Precinct Planning Guidelines

When should a precinct be used?

What is the role of Council?
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**November 2015**

**Precinct Planning Guidelines**
A report prepared for the Local Government Association of South Australia By Helen Dyer & Associates

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1. Introduction

1.1 Background

Local Government (each individual Council) has historically been essentially the primary authority involved in major land developments within its administrative area. Local Government traditionally has had the roles of the primary approval authority, infrastructure/service provider and key liaison party with the developer. Whilst the State Government has always had a role this has traditionally been an agency by agency service provision role. The most significant exception to this was if the Minister determined that a project/development was of major economic, social or environmental importance to the State. Such projects were then called in pursuant to Section 46 of the Development Act 1993.

Over time upward spiralling land costs have been impacting housing affordability, infrastructure provision costs have increased and the general increase in development pressure across the greater Adelaide area, in particular, have caused attempts to better coordinate the development of land and/or major sites to ensure an integrated holistic approach to development of areas. This includes an increased focus on sustainable and resilient community development and, social and physical infrastructure development along with improved housing affordability.

This increased focus around the coordination of development and infrastructure resulted initially some four years ago in a stronger nexus between rezoning land and infrastructure coordination and provision. To implement this change the Minister announced that he would not approve any rezoning unless such rezoning was accompanied by a binding and detailed infrastructure provision regime (typically legal agreements or non-complying development triggers).

In 2014 the State Government took this a step further and introduced a new method of precinct development delivery through the introduction of amendments to the Urban Renewal Act 1995 (the Act). In short, these amendments under Part 2B – Urban Renewal enable the Minister upon the request of a Council or other person or body and, production of a business case in a prescribed form, to declare a specified area as a Precinct. In so doing the Minister must be satisfied that to do so will facilitate the development of the area for urban renewal, provide land suitable for commercial, industrial or residential purposes close to public transport, establish new industries or, provide some other planning and development outcomes for the renewal or redevelopment of a distinct area that promotes the purposes of the Planning Strategy.

This legislation has been enacted since late 2014 however, as of 31 August 2015 no precincts have been declared.

The amendments to the Act are extensive and provide that a precinct (development) can be planned, approved and implemented by an appointed Precinct Authority outside of the existing Development Act 1993 processes.

To date the option for a Precinct Declaration pursuant to the Act has largely been looked at as an alternative to the various planning processes that currently exist.

However this is potentially a narrow view. The legislation could more appropriately be looked at in a wider context of joint ventures and other development partnerships.

In essence the key difference between the Act and existing planning processes would appear to be that whilst the planning system can create precursory conditions to enable development, the precinct legislation is far wider ranging incorporating not only planning abilities but also the powers to govern, exercise financial levers and incentives, grant approvals and provide infrastructure.

This legislation therefore appears to be a potentially powerful tool designed to assist to achieve good quality holistic on ground development by proactively causing pre-conditions and infrastructure development that will act as a catalyst for development to occur as opposed to simply providing the planning policy framework.

Whether or not the Council is the Precinct Authority, it will have a significant interest in any precinct within its area. In particular the Council will most likely be seen by residents as the governing body and is likely to have an enduring and on-going role if/when the Precinct Authority has completed its work. It is in this context the Metropolitan Local Government Group (MLGG) is seeking to input early in the implementation of the legislative process, and in particular to provide guidance around when a Precinct Declaration would be appropriate and defining the role for a Council throughout the life the of the Precinct.
1.2 Key legislative processes

1.2.1 Establishment and Precinct Planning

The Act establishes a process for the Declaration of a Precinct, the establishment of the Authority and the development of the Precinct Master Plan including the need to establish committees, the need for consultation and in some limited cases identifying specific roles and inputs from the local Council.

A Precinct Authority is appointed by the Minister and pursuant to the Act can be the Urban Renewal Authority, another statutory corporation constituted pursuant to the Act, a Council or a Council Subsidiary.

The flowchart in Appendix 1 – Legislative Process, indicates the process for the declaration of Precinct and the development of the Precinct Plan as foreseen by the legislation.

1.2.2 Approving development

In terms of the assessment process, a Precinct Declaration enables the Authority to certify that a development application is complying development. In the event of such a declaration the Council as the Planning Authority receives the application that must then be considered and assessed as an application for complying development. In the event that the Authority does not certify a development is complying there is an ability for the Minister to declare the Development Assessment Commission (DAC) to be the relevant Planning Authority pursuant to Section 34(xi) of the Development Act 1993. The Government’s Fact Sheet Number 2 – “Precinct Planning and the Urban Renewal Act Fact Sheet 2, What does Precinct Planning mean for Council?” indicates that it would be the Minister’s intent to make such a declaration and that an application for development not certified to be complying would be assessed by the DAC. In the event that an application was significantly divergent from the Precinct Plan the opportunity would exist for the Precinct Plan and/or the Precinct Implementation Plan to be reviewed and amended by the Authority.

Figure 6.1 Application process see Appendix 2 – Application Process, indicates the assessment process that would be followed.

1.2.3 Governance and implementation

The Act is less definitive in terms of the governance implementation (other than in respect of approvals and the couple of other exceptions below) and appears to intend that the detail of implementation (which is hugely important to Councils) will be addressed in the Precinct Implementation Plan.

Potentially the legislation anticipates additional consideration of this detail at the point the decision to wind up the Authority is made; the Act references the need for consultation at this point with the Council in respect to a) asset transfer and b) any other matter that appears to be relevant to the Council upon the cessation of the Authority (Part 2A, Section 7H, subsection21).

Under the heading of powers there are also some specific references pertaining to the interaction at a high level between Council by-laws and Authority by-laws, and rate/levy collection.

The Precinct Implementation Plan (and any upfront agreements that will be discussed in detail later) is therefore of critical importance.
1.3 Scope and Methodology

1.3.1 Scope

The MLGG (via the LGA) is seeking to identify as a matter of priority firstly, some guidelines for when the precinct model should be used and, secondly guidelines around the Council’s role in the process, both the declaration phase and the operational phase. This is considered to be an essential body of work that will be pro-active in optimising the value of this legislation, ensuring that it is used in the instances when it is the best option available when all alternative options have been considered and, ensuring that Local Government has a valuable, viable and sustainable role in precinct developments.

1.3.2 Methodology

The LGA project brief proposed project steps and timing and these have been translated into the following methodology. This methodology was agreed and followed in the delivery of this project.

1. Initiation meeting

- An initiation meeting was held to confirm the brief and provide for any transfer of information required. Two initiation meetings in effect were held, one with the Project Manager and the second with the working group.

2. Workshop/Attendance with the MLGG

- The MLGG has driven this project and this meeting was proposed to enable direct input from MLGG members and provide them with the opportunity to interrogate the methodology and input ideas and issues into the project at its commencement. This occurred at the May MLGG meeting.

3. Project Investigations.

- Consultation inputs:
  - Survey of all metropolitan Councils’ around their current thinking and issues that have been identified with implementation of Part 2B of the Urban Renewal Act 1995. This will include a review of any relevant documentation provided by Council’s that each may have submitted in respect of the Urban Renewal legislation or planning reform project. The survey process will be via a written questionnaire, which will be supported with some written thought starters. Three face to face consultation sessions were also held one each at West Torrens Council, Burnside Council and Salisbury Council.
  - Negotiation and consultation with key State Government staff in Renewal SA and DPTI to further interrogate and test current thinking around implementation.
  - Meetings with representative industry bodies and leading infill and outer area renewal developers.
4. **Process Ground Truthing Exercise.**

This ground truthing exercise took the form of a workshop with the Project Working Group to take a hypothetical Precinct Project(s) (both Priority 1 and 2 questions) through the process to ensure all matters are covered off as part of these guidelines. This ground truthing sought to identify if there any other complementary changes that could be identified as being required to the Development Act 1993 or inputs that should be made in respect of the imminent new planning system and legislation.

1. **Develop draft Priority 1 Guidelines**
2. **Feedback from Project Manager and Project Working Group**
3. **Presentation of draft to MLGG and feedback**
4. **Final Priority 1 Guidelines**
5. **Develop draft Priority 2 Guidelines**
6. **Feedback from Project Manager and Project Working Group**
7. **Presentation of draft to MLGG and feedback**
8. **Final Priority 2 Guidelines**

Undertaking stages 5 – 10 in a semi-concurrent manner was also flagged as an option and, in practice this is how the project methodology unfolded.

## 2. Consultation Inputs

### 2.1 Consultation Process

Consultation was a key component of the project as required by the project brief. Consultation was undertaken with Councils, the State Government and Industry representatives as a method of seeking to:

- understand the position of each sector;
- ascertain general understandings and expectations of the legislation;
- identify overlaps and points of agreement;
- identify issues; and
- Identify input into the guidelines.

The consultation approach was to survey all metropolitan Councils and hold face to face workshops with groups of Councils across the metropolitan area.

Both the static questionnaire and the face to face workshops encouraged each participant to think about the two key priority areas in the context of all of the sub issues identified in the LGA brief ie visions, barriers, risks, costs, timing, land ownership and alternative options for Priority 1 (the question of when would a Precinct declaration be appropriate) and membership, engagement, ongoing involvement, Council’s role as land owner, timeframes, service standards, asset handover and impacts on any other broader Local Government Act 1999 matters for Priority 2 (the question of Council’s role in a precinct process).

Participants were also encouraged to identify any additional issues that needed to be considered and covered by the guidelines, either from experiences with development projects or as part of consideration of the process as per the legislation.

This was supplemented with sessions with the project reference group.

A total of 14 of the 18 metropolitan Councils participated in one or other forms of the consultation.
The consultation materials are included as Appendix 3, the responses to the survey as Appendix 4 and the notes from the workshops with Councils at Appendix 5.

Face to face meetings were held with the State Government both the Department of Planning, Transport and Infrastructure (DPTI), and Renewal SA (RSA). The records of these discussions are included as Appendix 6.

To ensure a full representation of views in respect to the use of precincts a consultation workshop similar to the ones held with Councils was held with industry. The notes of the workshop are included in Appendix 7.

2.2 Consultation Overview

As a general observation there appeared to be a strong perception that the precinct legislation is an alternative to other planning mechanisms available pursuant to the Development Act 1993. As each consultation session progressed this view broadened to see that a Precinct Declaration could be an alternative mechanism also to other joint venture type arrangements and that this could influence its enactment.

It was also apparent that amongst a number of the Councils there remains some scepticism as to the need for and prospective use of the legislation with a number preferring the use of existing Development Act processes with modification as appropriate, noting also that the Development Act 1993 is currently undergoing a transformational review with a new legislative framework for planning, development and design, imminent.

In terms of the use of the Precinct Declaration process, there was some agreement that there is some uncertainty as to the most appropriate circumstances for use of a Precinct. Noting some differing views, most groups nevertheless agreed that key triggers that might indicate the appropriateness or otherwise of the use of a Precinct Declaration include:

- Size of the project and precinct agreeing the larger the project the more appropriate a precinct may be;
- The need for cross jurisdictional coordination;
- Where a project spans two or more Councils' boundaries;
- Complexity of the issues to be considered and resolved;
- Where there is an identified need for renewal;
- Where there is a need to activate a TOD;
- Where there are identified and specific community benefits to be obtained or achieved;
- In the event that Government or the Council wishes to actively intervene to cause development of an area; noting candidate areas for example such as Inverbrackie, Buckland Park, the Tonsley Precinct, Riverbank and generally areas where there are large State Government land holdings for sale ie Glenside, and Port Adelaide; and
- Where a business case demonstrates an identified community benefit.

Interestingly there was a fairly high degree of uncertainty across all sectors as to how the legislation may operate in practice. In particular there was a general perception that whilst the legislation provided a framework, more was required in relation to clarifying the details of the processes established.

Industry groups in particular expressed concern that they have little legislated involvement at all and could have land holdings included in a Precinct without consultation nor any other formal input.

The key shortcomings identified by Councils was around the governance of a Precinct and in particular the role of the local Council in terms of governance both during the operation of the Precinct Authority and upon its conclusion.

In the latter two respects all bodies agreed there should be some form of agreement up front to provide additional clarity around this detail.
3. Hypothetical/Ground Truthing

The hypothetical/ground truthing exercise formed the critical testing stage of the project. The hypothetical identified real and imagined projects based on existing projects such as Mawson Lakes, Golden Grove and Bowden and then ran these against the checklists and issues to ascertain the veracity of the project findings.

The hypothetical testing established that in the main the checklists and findings appropriately covered off on the key decision items that should be considered in respect of determining the appropriateness of a Precinct Declaration. Notably however, there was a general consensus arising as a result of the hypothetical analyses, that even in the event that a Precinct may be determined to be an appropriate model in the context of other planning system options and/or to proactively pursue development outcomes, there nevertheless may be alternative development options such as a joint venture established solely by agreement that may be preferable from a Council’s perspective and accordingly this should be included in the assessment checklists.

