOTAL PLANNING ASSESSMENT FEES	TOTAL PLANNING FEES FOR DEVELOPMENTS OVER \$10M	% FEES OF DEVELOPMENT OVER \$10M
06/07	1198	19 (1.6%)	\$ 1,074,530	\$ 671,098	62%
07/08	1254	17 (1.4 %)	\$ 1,061,975	\$ 742,982	70%
08/09	1072	7 (0.6%)	\$561,384	\$424,031	75%
09/10	1083	7(0.6%)	\$378,486	\$306,125	80%

This table highlights the high proportion of fees comprised by developments over \$10M. It raises the question of the appropriateness of fees for development over \$10M subsidising the cost of assessment of developments less than \$10M.

In addition, the school projects funded under the Australian Governments *Building Education Revolution (BER)* (through special changes to the *SA Development Act 1993*) have bypassed the regular statutory planning process including a planning assessment by the Council, referrals to relevant government agencies and statutory requirements for community consultation and review. (This comment is also relevant to 15. above.)

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

- Land is released in a coordinated manner
- An adequate zoned long term supply of land (be it green field or brown field) to assist providing housing needs and to maintain an overall affordable supply of housing
- Land releases are economically viable and completed in a timely fashion
- Services are put in place as a development progresses – health, education, social support services, shopping, public transport, roads, parks etc
- The *Development Act, 1993* provides time lines in which developments must commence and be completed (12 months to substantially commence development and 3 years in total to complete). The Act also permits extensions of time if required.

38. Why might developers (including government owned development bodies) wish to control the release of developed sites and/or hold on to land and not develop it? Should local and state governments require developers commence development within a certain time frame? What discourages timely completion of developments?

- To wait for land values to increase or to ensure land releases can be coordinated with infrastructure provision
- The second part of the question is difficult to answer as there may be a series of reasons as to why land owners are not going to release land – e.g. is still viable for another land use, may be waiting for economic market conditions to return to a level sufficient to support a redevelopment
- A lack of demand for a particular development will impact on its ‘timely’ completion. Access to sufficient finance also impacts on this.

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

Very complex question to answer as it is influenced by a range of factors across tiers of government. Planners tend to seek commercial market advice which in turn is influenced by underlying economic conditions.

The State Government makes land supply projections in green field sites through the Land Management Corporation. A similar arrangement would be beneficial for the CBD.

40. How successful are governments in assessing the need for future land uses and facilitating the availability of appropriately zoned sites in a timely manner? What indicators (for example, land price trends or affordability indices) would illustrate this?

The State Government has a Metropolitan Development Program (MDP) which assesses future demand for land and controls land release. It is not possible to investigate the influence of land supply on Adelaide’s fringe on demand for development in the City.

41. Has land in your district been zoned for a certain purpose (residential, commercial, industrial, other) but the location or other features of the land render it inappropriate for the use for which it has been zoned? If so, please provide details. Is there land in your district that is suitable for a certain purpose (residential, commercial, industrial, other) but cannot be used for that purpose due to planning restrictions, zoning or DA conditions? If so, please provide details.

Some sites remain vacant for lengthy times due to a variety of reasons. Owners on occasion have personal reasons, or may be unwilling to sell to a different owner who would be prepared to redevelop the site in a particular way.

42. Is there land in your district that is zoned for a certain purpose (housing, commercial, industrial, other) that is not being used for the purpose as it is part of a 'land bank' held by either government or a member of the private sector? If so, how has this affected the supply of that type of land in the district, the prices paid for it and commercial activity more generally?

Not known.

43. 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?

There are already limited opportunities for third party appeals in South Australia. Further minor refinements may be possible but requires detailed analysis and consideration.

Fast tracking approval processes need to be carefully considered in terms of how a planning policy framework will be able to still achieve good planning and design outcomes. Getting a fast approval may work in some situations but provided the quality of development is high. The introduction of the Residential Code tick box approach for additions and alterations to dwellings in the residential areas in the south east and south west corners of the City has had almost no take up.

Council's Program Plan identifies for 2010/11 to "*examine the use of agreed turnarounds for high quality applications and those proposals of high value to the City*".