Precinct Planning and the Urban Renewal Act

Fact Sheet 2 | What does precinct planning mean for councils?

This fact sheet provides advice to practitioners, proponents and local government about the impact on councils of the precinct planning process available under the Urban Renewal Act 1995.

What is the role of councils in the precinct planning process?

Councils can play different roles in precinct planning under the Urban Renewal Act 1995 (the Act), including:

- **Initiate a precinct**
  A council can request that the Minister for Housing and Urban Development (the Minister) declare an area as a precinct (this requires a council to prepare a business case).

- **Precinct authority**
  A council or a subsidiary of a council may be the precinct authority.

- **Participant**
  Where the council is not the precinct authority, consultation with council is required throughout the precinct planning process.

Consultation with councils

**Business Case**

Before publishing a notice declaring a precinct, the Minister must consult with and have regard to the views of any council within the area of the proposed precinct. The Minister may provide a council four weeks (or such longer timeframe that the Minister believes appropriate) to review and comment on a business case.

**Panels**

A council representative (being a person authorised in writing by a council within an area of a precinct) may attend, but not participate in, any meeting of a panel established by the precinct authority and may have access to papers provided to members of the panel for the purposes of the meeting.

**Precinct plans**

The precinct authority must consult with the relevant council(s) in the preparation of a precinct master plan or a precinct implementation plan.

**Powers to impose a rate, levy or charge**

Regulations to grant powers to a precinct authority under the Local Government Act 1999 in relation to the imposition or recovery of a rate, levy or charge cannot be made until after consultation with the relevant council.
Transfer of property

On the revocation of a precinct plan, the Minister may transfer an asset, right or liability of a precinct authority to a council with the council’s agreement.

How can a council become a precinct authority?

A council may request that the Minister declare a specified area of land as a precinct under the Act.

In making such a request the council must prepare a business case in support of the proposal. This business case must, among other things, outline the body that is proposed to constitute the precinct authority, as well as generally providing an argument around why a precinct planning approach is warranted.

What powers may be vested in the precinct authority?

The Governor may authorise, by regulation, a precinct authority to exercise any of the following statutory powers, traditionally held by local (and/or State) government:

- To grant an approval, consent, licence or exemption.
- To provide a service or infrastructure.
- To impose a rate, levy or charge under the Local Government Act 1999 (as if it were a council) and require the council to collect the rate on behalf of the precinct authority (less council administrative fees in undertaking this function). Make by-laws under the Local Government Act 1999 or the Local Government Act 1934.

The power is then exercised by the precinct authority as if the powers had been delegated to it. Should the precinct declaration be revoked, the powers listed above would be returned to the relevant body/council.

Rates/Charges/Levies

Before the Governor can make a regulation about the precinct authority’s ability to impose a rate, charge or levy the relevant council(s) must be consulted.

Should the precinct authority be authorised to raise revenue for the purposes of the management, development or enhancement of the precinct under the Local Government Act 1999, the council is required to collect the rate on behalf of the precinct authority. Council’s administrative costs in collecting the revenue will be off-set by the precinct authority.

By-Laws

If a precinct authority makes a by-law under the Local Government Act 1999 or the Local Government Act 1934, the by-law cannot be altered without the consent of the precinct authority; except where the authorisation is revoked or the relevant precinct is dissolved.

In the event that there is any inconsistency between an approved precinct plan and local government by-laws, the precinct plan will prevail.

Is the Development Plan still relevant?

The precinct authority in preparing a precinct plan must have regard to relevant provisions of the Development Plan(s), as well as the Strategic Directions Report(s) of a council(s) and the Planning Strategy (among other matters).

Once a precinct master plan has been prepared, or is amended, the Development Plan may be amended by the Minister for Planning by notice in the Government Gazette. The Minister for Planning must amend the Development Plan by notice in the gazette within one month of the adoption or amendment of a precinct implementation plan.

The Minister for Planning may also wish to amend the Development Plan at the same time that the precinct is declared, to ensure that the intent of the precinct is not compromised by applications for development not envisaged in the precinct.
Do councils still issue the full development approval?

Yes, although the assessment process under the Act modifies the normal Development Act 1993 process, as follows:

**Step 1**
Proponent lodges application with precinct authority, which certifies the application as complying against the precinct master plan.

**Step 2**
Development application lodged with council as a complying development (10 day decision). Council only need to ensure the proposal has been certified by the precinct authority.

**Step 3**
Building approval granted (private certifier or council).

**Step 4**
Full development approval issued by council.

The precinct authority is only able to certify development proposals that are deemed by them to be complying development by assessing against the precinct master plan.

In determining whether to certify a proposal as complying the precinct authority will consider the precinct master plan (and any associated documents). These will include performance based outcomes, as well as some prescriptive standards such as building envelope and height. As such, the precinct authority is not limited in their assessment of proposals against only prescriptive criteria.

In circumstances where development is not considered complying, the application will be assessed by the Development Assessment Commission on merit against the provisions of the relevant Development Plan. An example might include a seven storey building in a six storey precinct.

For proposals that depart significantly from that envisaged in the precinct master plan, the precinct authority can follow the process prescribed in the Act to amend the precinct master plan – includes public consultation, Ministerial and Governor approval and Parliamentary oversight.

With the approval of the Minister, the precinct authority may also certify land division applications.
Further information

For further information on precinct planning and the Act please contact the Growth Areas Team at the Department of Planning, Transport and Infrastructure or visit the website:

Phone: (08) 8303 0760

Email: DPTI.PDgrowthareas@sa.gov.au

Mail: Growth Areas Team
Department of Planning, Transport and Infrastructure
GPO Box 1533
Adelaide SA 5001

Website: www.sa.gov.au/precinctplanning

The website includes a full suite of fact sheets prepared about the precinct planning process and includes information on declared precincts, including key documents required to be published under the Act.

Fact sheet 1 | Overview of the precinct planning process

Fact sheet 2 | What does precinct planning mean for councils?

Fact sheet 3 | What are panels and how are they established?

Fact sheet 4 | How to prepare a precinct master plan

Fact sheet 5 | How to prepare a precinct implementation plan

Fact sheet 6 | Consultation and engagement

Also refer to Design Guidance Note 1.1.3 Master Plans (March 2014) from the Office of Design and Architecture SA, which is also available on the website.