It also confirmed the need for a Deed of Agreement or similar at the very beginning of the process and saw the appropriate time for the establishment and agreement to the deed to occur at the time the Council is first consulted by the Minister in respect of a prospective Precinct Declaration.

The results of the Hypothetical/ Ground Truthing exercise are included at Appendix 8.

4. Use of a Precinct Process

4.1 Context

A Precinct Declaration is a powerful tool that can be enacted to provide a pathway for the development of urban renewal areas, infill areas around transport nodes and employment areas.

The use of a Precinct Declaration seeks to enable a coordinated and holistic approach to precinct planning and development including the development of a coordinated Precinct Master Plan and Precinct Implementation Plan, along with an ability to fund, manage and approve development.

Until relatively recently this process has been largely viewed as an alternative planning approach rather than as is more appropriate as an alternative approach to the holistic development of areas.

Until this legislation came into operation, major scale infill (and greenfield) developments were largely dealt with pursuant to the Development Act, 1993 as major projects (Section 46), by a conventional rezoning process or by some other form of special purpose vehicle such as a joint venture, development agreement or some other form of indenture type agreement or legislation. Examples of such projects using the respective processes include Buckland Park (Major Project), the SANFL AAMI Stadium Precinct (re zoning), Mawson Lakes, West Lakes and Golden Grove (Joint Venture Agreements).

The Act now provides a legislated alternative to many of these alternative processes.

4.2 Synthesis

In essence the key difference between the process established via the Act and existing planning processes (other than special purpose vehicles depending upon how these are constructed) would appear to be that the Development Act systems are largely regulatory whilst the Urban Renewal legislation is enabling legislation.

That is, whilst the planning system can create precursory conditions to enable development, it is largely designed to regulate land use and cannot therefore actively encourage development to occur. The precinct legislation on the other hand is far wider ranging incorporating not only planning abilities but also the powers to govern, exercise financial levers and incentives, deal in land, impose charges and levies, grant approvals and provide infrastructure and encourage and coordinate positive interventions.
ie transport nodes, licences and development capacity of land and thereby actually encourage or facilitate development.

For example simply rezoning land will not make a particular form of development occur. There may be many reasons for this including fragmentation of land holdings resulting in insufficient available land at any given point in time, land owners being unwilling to collaborate, an existing land use that has a buffer requirement (ie a poultry farm, piggery, or other industry) that makes development of the wider area unachievable during the life of the other land use, land owners without an interest (nor incentive) to pursue a development, and/or infrastructure deficiencies that are of sufficient magnitude that one development cannot viably provide upgrades sufficient to sustain the new land use in an economic manner or commercially viable manner.

The rezoning of land for MFP purposes is a good example of a generous planning policy suite that did not result in the desired development on the ground at the time it was envisaged.

The way to therefore overcome some of these impediments would be to positively intervene to create preconditions that will act as a catalyst or incentive for renewal. The Urban Renewal legislation appears to be able to achieve this.

This legislation therefore appears to be a potentially powerful tool that will enable specific intervention(s) and assist to achieve good quality holistic on ground development by providing a coordinated approach to planning and infrastructure provision.

The question is however, when is this kind of process appropriate in the context of the other approaches?

In essence it may well be a decision made in respect of each and every project on the basis of the individual circumstances.

In seeking to provide a process that will integrate with existing legislation, the process for establishing and operating a Precinct is complex. A key consequential issue associated with a Precinct Declaration is therefore the complex administrative framework that will require a long term commitment in terms of resourcing and as a result the process is likely to be neither low-cost nor fast.

Furthermore, the legislation also provides a framework process that will work best with substantial goodwill and commitment from all parties involved.

As a general rule however it is considered likely that a precinct process would be most warranted in circumstances where existing processes and systems cannot provide the conditions to achieve the articulated and agreed urban renewal outcomes.

This is most likely to be in circumstances where there is/are:

- fragmented land holdings;
- a need for major infrastructure upgrades;
- multiple jurisdictional boundaries;
- a need for a highly coordinated approach to planning, infrastructure delivery, and approvals including licences etc;
- scale - to offset costs;
- a need for long term commitment and consistency over an extended time period;
- a need over time for responsive amendments to accommodate changes in the market;
- a strong desire to facilitate specific development outcomes, renewal and upgrade of degraded sites;
- a desire to unlock land – this might include using the vehicle to act as a carrot and stick to ensure progressive relocation of inappropriately located but nevertheless desirable land uses ie increase compliance standards on an industry and then use the levy collected to provide assistance with the relocation of the business to a more appropriate location;
- a need for institutional thickness to provide confidence and certainty over time to attract private sector expenditure and commitment;
- demonstration projects;
- a need to manage complex environmental issues;
- major public realm and/or community capacity building objectives ie public works, Transit Oriented Developments, affordable housing and the like;
• there is a desire for a high quality of design; and
• a need to bring forward developments.

4.3 Approach

The use of a Precinct Declaration is likely to be most appropriate in instances where it can provide specific positive pre-conditions that will act as a catalyst to enable and/or facilitate a desired development outcome.

Figure 6.2 in Appendix 9 – Flowchart for Precinct Declaration Decision, is indicative of some of the considerations that would lead to a potential Precinct process.

This is supplemented with an assessment Matrix in Appendix 11 – Precinct Declaration Decision Assessment Matrix.

5. Role of Council

5.1 Context

The Urban Renewal Act 1995 provides a statutory framework for the declaration and operation of a Precinct. As an, as yet untested process there nevertheless remain a number of matters to be resolved. A key aspect to be resolved is the role of the Council both in the short term (precinct establishment and development phase) and long term (ongoing governance). Specifically there are issues in a practical sense around the question of a Council’s sovereignty and, the management of community expectations.

This section looks at the role for a Council(s) in a Precinct Planning model structured around four key (and sometimes overlapping) themes:

• The role of the Council in the context of the Precinct Authority (its composition and role);
• The role of the Council in the context of the interaction between a Precinct Model and The Development Act, 1993;
• The role of the Council (including Council Sovereignty) in the context of the interaction between Precincts and The Local Government Act 1999; and
• The Council’s day to day operations and Community expectations.
5.2 Issues

5.2.1 The Role of the Council in the context of the Precinct Authority

The Act (Urban Renewal Act 1995, Section 7G – Preliminary “precinct authority”), contemplates that an Authority will comprise the Urban Renewal Authority or a Council or a Council Subsidiary or another statutory corporation established pursuant to the Urban Renewal Act 1995.

A Precinct Authority the size of a Council or the Urban Renewal Authority could be seen to be unwieldy and accordingly there is a contemplation that a smaller body would be established, see Precinct Planning and Urban “Renewal Fact Sheet 1 – Overview of the Precinct Planning Process version 1.2, 10 October 2014”. This could be done by delegating the powers and functions to a smaller group.

The composition of the Precinct Authority is significant in that it has the major influence (refer to the Urban Renewal Act 1995 Part 2B Urban Renewal) in the planning and development of a Precinct.

Depending on the composition of the Authority the Council(s) role or interventions may change.

The Precinct Authority is the body that causes the preparation of the Master Plan and the Implementation Plan (the Precinct Plan) and can cause the amendment of these Plans (Urban Renewal Act 1995 Section 7I (1)). Once these plans are adopted by the Governor and Minister respectively (Urban Renewal Act 1995 Section 7I (13)(a)), the Precinct Authority is the body that can subsequently certify development to be complying (Urban Renewal Act 1995 Section 7K (1)(a)). In addition the Governor can authorise the Precinct Authority to exercise a range of powers from other Authorities as if it was that Authority (Urban Renewal Act 1995 Section 7K (2) (a), (b), (c)). For example this could include (but is not limited to) powers of the Commissioner for Highways, the Environment Protection Authority or, the Commissioner for Liquor and Gambling.

The Authority also has the obligation (unless exempted) to establish the Design Review Panel and the Community Reference Panel in accord with any requirements of the Minister and, has the ability to establish other Panels as it sees fit (Urban Renewal Act 1995 Section 7H (14), (15) & (16)). The legislation specifically provides that the Council may appoint a person in writing to observe Panel meetings (Urban Renewal Act 1995 Section 7H (17)), indicating that there is an express contemplation of no specific Council representation on these Panels. These panels are expected also to influence the Precinct Plan (both the Master Plan and the Implementation Plan).

The Authority can also be provided with powers to provide a service or infrastructure (Urban Renewal Act 1995 Section 7K(1)(b)), impose and recover a rate, levy or charge (Urban Renewal Act 1995 Section 7K(1)(c)), and make by-laws, (Urban Renewal Act 1995 Section 7K(1)(d)). This point is noted here for completeness but will be dealt with specifically later when looking at the interaction between this legislation and Council’s traditional role.

Given the important role and function of the Precinct Authority, the Council can achieve maximum certainty by being represented as the Authority. Prima facie this would appear to be either to seek to have the Council established as the Authority or to create a purposefully established subsidiary to become the Authority. Both options require the Minister to make the appointment and so the Council will need to liaise and negotiate with the Minister to achieve either outcome.

If however a smaller body was to be established under the Precinct Authority with the appropriate delegations, then the Council would expect to be represented on this body. The question would then arise as to who would be the Council’s representative? The logical choice in this case would be the CEO of the Council however this carries a prospect of potential conflict due to the role of the CEO pursuant to the Local Government Act 1999.
In establishing the Council’s preference for its involvement in/as/or on the Precinct Authority the Council may wish to consider the following issues, benefits and dis-benefits as are set out in Table 5.1 below:

<table>
<thead>
<tr>
<th>Authority Options</th>
<th>Benefits</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council as the Authority</td>
<td>There will be full coordination between all of Council’s roles and functions and the Precinct development, ie rates, service standards, service delivery, consultation etc. There may be cost efficiencies (ie Members may elect not to seek sitting fees) and it can be resourced by Council administration.</td>
<td>Council will be seen to be responsible for the development and this could have political ramifications if the community is in opposition. Additional and potentially significant workload for Councillors. The Authority as the Council could change at every periodic election threatening the continuity of commitment to the vision and delivery of precinct. Council is not as agile as a smaller group in the context of a decision making authority given the generally large number of Members on Council. Potential conflict if the Council is the Authority, the “Authority Banker” and as Council if it has an interest in land, infrastructure provisions or infrastructure/service or other statutory obligations. Using Council staff to support the secretariat means other work is rationalized or additional funds required. Might not be seen to be sufficiently commercial to engender the confidence of the non-government sector which may be reflected in funding partnerships.</td>
</tr>
</tbody>
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## Authority Options

<table>
<thead>
<tr>
<th>Subsidiary</th>
<th>Benefits</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Council has a fair degree (although not ultimate) control over the membership.</td>
<td>Council has less control than if it is the Authority in its own right.</td>
</tr>
<tr>
<td></td>
<td>Members can be specifically selected for skills and experience.</td>
<td>The membership of a subsidiary whilst relatively stable can be changed due to changed politics.</td>
</tr>
<tr>
<td></td>
<td>The membership can be agile to promote effective and efficient governance.</td>
<td>A subsidiary can take on a life of its own it will/can employ staff and therefore could incur greater costs.</td>
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<td></td>
<td>The body is seen to be independent from the Council and Government particularly if there is a need for some challenging decisions.</td>
<td>Cumbersome to establish as it needs two sets of Ministerial approval, although this could potentially be undertaken concurrently.</td>
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<tr>
<td></td>
<td>The body should be able to maintain continuity over the life of the project despite successive governments; both Local and State.</td>
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<td></td>
<td>The establishment of a formal subsidiary may enable some delegations from Council directly that support the sovereignty of the Council and meet community expectations.</td>
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<tr>
<td></td>
<td>Can be resourced by Council administration staff.</td>
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<tr>
<td></td>
<td>Conflict of interest potential is lessened.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Is the likely to engender the confidence of non-government partners.</td>
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</tbody>
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### Authority Options

<table>
<thead>
<tr>
<th>Authority Options</th>
<th>Benefits</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Renewal Authority (URA)</td>
<td>Relatively modest number of members to promote efficient decision making. Can be resourced by Renewal SA staff. A single sitting fee may be sufficient payment reducing operating costs and the “secretariat” is paid via RSA. Well equipped to coordinate State Government input into the process. Politically the easiest body to delegate the powers and functions of other Agencies.</td>
<td>Council will have a more limited direct influence. Council has no influence over membership. Potential conflict if the URA is the Precinct Authority, and Renewal SA (RSA) is the “Authority Banker” and as URA/RSA if it (the Government) has an interest in land ownership or infrastructure provisions or other obligations. Using RSA staff to support the secretariat means other work is rationalized or additional funds required. Might not be seen to be sufficiently commercial to engender confidence of the non-government sector which may be reflected in funding partnerships.</td>
</tr>
<tr>
<td>Corporation pursuant to the Urban Renewal Act 1995</td>
<td>Is a purpose built vehicle and this could be reflected in its size and member skill sets. Council may have the ability to nominate members or at least influence membership selection. Is seen to be independent. Has the potential for continuity and commitment to the vision and delivery of the Precinct. Is the most likely of all options to engender the confidence of non-government partners.</td>
<td>No guarantee of Council input to membership. Cumbersome to establish as this requires two processes. Will need to be resourced. Members are likely to expect or be offered sitting fees.</td>
</tr>
<tr>
<td>Any Model with a delegation to a smaller body</td>
<td>Body could and should include a representative from Council. Can select members of the Body based on skill sets. May be able to select people from within appropriate administrations to minimize the need for additional sitting fee payments and/or additional administrative and technical support.</td>
<td>If Membership prescribes Council CEO there is a potential for conflict.</td>
</tr>
</tbody>
</table>

Table 5.1 *Issues for consideration in the composition of the Precinct Authority*
The Minister must consult with and have regard to the views of the Council prior to publishing a notice establishing a Precinct (Urban Renewal Act 1995 Section 7H (3)(a)(ii)).

