



Planning Legislation

A brief overview of the new *Planning, Development and Infrastructure Act 2016*

The new *Planning, Development and Infrastructure Act 2016* was passed by Parliament on 12 April 2016. The Act will come gradually into operation over the next 5 years.

This new legislation is set to significantly reform our planning system by delivering:

A better framework for long-term planning

Long-term planning forms the cornerstone of our planning system and through the Act's objects and principles and a new general duty, it will reinforce the shared responsibilities of government, local councils, industry and communities.

This will provide the certainty to drive investment and deliver better planning and development outcomes across South Australia.

Better ways to engage South Australians

Engagement with communities will now be a central feature of the new planning system. The Act places the emphasis on engaging communities early when the rules, such as the state-wide Planning and Design Code and other regulatory instruments are being written, rather than at the later stages of the planning process, when it is too late to influence outcomes.

A new engagement charter will be developed to provide people with genuine influence over the process of developing the plans and policies that will shape their communities. The charter will allow engagement to be tailored to suit each community and authorities will be obliged to meet or exceed key performance benchmarks.

A better focus on design quality

The Act will enable the establishment of system-wide design standards reinforcing an emphasis on design which has been woven throughout the Bill through design review, design principles and design-based zoning, establishing design as fundamental for policies and practices at all levels.

A better, clearer rulebook for everyone

The Act will transform the warren of planning rules which currently exasperate ordinary South Australians trying to build a house, or businesses wanting to deliver a development, and replace them with a single, easy-to-access set of rules that can be applied consistently across the State.

The new rulebook—the 'Planning and Design Code'—will be written in plain language, and focused on design outcomes that can be tailored to address local character needs.

It will be supported by a new e-planning system so that planning information is easily accessible online.

Better information that is digital by default

In the new planning system, all planning information will be accessible on a central e-planning portal.

South Australians will be able to participate in planning processes from consultation to lodgement—anywhere, any time. This online platform will reduce costs for applicants, councils and ratepayers, and deliver faster turnarounds and tracking of decisions.

This will make updating the rulebook quicker and easier than current processes and enable new government policies and amendments to be delivered quickly and efficiently.

Better process leading to quicker decisions

Homebuilders and small businesses need certainty when they apply for approval of development that is expected in a zone.

The Act provides for new assessment pathways to deliver faster approvals, with fast-tracking of deemed-to-satisfy development applications, and more consistent planning rules for performance-based assessment, and ensuring decisions are made and the planning rules applied by accredited professionals.

The Act shifts the focus to the needs of applicants, facilitating outcomes for them, allowing greater flexibility in the way in which assessment may be staged, and providing more and better options for decisions to be reviewed.

The system will be oriented to provide applicants with an early 'yes' or 'no' to their proposed development, and not an infinite and costly 'maybe'. Delays will be shortened, red tape reduced and investment encouraged.

The Act also empowers councils with better enforcement tools, including the ability for courts to capture profits from breaches, impose corporate multiplier penalties, and make adverse publicity orders.

Better coordination and delivery of infrastructure

The Act creates the basic and general infrastructure schemes which ensure infrastructure needs are identified, and costs calculated and locked in, before development can begin – rather than building fringe subdivisions that leave new homeowners stranded without the infrastructure and services they need.

The **Basic Infrastructure Scheme** will only apply to new (greenfield or major brownfield) developments, at the point where developers are having land rezoned or subdivided, or commence an approved development and not to homes being built in established developments or suburbs. This will ensure developers

pay for their share of these costs, at the time when they benefit from developing, rather than leaving them to the tax payer.

When rezoning occurs for new developments, developers are already required to provide the roads, streets, electricity, gas, water, sewerage, communications and storm water infrastructure. This cumbersome process currently depends on individual negotiation of infrastructure agreements by way of legal deeds between landowners and developers.

The State Government, representatives of the development sector and the Local Government Association have worked together to set up a legislative framework for the basic infrastructure schemes, as an alternative to these current, less efficient practices. However, in some circumstances, developers may still prefer to negotiate and reach agreement with the local council for the provision of basic infrastructure by way of a deed, as is currently the practice.

The **General Infrastructure Schemes** will provide those landowners who all agree that they want to replace and build new infrastructure, with a workable mechanism to achieve this.

As our State changes and grows, the need to replace and build new infrastructure will increase. We cannot just keep raising taxes across the board to fund infrastructure from general revenue.

General infrastructure schemes will be able to be established for the purpose of providing essential infrastructure such as major roads, transport networks or facilities, causeways, bridges, embankments, walls, channels, drains, and other facilities – but only if all landowners agree to proposed arrangements. As well as requiring that all landowners agree to proposed arrangements, general infrastructure schemes will be subject to the scrutiny of the parliament.

The general infrastructure scheme will share the cost of new infrastructure between those who gain direct benefits. The general scheme would make this State one of the first in Australia to provide a legislative mechanism for value capture. This has the potential to unlock opportunities for South Australia to access Federal Government infrastructure funding, which may bring forward development and infrastructure that can benefit members of our community.

All funding arrangements related to infrastructure schemes will be subject to parliamentary scrutiny.

Environment and Food Production Areas.

The State now has a complete legislated boundary within the Greater Adelaide Region — the Environment and Food Production Areas — to prevent unnecessary and unwarranted urban sprawl consuming our limited and precious lands that should be used to produce our quality food and wine industries which generate over \$19 billion in revenue.

The Environment and Food Production Areas provide necessary certainty to our food and wine producers the tourism sector and provides developers and prospective developers with far greater certainty as to where urban development may or may not occur.

Changes to Environment and Food Production Areas will not be able to be made at the stroke of a pen behind closed doors. Instead, any such change must be done transparently, the merits publicly tested and with parliament, having the power to disallow any amendments.

Any changes will be informed by the new State Planning Commission who will undertake an independent inquiry into the Environment and Food Production Areas at least every five years. These inquiries will be transparent and based upon consultation with the community, industry groups and interested parties.