The Council should actively avail itself of this consultation and provide direct and specific inputs to ensure that best outcomes can be achieved. It is at this point that the Council should be seeking to have a Deed of Agreement or similar negotiated prior to the establishment of the Precinct Authority to provide a clear framework for the Council to have regular and meaningful input into the process. This will ensure smoother operation of the precinct both during its development and at hand over. This may provide for the Council to be represented in regular meetings with the Precinct Authority in some form of on-going capacity. This could be a vehicle through which statutory consultation as is required by the Act occurs. This Deed should also include details around the project governance handover and governance roles during the life of the project.

Council might like to consider inputs around:

- The Authority’s scope;
- The Authority’s powers;
- The Panels that might be established, the composition and membership (for example representation by the existing community on the community reference panel might assist with the overall integration of the Precinct and its workers, residents, and land-owners and occupiers into the wider Council);
- The definition of the area;
- Environmental management aspirations;
- Areas of investigation including for example investigation into the capacity of and implications for existing services such as schools, child care, health care, Home and Community Care, community bus services, libraries etc. and, the broader implications of any change in demographics;
- Expected level of detail and form of the Precinct Plan;
- A way of managing the daily operation role of Council, the new Precinct and Community expectations.

Internally the Council will need to determine who/how inputs are made to the Precinct process, ie who has the authority to agree to inputs etc. is this a matter for the full Council, a Committee or a delegation to staff?

### 5.2.2 The role of the Council in the context of the interaction between a Precinct Model and the Development Act 1993

The Precinct Plan becomes the document or in effect the Planning Instrument against which development is tested.

The Urban Renewal Act 1995 provides for the Precinct Authority to be the body that can subsequently issue certifications (including land division), that development complies with these Plans (Urban Renewal Act 1995 Section 7K (1)(a)). Pursuant to The Development Act 1993 Section 34 (xi) the Minister can appoint the Development Assessment Commission as the Authority to approve any development in respect of a precinct to which the Council Development Assessment Panel or a Regional Panel would otherwise be the Authority. The Government’s Fact Sheets (“Precinct Planning and the Urban Renewal Act Fact Sheet 2 - What does Precinct Planning mean for Councils? Version 1.1, 18 September 2014”) indicates that this is the intent of the Minister in the event of development not certified as complying.

In essence this suggests that if the Council is not the Precinct Authority it will only assess developments as complying development. It may or may not assess the proposal for building rules as per the regular private certification provisions but will still be able to issue full Development Approval.

The Precinct Plan can also be adopted as Development Plan policy pursuant to the (Development Act 1993 Section 29(3)(d)).

Pursuant to the Urban Renewal Act 1995 the Council must be consulted in respect to the Precinct Plan as follows:

- Section 71 (8)(b)(iii) requires “the Precinct Authority to take reasonable steps to consult” with any Council with a direct interest in respect of the Precinct Plan.
The Council could also input as part of the wider community consultation. No consultation will be undertaken if an amendment to the Plan is proposed and it is considered to be minor, has no substantive effect or, corrects an error.

To date there is little guidance as to the form of a Precinct Plan. However, if it is to be included via a Section 29 (3)(d) declaration as Development Plan policy there is an inference that it will in some respects need to resemble conventional Development Plans. The Implementation Plan is to address a range of implementation matters, such as infrastructure provision and staging. This plan appears to be an ideal vehicle for the Council to seek to input satisfactory service and infrastructure standards.

Council may also seek to use this as a vehicle to ensure required compliance to facilitate hand over upon completion/cessation of a Precinct.

Council’s input to the Precinct Plan (both Master Plan and Implementation Plan) is considered therefore to be of paramount importance. Regular meetings (setting out clearly up front the Council’s objectives) as distinct from a one off consultation period should be sought.

A checklist of items would include:

**Precinct Plan**
- Spatial arrangements;
- Land uses;
- Built form;
- Design guidelines;
- Environmental sustainability objectives;
- Access and transport (including the reservation of corridors);
- Community facilities such as schools, child care, health care;
- Desired characters;
- Infrastructure provision;
- Open space/public realm; and
- Other items of specific importance to the Council in respect of the specific project.

**Implementation Plan:**
- Roads: lane widths, parking indentations, and material specifications, street signs, street name policies and, verge details;
- Laneway specifications;
- Kerb and gutter standards, dimensions and, materials;
- Landscaping standards, plant species, planting policies such as staking and watering/irrigation;
- Drainage standards including flow interventions and quality interventions;
- Community facilities – numbers, standard levels and, locations and timing;
- Recreation facilities including ancillary facilities ie ovals plus shelter sheds, club rooms, size, scale, function and finishes, car parking and fencing; and
- Other items of specific importance to the Council in respect of the specific project.
5.2.3 The role of the Council (including Council Sovereignty) in the context of the interaction between Precincts and The Local Government Act 1999

The Precinct Authority can be set up as in effect the Management Authority for the Precinct. The Authority can be given powers to plan for and approve development and can also be given powers to fund and undertake work to ensure specific on ground outcomes and, precinct management.

Specifically the Authority can be provided with powers to provide a service or infrastructure (Urban Renewal Act 1995 Section 7K(1)(b)), impose and recover a rate, levy or charge (Urban Renewal Act 1995 Section 7K(1)(c)), and make by-laws, (Urban Renewal Act 1995 Section 7K(1)(d)).

The legislation provides the Council will be consulted in respect of the exercise of any of the above powers, however there is no power of direction. Furthermore, the legislation prevents a Council from altering any by-law enacted by the Authority (Urban Renewal Act 1995 Section 7K(3)(a)).

The Authority can impose rates as if it were a Council however the Council will be consulted. The Council will also be consulted if a regulation change is proposed pursuant to (Urban Renewal Act 1995 Section 7K(1)(e) or any changes to taxes on land pursuant to Section 7L(1).

Specifically it is powers such as these that start to provide some uncertainty in respect to the Council’s sovereignty. The legislation appears to leave the resolution of this issue by negotiation.

This has the potential to impact and confuse the community.

The Council will need a mechanism for ongoing input as outlined above to ensure that the Council can remain engaged with the community, treat all residents, businesses, land owners and occupiers with equality, transparency, honesty and integrity.

Going forward there needs to be a seamless transition for the community of the Precinct to become an integral part of the existing community within the Council.

The Council should think about how the project will transition from the Precinct Authority to the Council and should seek to input ideas into the Implementation plan.

This will include consideration of the following:

• Will the Precinct be handed to Council for administration in stages?

• What is the timing?

• How it is best to communicate with the new community and the existing community – is this a role for the Council or the Precinct Authority or is it a role undertaken by the Community Reference Panel?

• Internally the Council will also need to consider what the Precinct might mean for its Strategic Plan, Long Term financial Management Plan, Asset Management Plans and, associated programs.

5.2.4 The Council’s day to day operations and Community expectations

The Act is silent on the relationship between Council’s daily operations and the expectations of the Community and how this will operate in the context of a Precinct.

For example the community expects certain services to be provided by the Council, such as public health including the inspection of food premises, personal service establishments, cooling towers and swimming pools, waste management, community transport, library services, social gatherings and isolation programs to name just a few. Typically the Community will also approach the Council as the first port of call on specific matters such as complaints and compliance issues.

These roles will need to be established to provide some clarity and certainty for residents in particular.
During the initial consultation in respect of the declaration to establish a precinct and if a “Deed of Agreement”, “Heads of Agreement” or “Memorandum of Understanding” type framework can be negotiated the following matters should be considered:

- roles and responsibilities during the life of the precinct, ie who will be responsible for and how this will be funded such that the Community does not perceive inequity or double dipping;
- compliance matters - built form, environmental, car parking, dogs;
- service provision ie public health inspections, waste collection and the provision of and facilitating of and access to broader Council services; and
- neighbour disputes including noise, and fences.

If the Council is to undertake these roles then the Council might consider this in respect of the Urban Renewal Act 1995, Section 7K (5)(c) which appears to, in effect, allow some financial compensation via any levy or rate for impacts on its operations from the establishment of the Precinct. There is a reference to the Regulations in this respect however the Regulations appear to be silent on the matter.

6. Guidelines

Having considered the myriad and complex issues associated with the Precinct Declaration process, the issues surrounding when such a declaration is appropriate and the role of the Council(s), Section 6 seeks to set out a framework to guide Councils through this decision making process.

Section 6.1 recommends a process indicated in a flow chart showing the key steps in the process as modified by the findings of this study. Check sheets and flowcharts to guide Council are included in Appendices 10 – 17.

Where this is recommending additional steps in the process this flow chart calls up various checklists and tools to guide Council in making its decision.

6.1 Recommended Process Approach

Having considered the legislation, the various views in respect to the Precinct Process and the expectations and needs of Councils and their communities the modified approach included as Appendix 10 includes the early negotiation of a Deed of Agreement, Heads of Agreement or similar to establish certainty around the process.

In summary it is recommended that if Council is approached in respect of a Precinct Declaration that it:

1. Firstly assesses whether or not a Precinct Declaration is the most appropriate approach in light of the various alternatives available. See section 6.2.
2. If a Precinct Declaration is not the most appropriate approach the preferred alternative would be pursued with the relevant parties. This may require some legal framework and Council’s lawyers should be consulted in such an event.
3. If Council decides that a precinct approach is indeed appropriate, Council should then consider entering an agreement with the State Government and potentially any relevant third parties to establish clear parameters around the operation of the Precinct Authority, its scope and operation and matters of detail pertaining to the role of and relationship with the Council both during the life of the Precinct Authority and after. Ideally this should occur ahead of the business case being prepared. The Council should be clear, ahead of any negotiations, as to what it is seeking, what is on the table and what is not negotiable. Council’s lawyers should be involved in any Deed preparation and negotiations. See Sections 6.3.2, 6.3.3, 6.3.4.
4. Council should then lead the formulation of a Deed of Agreement.
5. Once the Deed is executed the Precinct can be declared and the Precinct Authority established with powers and scope as reflected in the Deed.
6. Upon the establishment of the Authority, the Authority should become a signatory to the Deed.
7. The Precinct Authority can then prepare the Precinct Master Plan and Precinct Implementation Plan having regard to the terms of the legislation and any additions provided through the terms of the Deed. Refer Sections 6.3.5 and 6.3.6.

8. Once the Plan has undergone development consultation and has been duly adopted the Development Plan may be amended. This might be a matter covered in the Deed.

9. Implementation (development, and management of the Precinct) can then occur in accord with the Master Plan and Implementation Plan and the application process established pursuant to the Act as improved by the terms of the Deed.

6.2 Determining when a Precinct Approach might be appropriate

A Precinct declaration is one of many approaches to the renewal of an area. Precincts have some distinct advantages over other options however, could also have significant cost, time and resource implications. To this end careful consideration of all options should be the first step of any process. To assist with consideration of these matters the matrix in Appendix 11 – Guide to determine when a Precinct Approach is Appropriate, has been developed to guide Councils through a logical assessment process. Before commencing however, the Council should identify and include any other items that are relevant to the specific circumstances of the project.

6.3 Determining the most appropriate role(s) of Council

Whilst the legislation provides a framework for the role of Councils in the Precinct Process, this is at a very high level and is considered to require supplementation to provide additional clarity around matters of detail that will ultimately be critical to the success or failure of the Precinct.

In the event that the Council or a Council Subsidiary is appointed as the Authority, or the Project is a Precinct Declaration at the behest of the Council, there may be less need for a negotiated Deed. However as a general rule it is recommended that up front a Deed be negotiated to provide guidance and agreement to all matters of importance.

6.3.1 Principles for Deed Negotiations

As a first step it is recommended that Principles be developed by the Council to guide the negotiations around the Deed/MOU/HOA. To this end a list of Principles are included in Table 6.2 below. They are replicated in Appendix 12 – Principles for Deed Negotiation. Again Council should identify any additional Principles specific to the particular circumstances.

<table>
<thead>
<tr>
<th>Principle</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principle One</td>
<td>The Council has a legitimate and significant role in the Precinct process.</td>
</tr>
<tr>
<td>Principle Two</td>
<td>Local Laws should apply unless expressly excluded</td>
</tr>
<tr>
<td>Principle Three</td>
<td>There must be equal spoils and equal costs</td>
</tr>
<tr>
<td>Principle Four</td>
<td>Non-negotiable matters become Regulations</td>
</tr>
<tr>
<td>Principle Five</td>
<td>The Authority will ultimately become a signatory to the Deed of Agreement</td>
</tr>
<tr>
<td>Principle Six</td>
<td>The Deed shall be examined through lenses: Economic development Community Planning powers Environment</td>
</tr>
</tbody>
</table>

Table 6.2 Principles for Deed negotiations
6.3.2 Items for consideration in Deed/MOU/HOA

Table 6.3 in Appendix 13 – Checklist of Items for Deed, provides a check list of items that the Council may wish to consider as part of the Deed negotiations. Again Council may wish to add items specific to the circumstances of the project.

6.3.3 Items for consideration around Authority Composition and Powers

Table 6.4 in Appendix 14 – Checklist Authority Compositions and Powers, provides a check list of items that the Council may wish to consider as part of the Deed negotiations. Again Council may wish to add items specific to the circumstances of the project.

6.3.4 Items to be agreed at hand over

Table 6.5 in Appendix 15 – Checklist for handover considerations, provides a check list of items that the Council may wish to consider as part of the considerations around the hand back of the Precinct for Council Administration. Again Council may wish to add items specific to the circumstances of the project.

6.3.5 Items for consideration in Precinct Plan

Table 6.6 in Appendix 16 – Items for consideration as part of Master Plan, provides a check list of items that the Council may wish to consider as part of the considerations around Precinct Master Plan. Again Council may wish to add items specific to the circumstances of the project.

6.3.6 Items for consideration in Precinct Implementation Plan

Table 6.7 in Appendix 17 Items for Construction in the Precinct Implementation Plan, provides a check list of items that the Council may wish to consider as part of the considerations around the Precinct Implementation Plan. Again Council may wish to add items specific to the circumstances of the project.
Appendix 1
When should a precinct be used?

What is the role of Council?
Application Process

Figure 6.1 - Application Process

Proponent lodges application with Precinct Authority

- Precinct Authority certifies application as complying
  - DA lodged with Council as a complying development application
    - Planning consent granted
      - Building rules consent granted (Council or Certifier)
        - Full development approval issued by Council
  - Precinct Authority does not certify application as complying
    - DA lodged with DAC (note: this assumes the Minister will appoint DAC pursuant to Section 34 (xii))
      - Consent granted
        - Buildings rules consent granted (Council or Certifier)
          - Full development approval issued by Council
    - Consent refused
      - Appeals as per Development Act 1993
Correspondence to Councils

0041 - 004

01 June 2015

All Metropolitan Councils


The Metropolitan Local Government Group through the Local Government Association of South Australia has commissioned Helen Dyer & Associates to develop guidelines for Councils and others to assist to determine a) “When the precinct planning model should be used?” and b) “What the Council’s role is in the precinct planning model”.

In 2014 the State Government introduced a new method of precinct development delivery through the introduction of amendments to the Urban Renewal Act 1995 (the Act). In short, these amendments under ‘Part 2B – Urban Renewal’ enable the Minister upon request of a Council or other person or body and the production of a business case in a prescribed form, to declare a specified area as a precinct. In so doing the Minister must be satisfied that to do so will facilitate the development of the area for urban renewal, provide land suitable for commercial, industrial or residential purposes close to public transport, establish new industries or, provide some other planning and development outcomes for the renewal or redevelopment of a distinct area that promotes the purposes of the Planning Strategy.

This legislation has been enacted since late 2014 but as yet no precincts have been declared.

The powers under this Act are extensive and provide that a precinct (development) can be planned, approved and directly supported by an appointed Precinct Authority outside of the existing Development Act 1993. There is however a nexus between the two pieces of legislation. For example the Precinct Authority when preparing a Precinct Plan must have regard to the relevant provisions of the Development Plan and the Strategic Directions Report of any Council. This approach however could in effect see land rezoned via a Master Plan and Implementation Plan process and the resultant ‘policy’ incorporated into the Council’s Development Plan via a Section 29 process (Development Act 1993).

A Precinct Declaration also provides scope for the Precinct Authority to be the infrastructure provider and enables it to make by-laws under the Local Government Act 1999 or the Local Government Act 1934 and to impose a rate, levy or charge including imposing a rate as if it were a Council. The Precinct Authority may also take on powers of agencies and authorities such as the Commissioner of Highways, the Environment Protection Authority and other regulators such that it could for example issue small bar licences and approve access arrangements.

A Precinct Authority is appointed by the Minister and pursuant to the Act can be a Council or a Council Subsidiary, the Urban Renewal Authority, or another statutory corporation constituted pursuant to the Act.

Given the extensive nature of the powers pursuant to this legislation and the implications for Councils, it is timely that the Metropolitan Local Government Group is seeking to establish some guidelines for its use.

As a key part of the development of the guidelines this project is seeking input from Councils. Specifically Councils are asked to provide thoughts on when a precinct should be used and the role of the Council if a precinct model is adopted, both in the short and long terms. At this time the guidelines are expected to take the form of checklists and key questions that will lead along decision pathways. Any ideas Council may have on the form of the guidelines would also be useful.

Further to this survey, four sessions notionally one each in the north, south, east and west are being planned and Councils are encouraged to attend those as well. Details of these sessions will be forwarded shortly.

Council administrations are encouraged to take the time to consider these issues and to provide a response back c/- Lisa Teburea at the LGA by Friday 26 June 2015.

Yours Sincerely

Helen Dyer, Director
Council Input Prompts

When should a Precinct Model be used?

The introduction of the precinct legislation is based on the premise that this process can achieve matters not able to be achieved through existing traditional planning processes.

The legislation appears predicated upon the following premises:

1. A Precinct Declaration is about more than just planning (regulations and frameworks). A Precinct Declaration can cause/encourage a development outcome to occur on the ground though the use of non-planning levers.
2. A Precinct Declaration can achieve outcomes unable to be achieved under the Development Act 1993 alone and, in many cases can achieve outcomes unable to be achieved under the Development Act 1993 in combination with other legislation.
3. A Precinct Declaration will provide greater certainty of outcome.
4. A Precinct Declaration provides for planning and assessment of development by a body with “institutional thickness”.
5. SA Precinct Authority can underpin greater integration of development and services for example a Precinct Declaration provides a potential for better public realm, infrastructure provision and coordination, transport and community outcomes.

In considering whether the use of a precinct approach is appropriate, what are your views on the following and why?

1. Would the use of a precinct be supported (or would there be any benefit from a Precinct Declaration) if the outcome could be achieved pursuant to the Development Act 1993 either alone or in combination with tools under other legislation such as the Local Government Act 1999? Why?
2. Would the use of a Precinct Declaration be more likely to cost more than an alternative process? If so why, who would pay and is cost an indicator pointing to or away from the use of a Precinct model?
3. Is a Precinct Declaration linked fundamentally to on ground project delivery ie more than just getting the planning policy framework in place but actually providing drivers for development such as infrastructure? Why?
4. Does a Precinct Declaration provide an Authority with more power and influence than a Council, State Government or a subsidiary has in its own right? Is this good or bad and why?
5. Is/should a Precinct Declaration be linked to the governance of a development short or long term? Why?
6. Is the size of a project an indicator of the need for a precinct? Why?
7. Is/should the complexity of a project be an indicator of the need for a precinct? Why?
8. Is a project that crosses jurisdictional boundaries more likely to be a candidate for a Precinct Declaration? Why?
9. Should a precinct involve a mix of land uses or can it be an homogenous development form? Why?
10. Is clear definition of a project (ie is there a defined project with an articulated vision) a precursor for a precinct? Why?
11. Is the time frame over which a development will occur a precursor for a Precinct Declaration? Why?
12. Is the commerciality of a project an indicator for a Precinct Declaration? Why?
13. Is a precinct likely to lead to better design outcomes? Why?
14. Is a precinct likely to bring greater independence to the development process? Why?
15. Would a precinct process be more responsive to market changes and/or community preferences? Why?
16. Is a precinct more easily able to accommodate amendments to development schemes? Is this beneficial?
17. Could a precinct with powers of various authorities combined be better placed to achieve specific land use outcomes, ie relocation of desirable but inappropriately located land uses?
18. Could a precinct bring additional community consultation/input? Under what circumstances would this be important?
19. Should the guidelines be prioritised in any way and if so how?
Please list any other matter that could form a part of the guidelines to assist parties determine whether or not a Precinct Declaration should be pursued.

What is the role(s) of Council in a Precinct Model?

In the event that a precinct is declared within the area of the Council’s jurisdiction the Council will need to participate actively in the process. This section is designed to assist identify the key areas where Council involvement will be required and issues harmonised between the Authority and the Council both in the short term and the longer term and seeks to interrogate and identify the mechanisms for Council involvement.

1. What would be an ideal relationship between the Council (EMs, administration, Council representatives) and the Authority membership? Why?
2. If the Council is not the Authority what would be key points of influence within the decision making process at which Councils would be looking for input?
3. What would be essential to ensure a smooth transition from Authority to Council? Why?
4. Would there be any differences in membership composition of the Precinct Authority depending on whether it was established at the request of a Council, the Government or a private entity? Why?
5. Would the role of the Council be different with different levels of representation on the Authority?
6. Could the Council be contracted by the Authority to provide services? How might this occur?
7. Would the Council need to provide agreed service standards to the Authority?
8. How will the new community fit into the broader Council’s operations, ie general Council rates, libraries, consultation processes on projects external to precinct, recreation, public health etc?
9. How does the precinct bleed into the surrounding community?
   - Design
   - Connectivity
   - Services
10. Is the Council required to take over the administration, maintenance and governance at the conclusion of the Authority if it is not satisfied around the delivery of the project and/or governance model? What would need to be done in such circumstances?
11. Does the Council need to be engaged differently as a land owner compared with as a governance authority?
12. How can the Council safeguard future implementation matters?
13. Should the role of the Council be greater in the development of the implementation plan, the precinct plan or is there no difference?
14. If an Authority can collect a levy how should this integrate with Council rates and general Council business and service provision etc?
15. Please list any other matter that could form a part of the guidelines to assist determine the role of a Council in the context of a precinct process.

Unknowns and/or deal breakers

1. What are critical unknowns and/or risks for both the use of precincts and the roles of Council?
2. What are the prospective additional costs (cost items) with respect to a precinct?
3. What would constitute deal breakers (acknowledging that this might not preclude a declaration but is a way of identifying the key issues)

Please list any other matter that is considered an unknown or a risk in respect to the use of a Precinct Declaration that should be covered off as part of the guidelines.

Experience

Has the Council considered the use of a precinct for a Council project or a key site(s) within the Council area and if so will, the Council progress the project as a precinct or will is pursue another model and why?
When should a precinct be used?

What is the role of Council?
When should a precinct model be used?

The introduction of the precinct legislation is based on the premise that this process can achieve matters not able to be achieved through existing traditional planning processes.

The legislation appears predicated upon the following premises:

• A Precinct Declaration is about more than just planning (regulations and frameworks). A Precinct Declaration can cause/encourage a development outcome to occur on the ground though the use of non-planning levers.

• A Precinct Declaration can achieve outcomes unable to be achieved under the Development Act 1993 alone and, in many cases can achieve outcomes unable to be achieved under the Development Act 1993 in combination with other legislation.

• A Precinct Declaration will provide greater certainty of outcome.

• A Precinct Declaration provides for planning and assessment of development by a body with "institutional thickness".

• A Precinct Authority can underpin greater integration of development and services for example a Precinct Declaration provides a potential for better public realm, infrastructure provision and coordination, transport and community outcomes.

In considering whether the use of a precinct approach is appropriate, what are your views on the following and why?

1. Would the use of a precinct be supported (or would there be any benefit from a Precinct Declaration) if the outcome could be achieved pursuant to the Development Act 1993 either alone or in combination with tools under other legislation such as the Local Government Act 1999? Why?

   In its June 2013 submission, Council did not support the Urban Renewal Bill. Case for a route around the Development Act might be harder to make if Act is facing substantive reform.

   Would the use of a Precinct Declaration be more likely to cost more than an alternative process? If so why, who would pay and is cost an indicator pointing to or away from the use of a Precinct model?

   No comment.

   Is a Precinct Declaration linked fundamentally to on ground project delivery ie more than just getting the planning policy framework in place but actually providing drivers for development such as infrastructure? Why?

   If nimble policy change is required, the precinct route is not necessarily an answer.

2. Does a Precinct Declaration provide an Authority with more power and influence than a Council, State Government or a subsidiary has in its own right? Is this good or bad and why?

   Any Authority needs to be based on cooperative and inclusive governance model that helps provide legitimacy. It needs to act as an extension of, or in close cooperation with democratic institutions, not in opposition.
3. Is a/should a Precinct Declaration be linked to the governance of a development short or long term? Why?
   The fewer the levels of government and bureaucracy the better and the creation of any ‘democratic deficit’ means a precinct authority should have a limited (and defined) life span.

4. Is the size of a project an indicator of the need for a precinct? Why?
   Yes. Interstate examples using a renewal authority approach are large projects. The governance arrangements involved come at a cost. Normal planning system should be capable of supporting projects of medium size and complexity.

5. Is/should the complexity of a project be an indicator of the need for a precinct? Why?
   Yes. A legislated model outside the normal system assumes large and complex. It is noted that urban renewal may involve a series of projects under some kind of umbrella framework. Presumably there will be other pathways for major projects unlinked to Precinct Declaration in the new system? Consideration needs to be given to the entire system and not adding complexity by more and more add-ons.

6. Is a project that crosses jurisdictional boundaries more likely to be a candidate for a Precinct Declaration? Why?
   Yes. One Regional Centre, for example, is on a Council boundary.

7. Should a precinct involve a mix of land uses or can it be an homogenous development form? Why?
   The case for delivery of homogenous form or use under a Precinct Declaration would appear to be weak. Having regard to the metropolitan planning strategy, the development contexts likely to most need ‘delivery aid’ (by one means or another) are higher density mixed use precincts.

8. Is clear definition of a project (ie is there a defined project with an articulated vision) a precursor for a precinct? Why?
   Legitimacy and effective coordination of effort requires development of an agreed vision. Queensland planning schemes have included ‘Investigation Areas’ where the sheer complexity of issues for a particular site or locality made it hard to define a vision without more intensive planning. It is essential that the strategic context and stakeholder analysis inform parameters so that new authorities or processes do not operate in a ‘parallel universe’.

9. Is the time frame over which a development will occur a precursor for a Precinct Declaration? Why?
   A limited time frame would offer greater certainty for local government and is integral to sound planning and relationships between the relevant parties. It would be unacceptable for Councils and others to be faced with the prospect of inheriting major responsibilities at some unknown time.

10. Is the commerciality of a project an indicator for a Precinct Declaration? Why?
    Involvement of government implies some risk to commerciality if there is not intervention to manage risks and private sector ‘business-as-usual’ investment will not be sufficient. On the other hand, a precinct authority should not be accepting revenues if there is high risk of under-performance.

11. Is a precinct likely to lead to better design outcomes? Why?
    No comment – there are too many variables and unknowns.

12. Is a precinct likely to bring greater independence to the development process? Why?
    No, unless the precinct authority is involved in plan / policy making at arms length from implementation.

13. Would a precinct process be more responsive to market changes and/or community preferences? Why?
    The precinct legislation may be a less effective basis for public participation than tried methods of place making and non-statutory precinct planning, and does not necessarily intersect well with existing networks, practices and measures where Council has a key role.

14. Is a precinct more easily able to accommodate amendments to development schemes? Is this beneficial?
    The benefits are unproven and there is insufficient information about how policy processes in a new planning system would be integrated. For a worst case situation, look at central Sydney where there is a proliferation of different planning documents and systems. In Adelaide context, speed and efficiency of the amendment process overall is a problem that should be tackled first and on the basis that responsiveness should be universal and equitable not based on who decides.
15. Could a precinct with powers of various authorities combined be better placed to achieve specific land use outcomes, ie relocation of desirable but inappropriately located land uses?
   Potentially a useful feature, but should there be ‘right of review’ and how does the authority secure access to an external location?

16. Could a precinct bring additional community consultation/input? Under what circumstances would this be important?
   Additional is not the same as more effective. It should be more effective to offset democratic deficit and convoluted or opaque governance, and bring a range of objectives and local expertise to the table.

17. Should the guidelines be prioritised in any way and if so how?
   Alignment with the planning strategy (as opposed to re-alignment if the planning strategy) is a priority. This means equivalence with other processes of amending development plans or schemes and ‘line of sight’ and accountability based on planning strategies adopted by representative government.

18. Please list any other matter that could form a part of the guidelines to assist parties determine whether or not a Precinct Declaration should be pursued.
   Independent assessment of long-term public benefit if fit with planning strategy is unclear and to ensure that it is clear.
   Some linkage to broader or informal local area integrated planning process such as City of Adelaide district planning program.

What is the role(s) of council in a precinct model?

In the event that a precinct is declared within the area of the Council’s jurisdiction the Council will need to participate actively in the process. This section is designed to assist identify the key areas where Council involvement will be required and issues harmonised between the Authority and the Council both in the short term and the longer term and seeks to interrogate and identify the mechanisms for Council involvement.

15. What would be an ideal relationship between the Council (EMs, administration, Council representatives) and the Authority membership? Why?
   A lot will be depend on having good relations: a Memorandum of Understanding on how, and on what, interaction and handovers will occur would be useful.
   The legislated model is inflexible and potentially contentious if routine development assessment roles that usually reside with Council and DAC cannot be de-coupled from the true planning role. There may be more point in a model that would free up resources to plan, deliver and move on to other urban renewal stages or sites.
   Removal of Council roles as envisaged by the Urban Renewal Act fragments and degrades of the one-stop-shop philosophy and the efficiency and effectiveness of municipal services (planning, assessment in rates, waste management, traffic, economic development, place-making, public realm upgrades, traffic, parking and more). Acceptance of this is more likely if there is a realistic business case that shows how Council and the community would benefit longer term.

16. If the Council is not the Authority what would be key points of influence within the decision making process at which Councils would be looking for input?
   Council would expect to be involved from early in the preparation of a business case so it is not ambushed, as well as at subsequent points in the planning and implementation phases and to agree on handover. As indicated in 1, a Memorandum of Understanding or similar would help to define the areas and timing of influence.

17. What would be essential to ensure a smooth transition from Authority to Council? Why?
   As above. Binding agreements on timing, cost recovery, levels of service etc.
18. Would there be any differences in membership composition of the Precinct Authority depending on whether it was established at the request of a Council, the Government or a private entity? Why?

_Council has not contemplated this option so has no comment._

19. Would the role of the Council be different with different levels of representation on the Authority?

_Different models of representation on an Authority (other than the legislated model) have not been contemplated so Council has no comment._

20. Could the Council be contracted by the Authority to provide services? How might this occur?

_Council has not contemplated this option so has no comment._

21. Would the Council need to provide agreed service standards to the Authority?

_See 3 above._

22. How will the new community fit into the broader Council’s operations, ie general Council rates, libraries, consultation processes on projects external to precinct, recreation, public health etc?

_This is hard to answer because it in part depends on State legislation and other factors beyond Council’s control. Generally de-amalgamation of services is counter-intuitive or not feasible in a compact community of interest._

23. How does the precinct bleed into the surrounding community?

- **Design**
- **Connectivity**
- **Services**

_Often it relies on goodwill, engagement and dialogue with Council able to play a key role._

24. Is the Council required to take over the administration, maintenance and governance at the conclusion of the Authority if it is not satisfied around the delivery of the project and/or governance model? What would need to be done in such circumstances?

_This would depend on the nature and magnitude of the issues. As prevention is better than a cure, it is better to design the legislation and other safeguards to minimise the risk in the first instance. This includes having a limited life and a clear exit plan and timelines._

25. Does the Council need to be engaged differently as a land owner compared with as a governance authority?

_Yes Council is already an active urban renewal authority able to advise and well as requiring engagement on options that may affect its own strategic projects and interests. Council has directly contributed to the provision of affordable City living through a number of major property developments._

26. How can the Council safeguard future implementation matters?

_There are two things we are already doing that may help. Firstly, we are engaging community and industry stakeholders in fine-grain planning processes for precincts such as the Market District. (To avoid confusion with the term ‘precinct’ in the new Urban Renewal Act we use the term ‘district planning’.) Secondly, we are researching and developing sound urban design and public realm standards and practices (the Urban Design Framework). These will be transferable across projects in an ideal governance scenario and calibrated according to a typology of streets etc. It is unclear if a precinct authority would incorporate UDF or if it is policy that will be ignored. A Memorandum of Understanding may help resolve this._
27. Should the role of the Council be greater in the development of the implementation plan, the precinct plan or is there no difference?
   
   This is too hypothetical a question with success factors likely to be context dependent in each case.

28. If an Authority can collect a levy how should this integrate with Council rates and general Council business and service provision etc?

   Council has not contemplated this option so has no comment.

Please list any other matter that could form a part of the guidelines to assist determine the role of a Council in the context of a precinct process.
Unknowns and/or deal breakers

- What are critical unknowns and/or risks for both the use of precincts and the roles of Council?
- What are the prospective additional costs (cost items) with respect to a precinct?
- What would constitute deal breakers (acknowledging that this might not preclude a declaration but is a way of identifying the key issues)

Please list any other matter that is considered an unknown or a risk in respect to the use of a Precinct Declaration that should be covered off as part of the guidelines.

In the Adelaide ‘square mile’ where there is a somewhat discordant growth pattern and many individual places requires a sophisticated cohesive approach to public realm. Piecemeal ‘precinct planning’ is a risk though potentially also an opportunity to test new approaches.

The following indicative risk/opportunity analysis was included in Council’s June 2013 submission on the Urban Renewal Bill. This is verbatim and has not been updated.

“Option for Council to be appointed as precinct authority or partner [OPPORTUNITY, but also some RISK, for example, if outcomes sub-optimal or if the role/mechanism does not align with community expectations];
Potential to better coordinate the establishment of infrastructure and public realm improvements with development of private land within precincts – though there may be simpler tools [OPPORTUNITY];
If the Bill is strictly applied to promote urban renewal / infill targets in the 30-Year-Plan, this is likely to include development with positive economic benefits for the City [OPPORTUNITY – at least, in net effect];
Precinct plans which create ‘as of right’ development streams and other de-regulatory features can help ‘de-risk’ investments in appropriate urban renewal [OPPORTUNITY];
Record of urban renewal and development authorities with special powers is perceived by some to be mixed, eg. in urban design terms [a RISK and OPPORTUNITY];
If precinct plans are able to disable by-laws, especially by default (in the case of any conflict), this may well result in inequities, anomalies and ambiguities as well as potentially making by-laws harder to enforce where they still remain valid [RISK];
Given powers to raise revenues from land-based levies, precinct arrangements which are too large or exist for long periods (eg. land banking without other deliverables) may adversely impact Council’s rate base [RISK];
Potential to over-ride public interests, eg. in historic heritage conservation, long-term sustainability goals, with the opportunity to confer wide discretionary powers and limited safeguards in Bill [RISK, though understood the purposes would need to be based on the Precinct Master Plan which will be subject to public consultation];
As the period from declaration of a precinct and its objectives to completion of project implementation plan/s which over-ride the Development Plan could be months or years, development in the meantime would be assessed against a Development Plan which may need amendment to reflect the precinct objectives [RISK];
Unclear asset management, recurrent cost, liability, bonding arrangements to recoup cost of infrastructure, and other outcomes if Council inherits outcomes it was not able to influence effectively – for example if Council could not influence levels of service is it expected that it assume costlier maintenance responsibilities? [RISK];
No assurance Councils will be kept in the loop about matters including exit strategies affecting ability to anticipate and cater for impact on planning and programs (though a Memorandum of Understanding with the affected local government might help) [RISK].”

There are additional uncertainties associated with confusion and lack of information about the planning reform process.

Experience

Has the Council considered the use of a precinct for a Council project or a key site(s) within the Council area and if so will, the Council progress the project as a precinct or will is pursue another model and why?

Council has not identified such a project in the context of the new Act.
While City of Adelaide has a rich and varied ‘precinct planning’ history, many of the questions can only be answered based on experience with a more top-down legislated model as may exist inter-state and that does not accord with what Council has recently been doing in this space (eg. the Market District plan referred to earlier).
Therefore, some of the questions are better directed to Councils like Cities of Sydney and Perth.
Council staff will be available to discuss further informally if this is helpful. Thank you
When should a precinct model be used?

4. Does a Precinct Declaration provide an Authority with more power and influence than a Council, State Government or a subsidiary has in its own right? Is this good or bad and why?

This answer may be varied, depending on the exact nature of the Precinct declaration. As the legislation grants discretion on whether certain rights are exercised, these would have to be considered on a case-by-case basis.

The State Government’s past (and present) proposals for Port Adelaide have had an element of Precinct planning; different proposals (both formal and informal) have existed for Precinct Plans, changes to statutory authority, delegations and committees, but the results have been mixed. If model guidelines are created, this could make things easier for various stakeholders.

6. Is the size of a project an indicator of the need for a precinct? Why?

Yes – it would seem that a Precinct would need to have a critical mass of land/properties to warrant the establishment of a separate authority. Also, if a Precinct is relying on rates income etc., a critical mass would also likely be required. What this critical mass amounts to is unknown, so perhaps this needs to be explored further.

9. Should a precinct involve a mix of land uses or can it be an homogenous development form? Why?

Theoretically, it could be either option. There is little in the legislation (or discussions so far) to suggest that either approach would be impossible. Also, given the State Government’s overall intent for more mixed use development, there would seem little to gain from a homogenous development form.

10. Is clear definition of a project (ie is there a defined project with an articulated vision) a precursor for a precinct? Why?

Yes – without a clear definition, it is difficult to assess a business case and offer comments for/against the proposal. While some flexibility/generality is expected, by the same token it seems awkward for the goalposts to be constantly shifted at the precursor stage; if anything, it suggests that the ideas still need further work at the drawing board.

11. Is the time frame over which a development will occur a precursor for a Precinct Declaration? Why?

Yes – to use a historical example, the Multi-Function Polis project lingered for a decade or so, before it was abandoned. Notwithstanding its cessation, its zoning (i.e. the MFP Zone) still exists in the Port Adelaide Enfield Development Plan. If Precinct Plans are necessary (as opposed to the status quo), it would seem to put the onus on the Precinct proponents having clear timeframes in mind.

12. Is the commerciality of a project an indicator for a Precinct Declaration? Why?

Yes – it is suspected that relatively few Councils would go out of their way to set up a Precinct, given the administrative overheads, impact on existing governance arrangements etc. The push for Precincts is presumably the result of private sector interests and their perceptions associated with existing ‘red tape.’

13. Is a precinct likely to lead to better design outcomes? Why?

Yes and no – this may boil down to how much emphasis a Precinct Authority places on design (as opposed to speedy development, certainty for investors, lack of appeals at the DA stage etc). In the case of many new housing estates, design outcomes seem to be tackled through encumbrances. For non-industrial projects, encumbrances may be less common. A Precinct/implementation plan could potentially address design issues, subject to satisfactory enforcement by the Precinct Authority.

15. Would a precinct process be more responsive to market changes and/or community preferences? Why?

This seems difficult to answer definitively in the absence of any case studies. From a community viewpoint however, it seems unlikely that an average resident will understand the difference between a Council and a Precinct Authority; if residents have strategic desires (or day-to-day complaints) it is assumed they would contact the Council first, since this is the status quo. It seems that community members will not easily adapt to the notion of a Precinct Authority, which may be perceived as somewhat more faceless and less accountable than a Local Government Authority.
18. Could a precinct bring additional community consultation/input? Under what circumstances would this be important?

Yes, assuming this notion is reflected in an implementation plan. While the legislation sets minimum standards, these are broadly similar to existing consultation mechanisms under the Development Act and Local Government Act – an innovative authority could certainly ‘think outside the square,’ but this boils down to the culture/nature of a given Precinct Authority. Additional community input may be more valued where the Precinct Authority is looking to redevelop an established area, and where the redevelopment will alter the area’s existing character (which is already valued by the local community). For greenfield areas, it is unclear if the community would place the same emphasis on consultation.

What is the Role(S) of Council in a Precinct Model?

4. Would there be any differences in membership composition of the Precinct Authority depending on whether it was established at the request of a Council, the Government or a private entity? Why?

Ideally, all Precinct Authorities would have consistent membership arrangements. The fact that a given authority was established (at the request of a given party) would seem irrelevant over the long term; what counts is the present (i.e. the ongoing membership composition)

8. How will the new community fit into the broader Council’s operations, ie general Council rates, libraries, consultation processes on projects external to precinct, recreation, public health etc?

This seems to be uncertain. Presumably Council will treat the new community no differently to an existing community. Service levels will probably be unchanged, but there may be less funding for the Council. Again, residents will not understand the legislative distinction, and it is unlikely that Council officers will say ‘you’re part of that Precinct, so we’ll treat you differently during this consultation exercise for our services.’

10. Is the Council required to take over the administration, maintenance and governance at the conclusion of the Authority if it is not satisfied around the delivery of the project and/or governance model? What would need to be done in such circumstances?

Ideally, Council would have this possibility. One option is for bonding arrangements; without a financial (dis)incentive, there would seem little tangible penalty for a Precinct Authority ceasing its involvement with a Precinct. Without bonding, Council could suddenly be left ‘holding the baby,’ and may be financially (and administratively) unprepared for a handover.

11. Does the Council need to be engaged differently as a land owner compared with as a governance authority?

Perhaps not – for most existing consultation processes (under the Local Government Act or Development Act), Councils tend to express their submissions/comments wearing both hats at the same time. In many cases, these ‘hats’ overlap anyway.

12. How can the Council safeguard future implementation matters?

Contracts and deeds of agreement may be the most rigorous method. Verbal agreements, implied statements, legal loopholes, or subjective/untested interpretations of legislation would not facilitate a safeguarded approach.

13. Should the role of the Council be greater in the development of the implementation plan, the precinct plan or is there no difference?

In some ways, Precinct Authorities are a considerable loss of power to a Council. Council would want to have full and consistent involvement at all stages of a Precinct planning process. This may result in higher administrative/resource demands, but it’s unlikely that Council would choose not to be involved at any part of the process.

14. If an Authority can collect a levy how should this integrate with Council rates and general Council business and service provision etc?

It seems that this would not be integrated, as the point of a Precinct Authority is to disestablish itself from an existing Local Government Authority. Ideally, the onus would be on the proponent to (a) outline its financial intentions, (b) present these to the Council, and (c) give Council the opportunity to have the final say. Having said this, the legislation is not designed for Council to have the final say.
Council responses to survey

Unknowns and/or deal breakers
1. What are critical unknowns and/or risks for both the use of precincts and the roles of Council?
   - The effects of a ‘fourth tier of government’
   - Legislative duties associated with Freedom of Information requests
   - Ombudsman enquiries
   - The role of ICAC
   - The general public not grasping the difference between a Precinct Authority and a Council

Experience
Has the Council considered the use of a precinct for a Council project or a key site(s) within the Council area and if so will, the Council progress the project as a precinct or will is pursue another model and why?

No. As Council did not lobby the State Government for Precinct Authority legislation, it is rather unlikely it will volunteer to be the ‘guinea pig’ for such an experiment. It would await another Council to partake in the experiment. At some later point, the successes and failures would be evaluated.
Council Response No. 3

Hi Lisa,

Please find below the response to Helen Dyer’s letter regarding the Precinct Planning Guidelines.

The size and complexity of a project does not necessarily mean that the project can be achieved more efficiently or effectively if declared a precinct. There are too many additional variables that would also be a contributing factor in determining whether a project should be declared. The size alone should not be the only consideration. The complexity of the project also does not necessarily mean that a Precinct Declaration is the most appropriate process to undertake. Perhaps the trigger is a combination of all these elements: multiple council boundaries, complexity, size (as in a geographical sense and fragmented ownership) and its intricacies. The types of land uses included in this process should not be limited. The notion of a precinct is to approach the project in a coordinated manner and alleviate it from the usual statutory planning processes, however the process undertaken throughout the project should still be transparent and in line with best practice project management principles. There is no reason as to why a precinct and its subsequent scheme cannot then be re-introduced into the statutory planning scheme at a later date with ease. This happens regularly in NSW and Queensland successfully.

A precinct should also strive to achieve high quality design as a major outcome of the process, particularly given the likely scale and complexity of these projects and their potential contribution to the public realm and character of local neighbourhoods. There is a benefit in being able to create a space where design considerations are executed in a coordinated manner. High quality design outcomes should not be at the detriment of project timing nor its economic competitiveness.

The extent of community engagement is always at the discretion of the local and state governments. The declaration of a precinct and consultation will not be any different unless minimum standards or IAP2 requirements are legislated or at the very least included in the project regime. The risk in legislating engagement requirements, however, is the removal of flexibility and initiative that is often needed with engagement strategies and processes and its ability to adapt to the needs of those being engaged. There is also an expectation that the planning reforms will introduce a community participation charter and in turn additional minimum standards for engagement/consultation – while the detail of this is not yet known, it may impact on precinct planning requirements.

Local Government representation is fundamental to the success of the project because it will ultimately be responsible for the finished product and planning for their local area is a fundamental component of the LG Act. In addition infrastructure impacts are felt beyond a site boundary and are more and more being considered on a regional level. Local Government is also at the fore of its community and can provide valuable local knowledge. Its representation on the Authority should include the Administration through sub-delegation of Council so that the Council Staff member can confidently contribute to the discussion and decision making process. Membership of the Precinct Authority, irrespective of the project should include at least one local government representative. Representation on the Authority needs to be consistent with the nature of the project: a level of flexibility may be required.

The relevant local government should be involved in all aspects of the project as ultimately they are likely to inherit any assets that are created through this process. Council’s rely on rate revenue to fund projects and staff/operations. The declaration of a precinct could significantly jeopardise those projects, staffing numbers and Council’s overall budgetary obligations. Significant time and planning is required with asset management and maintenance schedules are planned for several years in advance. The financial implications for a local government entity are significant, during and after the precinct process. It would seem impractical for an Authority to continue maintaining the precinct beyond the life of the project. In addition, the servicing and maintenance regime would depend on the financial model decided (eg. whether the Authority will collect the rates). The most streamlined approach would be for Council to continue its day to day business for that precinct: continuing the level of service and satisfying the level of expectation from its community. This reinforces the importance of Council being involve throughout the planning process.

There are few examples of where a process similar to that proposed through the Urban Precinct has been successfully completed where a substantial current population exists (Subiaco, Docklands, Seaford, Golden Grove). There are significant complexities in transitioning from a local government authority to a precinct authority and this direction will require a detailed change management process.

The initiation of a precinct by a non-government entity should be treated with the same rigour and transparency as developer funded DPAs. It would be detrimental to the process if a private entity is involved in directing the process or decision-making. Most certainly the community will view it this way based on our experience with private funded DPAs.
The notion of creating a new community through the precinct process is no different to greenfield developments. There have been no inherent issues with this integration process, nor any target strategies to facilitate this. Unsure why a precinct would be any different. Likewise for the aesthetics of the precinct – Council’s service levels and public realm strategies should be taken into consideration. Integration of the ‘new community’ and the built environment will be relatively seamless if the Authority involves the Council and gives due consideration to Council’s long term strategic direction.

The greatest risk to Council’s is the ability to plan for and factor in the loss of rates revenue, to budget for additional costs during the projects lifetime, the management of the communities expectations during and after the precinct process and budgeting and planning for assets once they are handed to Council at the conclusion of the project.

Kind Regards,
Council Workshop Inputs

Workshop 1 – Held at the City of West Torrens
Friday 12 June 2015

Participant Councils: City of West Torrens City of Charles Sturt

When would a Precinct Declaration be desirable?
- When Council has prepared a Master Plan of a precinct and existing legislation pursuant to the Development Act cannot achieve the vision as is set out in the Master Plan. Where there has been the proactive identification of cohesive precincts.
- When a comparative analysis of the risks and benefits shows there is a benefit to the use of a precinct over existing approaches, ie rezoning, major project or basic DA.
- When additional community engagement is sought.
- When Council specifically wants to revitalise an area ie it wishes to cause something to happen rather than just control development.
- When a precinct would be better at delivering a vision.
- When a precinct is faster than a rezoning.

What characteristics might be used to define a precinct?
- Contiguous land.
- An area with complex issues.
- An area with a multitude of stakeholders.
- An area where there needs to be an injection of development energy.
- Where an area is identified as needing renewal ie Netley and Camden Park.
- An area around a transport node.
- Where there are specific interface issues within an area where redevelopment is desirable (ie one noxious land use remains in an area otherwise ripe for redevelopment).

Role of the Council if a Precinct is declared?
- Council must agree to the vesting of infrastructure and make sure that any infrastructure is constructed to Council standards.
- Council must input into the Master Plan.
- Council must input into the Community Engagement.
- Council (may or may not) have a seat on the Authority.
- Early input and negotiations.

Reasons for not using a Precinct Declaration
- The current system provides a viable alternative now for any precinct via a rezoning combined with a Master Plan and infrastructure agreements. (It was noted this relies in part upon the will of a land owner to undertake development.)
- The cost of a precinct process would be greater in all likelihood than selecting a process pursuant to the Development Act 1993.
- Council could stipulate and infrastructure spend to the State Government to get things happening.

Alternatives to using the current system or a Precinct
- Allow Councils to undertake rezoning without Ministerial approval if the rezoning accords with the Planning Strategy.
- Flowchart the current system and identify barriers and faults and fix these.
- Get Councils to list what they can do better under the current system.
- Improve working relationships between Councils and State Government.
Questions about Precincts.

- What will a Precinct Plan look like and what level of detail is required?

Benefits and levers to achieve outcomes Precinct Declaration vs alternative approaches.

<table>
<thead>
<tr>
<th>Levers under current options to develop a precinct</th>
<th>Levers under a Precinct declared pursuant to the Urban Renewal Act 2005.</th>
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<tbody>
<tr>
<td>Can rezone land with Ministerial approval</td>
<td>Can more ably enforce design guidelines</td>
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<tr>
<td>Councils and State Governments can fund public infrastructure</td>
<td>Spend on open space more comprehensively</td>
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<tr>
<td>Councils and Government can fund social infrastructure</td>
<td>Become a host authority and take on approval authority from other agencies</td>
</tr>
<tr>
<td>Local Government can provide grants</td>
<td>No appeals</td>
</tr>
<tr>
<td>Councils can impose a separate rate to achieve service levels and infrastructure is designated areas.</td>
<td>Can develop by-laws specific to precinct.</td>
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<tr>
<td>Council can acquire land with Ministerial approval</td>
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<tr>
<td>Councils can open and close roads</td>
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<td>Council can use the EPA for environmental compliance</td>
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<td>Councils can inform licenses for premises</td>
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<td>Councils can undertake Master Plans</td>
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<tr>
<td>Councils can institute car parking funds and control car parking rates via a Development Application</td>
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<tr>
<td>Councils can impose by-laws.</td>
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Other comments

- Might like to look at interstate models
Workshop 2 – Held at the City of Burnside  
Tuesday 16 June 2015

Participant Councils:

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<thead>
<tr>
<th>City of Burnside</th>
<th>City of Marion</th>
<th>City of Campbelltown</th>
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When would a Precinct Declaration be desirable?

- When development spans two or more Councils.
- In the case of the redevelopment of a brownfields site – the precinct can coordinate/drive:
  - Infrastructure
  - Stormwater
  - Public realm improvements
  - Traffic
  - Contamination
  - Amalgamation of land holdings
- When the Council is looking to act as a catalyst and fund elements of a development, notable infrastructure or to provide a loan that can be paid back as a levy (eg East Perth).
- Likely to be a case by case determination; the more complex the issues the more likely a Precinct Declaration would be preferable.
- If government wants to stimulate economic activity in degraded areas.
- To promote the use of public transport (particularly rail) by establishing a critical population mass.
- When there is a need for authorities to work jointly.
- When there is a need for a balance of continuity and independence to prevent the changing of tack on a whim - long term and continued support for the vision.

Role of the Council if a Precinct is declared?

- Balancing the interests of residents within and external to the Authority – the serving of the broader community.
- Council needs to be involved in:
  - Public realm.
  - Setting infrastructure standards.
  - Inputting its understanding of community services eg: aged care, HACC, community bus, libraries, and public and environmental health matters.
  - Setting parameters for built form and design.
  - Preventing gated communities.
  - Establishing a long term plan with the Authority round issues such as rates and levies, council services, decisions that will impact the budget and standards.
  - Ensuring communities are sustainable.
  - Managing and monitoring impacts on schools, hospitals and libraries.
  - Preparation of the Master Plan.
  - Establishing the scope of the Authority.
  - Developing guidelines for the area.
  - Ensuring provision of affordable housing
  - Establishing impacts on Council resources
  - Determining the roles of agencies within the realm of the Precinct Authority.
Questions about Precincts.
- Who deals with complaints, compliance, disputes, noises and fences etc.
- How will the levy be collected? Collection by Council would streamline on behalf of the community and this could be apportioned behind the scenes.
- How does the Authority get its skills? Checks and balances that the Authority is appropriately skilled.
- What certainty is provided that sustainability will be a focus?

Observations
- An Authority needs to have a sustainability focus.

Trigger questions for determine if the use of a Precinct Declaration is appropriate.

<table>
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<tr>
<th>Question</th>
<th>Yes/No</th>
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<tr>
<td>Is the precinct located across at least once governance jurisdiction boundary?</td>
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<td>Is it a discrete precinct ie does it have an identity?</td>
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<tr>
<td>Is it an area that needs regeneration, renewal or re-purposing?</td>
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<tr>
<td>Could it be a destination catalyst site?</td>
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<tr>
<td>Is it a catalyst for infrastructure ie is there a good level of transport, public transport or logistics?</td>
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<tr>
<td>Are there complex issues that need resolution?</td>
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<tr>
<td>Are there multiple land owners?</td>
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<td>Is it a large area?</td>
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<td>What is the vision for the area and can it be achieved any other way?</td>
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<tr>
<td>Is it a main street with potentially a committee is place?</td>
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<tr>
<td>Are there lots of services to be reconciled?</td>
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<tr>
<td>Is significant contamination remediation required?</td>
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<tr>
<td>Will a better outcome be achieved by the stakeholders coming together?</td>
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<tr>
<td>Will a precinct provide efficiency in delivery ie assist with staging of a development with a long term life i.e. 15 – 20 years during which time changes may ensue.</td>
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</table>
When would a Precinct Declaration be desirable?

- If there would otherwise need to be some form of indenture agreement – ie a Precinct Declaration could replace this need.
- Where there are complex governance arrangements that need to be managed.
- Where there is multiplicity of land owners either or both public and private.
- There are complex issues.
- There is a need for major infrastructure provision.
- The area is of State or LG area wide significance ie opportunities for or need for jobs and/or housing.
- No other avenue is available to achieve the desired outcomes.
- For trial renewal projects – demonstrations, pilots particularly to showcase public realm or renewable energy may have been a good option for Lightsview.
- When there is a need for an Authority to provide services.
- Location ie the further away from the CBD the less effective a rezoning may be due to marketability and lower underlying land values to stimulate development.
- Where development are to be staged over a significant time period.
- Where there is a need to fund different (differential) standards.
- Where there is uncertainty in the property market and to transition to new built form to accommodate market development and maturity.

Role of the Council if a Precinct is declared?

- Who is the authority in the event that a Council is declared the Authority – the Council elect, staff or representatives? May need a delegation to have a smaller group to do the work of the Authority on a day to day basis.
- Best input for a Council if it is the Precinct Authority or if a subsidiary of the Council is declared as the Precinct Authority.
- If RSA is the Authority it is imperative that the Council can input around item such as standards and issues of community equity.
- Council will need a portion of the levy/rates if required to service.
- There needs to be an upfront arrangement about the role of Council and the Authority in assisting resident awareness in relation to the arrangements around the roles of the various parties.
- Council needs to agree the terms of a hand over or have a lever such that at the conclusion of the life of the Authority the Council is not left with substandard assets.
- The implementation plan needs to be very clear in respect of all matters of implementation and especially hand over.
- Council must have input into the Master Plan.

Trigger questions for determine if the use of a Precinct Declaration is appropriate.

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes/No</th>
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<tbody>
<tr>
<td>Are there complex governance arrangements?</td>
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<tr>
<td>Are there multiple and/or diverse land owners?</td>
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<tr>
<td>Is a precinct is the best interests of the community ie is there a need to achieve the embedded good to rise above the small issues and look to the future community?</td>
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<tr>
<td>Is there a need for significant infrastructure hard and/or soft?</td>
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</tbody>
</table>

Observations

- A precinct probably needs to encompass a larger project to justify costs and management complexities.
- There are issues for staff if required to represent the Council on the Authority.

Questions about Precincts.

- Who would a precinct be formed with ie key landowner or all landowners?
- Payment and resourcing issues.
- What goes into the precinct plan ie what does it look like and the level of detail?
- Lead in time required to prepare a business case?
- Who collects, does the administration and banks the monies on behalf of the Authority?
Government Agency inputs

Input from Renewal SA

When would a Precinct Declaration be desirable?
- To remove the political environment surrounding decisions in respect of precinct developments and renewal.
- To achieve more than just planning outcomes ie a Precinct declaration provides for cross agency coordination and non-planning levers (including delegated agency powers to the Precinct Authority), infrastructure funding and provision.
- When there is a need to focus on outcomes.
- Instances when there is complexity of issues, a scale to a project/development, a broader range of criteria, land uses than just housing.
- There is a desire to create an environment that is different to its surroundings.

Why would a Precinct Declaration be desirable?
- Precinct Plan can be amended more easily that rezoning land therefore more responsible to changing circumstances.
- The obligations associated with a Precinct are a step above that required for a rezoning.
- A precinct can be expenditure focussed.
- There is expected to be less interpretation of a Master Plan viz Development Plan policy and therefore changes post the plan are considered less likely.
- A precinct might help an area bleed into its surroundings ie Bowden.

Role of the Council if a Precinct is declared?
- Liaison with Councils on the way through the process is critical.

Limitations of alternative options.
- Rezoning is just about planning preconditions it does not cause development.
- There are a number of gates in a rezoning process with no guarantee of a successful rezoning at the end, ie a higher degree of certainty can be achieved through a Precinct Process.
- No ability to collect monies or funds.

Observations
- The process is new and there are unknowns at this stage.
- There are potentially on-going administration costs.
- The Authority would need to have appropriate skills sets (minimum level of due diligence and competence).
- Need to be able to collect good rates to fund Precinct.
- Hand back to Council would need to be as per the implementation plan.

Questions about Precincts.
- How does a precinct integrate with Council?
When would a Precinct Declaration be desirable?

- When the objectives/planning outcomes and renewal is complex likely to be associated with the site, scale or infrastructure matters.
- Need to acquire the powers of various authorities to optimise coordination to achieve matters that could not otherwise be achieved though a more traditional planning authority. For example the increased coordination available through having responsibility for other licences and permit, ie small bar licenses, noise etc. Turns off schedule 8.
- When you need an entity that has “institutional thickness”. There is a clear, strong and cohesive focus.
- When independence is required for continuity – ie a Council can relatively easily step away from a direction or decision.
- When there is a need for responsiveness, ie a Precinct Plan can be amended more expeditiously than a rezoning can be enacted. Ability to respond to changes in the market.
- You need to use the broad range of levers available under a precinct model to relocate land uses that otherwise would block redevelopment and renewal outcomes.
- Desire to commercially deliver a project.

Key question – What “tools” might a precinct authority need and can they be conferred any other way?

<table>
<thead>
<tr>
<th>Potential menu of powers</th>
<th>Do Council or State Government already have these powers and/or can they obtain them by any other existing means?</th>
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<tbody>
<tr>
<td>Planning Certainty</td>
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<tr>
<td>Zoning</td>
<td>✓ with state approval</td>
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<tr>
<td>Hosting the planning authority</td>
<td>✓</td>
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<tr>
<td>Ability to certify as complying (ie remove the discretion of the planning authority)</td>
<td>✓</td>
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<tr>
<td>Compulsory acquisition of land</td>
<td>✓ with state approval</td>
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<tr>
<td>Deal in land</td>
<td>✓</td>
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<tr>
<td>Impose/collect/vary rates/charges on land</td>
<td>✓</td>
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<tr>
<td>Make by-laws</td>
<td>✓</td>
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<tr>
<td>Grant concessions in taxes/charges</td>
<td>Council imposed</td>
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<tr>
<td>Collect spend the OS levy</td>
<td>x</td>
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<tr>
<td>Other matters</td>
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<td>Commissioner for highways</td>
<td>x</td>
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<tr>
<td>Use/development of the public realm</td>
<td>✓</td>
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<tr>
<td>Infrastructure approvals</td>
<td>x</td>
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<tr>
<td>Liquor licensing</td>
<td>x</td>
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<tr>
<td>EPA roles</td>
<td>x</td>
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<tr>
<td>Governance</td>
<td>✓</td>
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</table>

Source: DPTI 2015
Why would a Precinct Declaration be desirable?
• The implementation plan is likely to be more fine grained that is achievable under other planning mechanisms.
• You want to include ODASSA in a formal manner to achieve superior design outcomes.

Role of the Council if a Precinct is declared?
• Council’s role should be inclusive and depoliticised.

Observations
• Probably not worth using a Precinct Declaration for small projects.
• Ideally the Precinct Authority would be small, agile, dynamic and skilled.
• Precinct Authority ideally 3 – 5 members max. (Note this will most likely required a delegation “sub-authority” on the basis of the definitions of the Precinct Authority pursuant to the Urban Renewal Act 2005.)
Industry workshop inputs

Industry input workshop held at the Local Government Association offices on Wednesday 1 July 2015

When would a Precinct Declaration be desirable?

- When outcomes need to be facilitated
- When works need to be implemented.
- To overcome discord between parties.
- To overcome differences between jurisdictions (Council(s) and/or State)
- To facilitate as specific purpose (a precinct should not necessarily be size dependant)
- To create certainty
- To remove politics from decisions
- To provide a flexible funding mechanism (ie can capture government funds through bonds)
- To capture funding for specifically determined infrastructure works.
- To manage the standard of infrastructure provision (fit for purpose).
- Where there is consensus between key parties and in respect of key outcomes deliverables.
- To guarantee “fairness”.
- For Government and/or Council owned land.
- To get demand commitment from service authorities.
- To facilitate the redevelopment of degraded sites.
- East Perth Authority a good example of a similar model working to deliver on-ground outcomes.
- To facilitate improved coordination of agencies – use of coercive and delegated power.
- To facilitate spending of money locally ie P&D fund is collected in one place and spent in another.
- When continuity of decision making is required across the life of successive Councils or State Governments.

Role of the Council if a Precinct is declared?

- Has to be a mutually beneficial relationship.
- Helping to define the exit strategy at the end of the precinct process.
- To be involved in a heads of agreement between the parties, State Government, Local Government and land owners.
- Sitting on the Panels with land owners.
- Ability to promote powers to be granted.

Questions about Precincts.

- What is the role of a landowner?
- Can Precinct legislation introduced retrospectively across an area to assist with consistency.
- How does the precinct interface with external infrastructure requirements ie external link roads and water head works?

Other issues

- What is the role of land owners?
- How can land owners input into the process?
- There needs to be an agreed scope of works and funding.
- Deeds should be with the Infrastructure coordinator not the Precinct Authority.
- Sequencing needs to be avoided a number of precincts concurrently may be appropriate.
- Council consider a step where the Minister insinuates that a precinct will be declared → becomes the incentive for all parties to get together.
- There appears to be the opportunity to use the “infrastructure coordinator”’/’coordinator general’ as part of the initial precinct formulation.
- There needs to be a pre-declaration “heads of agreement” to determine preferred composition of Precinct Authority and general arrangements for delivery of infrastructure.
Hypothetical Ground Truthing inputs

Requirements of Local Government in relation to a Precinct Declaration:
- Is another arrangement more appropriate, considering costs, governance, outcomes etc:
  - Joint Venture project
  - Indenture
  - Government sponsored project.
- Reassurance as to how the Precinct process (or other) aligns with Council’s Strategic Directions.
- Heads of Agreement, Deed/MOU or similar. To be developed prior to declaration of Precinct.

Principles for Heads of Agreement/Deed/MOU:
- Local Laws should apply unless expressly excluded
- Equal shares in spoils and costs.
- Heads of Agreement/Deed/MOU to be examined through:
  - Economic development lens
  - Community lens
  - Planning powers
- Non-negotiable matters become Regulations
- Ultimately the Precinct Authority becomes a signatory to the Heads of Agreement, Deed/MOU or similar

Items to be considered in Heads of Agreement/Deed:
- Objectives of project/ vision
- Definition of ultimately what is handed over from Authority to Council.
- Resolution around any residual debt.
- Resolution around Titling (Land Titles) arrangements.
- Definition of the life of the Authority and its purpose (scope).
- Fees for services payable by the Authority to the Council.
- Staging parameters and hand back of powers including if this is to be staged and therefore what would be the triggers for hand back.
- Clear articulation of each party’s expectations.
- Maintenance and defects liability periods.
- Borrowing powers and any costs to Council short and long term.
- The level of detail to be contained in the Master Plan and the Implementation Plan.
- Any delegations that might be envisaged from a Precinct Authority to a sub-committee/sub-authority.
- Divisions of powers particularly around day to day management issues, dogs, parking, noise, fences, rubbish collection etc.
- Decision tree.

Composition of precinct Authority:
- Council to be represented (but not CEO due to potential conflict position)
- Council favours the incorporated body model as the membership and size can be tailored to the precinct and project(s).
- Potential areas where an Authority might be suitable
  - Inverbrackie (watershed and EPA issues)
  - Buckland Park would have been better as a Precinct than an EIS and rezoning.
  - Where there are to be Government Land Sales.
  - Riverbank (what is the framework for this Authority?)

Benefits of an Authority:
- Authority can leverage funds better than one Council and the State can leverage Federal funds.
Flowchart for Precinct Declaration Decision

Figure 6.2 Process for considering the use of a precinct district

Are there Governance advantages from a Precinct Declaration?
Is the project cross jurisdictional or is there a need for cross jurisdictional collaboration? ☐ Yes ☐ No
Is there a need for funding from more than one source (including infrastructure)? ☐ Yes ☐ No
Is there a need for perceived independence perhaps for probity reasons or to engender confidence for financial aid? ☐ Yes ☐ No
Are there complex issues that require resolution, ie infrastructure, stormwater, contamination, relocation of existing land uses that would not be appropriate under the redevelopment scenario, multiple land owners, multiple stakeholders? ☐ Yes ☐ No
Does the project require consistent management over an extended period of time, ie it needs long term funding, sustained engagement, commitment to the vision? ☐ Yes ☐ No
Is there a need to actively manage and respond to uncertainties and changing circumstances? ☐ Yes ☐ No
Is there an ability to achieve direct outcomes? ☐ Yes ☐ No
Is there an ability to achieve project specific objectives and benefits? ☐ Yes ☐ No

Are there Community Advantages from a Precinct Declaration?
Can it provide improved access and transport? ☐ Yes ☐ No
Does it provide ongoing engagement? ☐ Yes ☐ No
Will it alleviate pressure for development outside the defined precinct ie opportunity to balance development within the Council area? ☐ Yes ☐ No
Are there opportunities for improved/ increased services provision, including shopping and recreation? ☐ Yes ☐ No
Can it provide a diversified rate base? ☐ Yes ☐ No
Is there an opportunity for increased affordable housing? ☐ Yes ☐ No
Does it create more jobs? ☐ Yes ☐ No
Is there an ability to achieve project specific objectives and benefits? ☐ Yes ☐ No

Are there Administrative Advantages from a Precinct Declaration?
Is the project cross jurisdictional? ☐ Yes ☐ No
Does it provide a formal framework within which items such as community infrastructure can be negotiated? ☐ Yes ☐ No
Does it provide probity benefits? ☐ Yes ☐ No
Are there specific public realm management issues including different service standards? ☐ Yes ☐ No
Does it provide alternative and desirable funding options that bring benefits? ☐ Yes ☐ No
Does it provide Council with additional leverage through engagement with other parties? ☐ Yes ☐ No
Does it provide agility to respond to change? ☐ Yes ☐ No
Is there an ability to achieve project specific objectives and benefits? ☐ Yes ☐ No

Are there Environmental benefits from a Precinct Declaration?
Is it a wider and more interventionist (ie linking funding and management) management regime able to provide improved and innovative environmental outcomes? ☐ Yes ☐ No
Will a precinct provide improved and/or timely remediation of contaminated sites? ☐ Yes ☐ No
Are there opportunities for demonstration environmental best practice projects? ☐ Yes ☐ No
Is there an ability to achieve project specific objectives and benefits? ☐ Yes ☐ No

Are there Economic Advantages from a Precinct Declaration?
Are there opportunities for private sector funding? ☐ Yes ☐ No
Is there a prospect of greater confidence from non-government funding partners? ☐ Yes ☐ No
Is there an opportunity to have in effect separate rates reflective of service provision? ☐ Yes ☐ No
Is there an opportunity for earlier infrastructure provision with external contributions? ☐ Yes ☐ No
Are there increased employment opportunities and diversification of employment and industry? ☐ Yes ☐ No
Is there an ability to achieve project specific objectives and benefits? ☐ Yes ☐ No

Define the Project - Spatial parameters, vision, objectives, benefits and critical success factors

Does the project align with State/Council strategies and priorities?
Yes
No
Use an Alternate Process

Has complexities that cannot be readily handled by the planning system or other mechanism
ie council subsidary, or can be better handled by a precinct declaration?
Yes /No

Is this a project for which active intervention is sought to create non-ground outcome?
Yes
No
Proceed to seek a precinct declaration

Yes (to either one above)
No (to both of the above)
Use an alternative process
Recommended Process Approach

Proposal for Precinct

Is Proposal best treated as a Precinct Declaration Process?

Assess Proposal Ref Table 6.1

Precinct approach is desirable

Determine parameters for Deed of Agreement. Ref Tables 6.2, 6.3, 6.4, 6.5

Negotiate Deed

Prepare Business Case

Precinct Declared and Authority established

Authority becomes a signatory to the Deed of Agreement

Precinct Plan (master Plan and Implementation Plan) Prepared following legislation and referencing Deed. Ref: Tables 6.6 and 6.7

Plan(s) adopted

Implementation as per the Implementation Plan and Deed.

Alternative option is preferred – discontinue process and pursue alternative option
# Guide to determine when a Precinct Approach is Appropriate

<table>
<thead>
<tr>
<th>Issue</th>
<th>Weight</th>
<th>Precinct Decl’n</th>
<th>Major Project</th>
<th>Rezone</th>
<th>JV etc</th>
<th>Council subsidiary</th>
<th>Other</th>
<th>Comments</th>
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<tr>
<td>Are there Governance Advantages?</td>
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<td>Does it provide a formal framework within which items such as community infrastructure can be negotiated?</td>
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<td>Are there specific public realm management issues including different ‘service’ standards?</td>
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<td>Issue</td>
<td>Weight</td>
<td>Precinct Decl’n</td>
<td>Major Project</td>
<td>Rezone</td>
<td>JV etc</td>
<td>Council subsidiary</td>
<td>Other</td>
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<tr>
<td>Are there opportunities for improved/ increased services provision, including shopping and recreation?</td>
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<td>Can it provide a diversified rate base?</td>
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<tr>
<td>Is there an opportunity for increased affordable housing?</td>
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<td>Does it create more jobs?</td>
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<tr>
<td>Is there an ability to achieve project specific objectives and benefits?</td>
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<tr>
<td>Are there Environmental benefits?</td>
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<tr>
<td>Is a wider and more interventive (ie linking funding and management) management regime able to provide improved and innovative environmental outcomes?</td>
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<tr>
<td>Will a precinct provide improved and/or timelier remediation of contaminated sites?</td>
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<tr>
<td>Are there opportunities for demonstration environmental best practice projects?</td>
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<td>Is there an ability to achieve project specific objectives and benefits?</td>
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<td>Are there economic advantages?</td>
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<td>Major Project</td>
<td>Rezone</td>
<td>JV etc</td>
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<td>Are there opportunities for private sector funding?</td>
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<tr>
<td>Is there a prospect of greater confidence from non-government funding partners?</td>
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<td>Is there an opportunity to have in effect separate rates reflective of service provision?</td>
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<td>Is there an opportunity for earlier infrastructure provision with external contributions?</td>
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<tr>
<td>Are there increased employment opportunities and diversification of employment and industry?</td>
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<tr>
<td>Is there an ability to achieve project specific objectives and benefits?</td>
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<td>Are there political advantages?</td>
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<tr>
<td>Are there benefits from being at arm’s length from the project?</td>
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<tr>
<td>Are there benefits from being involved in the project as a development partner?</td>
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<tr>
<td>Are there disadvantages?</td>
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<tr>
<td>Are there additional financial costs associated with this approach?</td>
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<td>Are there social costs?</td>
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</tbody>
</table>
When should a precinct be used?

What is the role of Council?

<table>
<thead>
<tr>
<th>Issue</th>
<th>Weight</th>
<th>Precinct Decl'n</th>
<th>Major Project</th>
<th>Rezone</th>
<th>JV etc</th>
<th>Council subsidiary</th>
<th>Other</th>
<th>Comments</th>
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</thead>
<tbody>
<tr>
<td>Is there sufficient autonomy?</td>
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<td>Does the process unduly demand resources?</td>
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<td>Will the process be costly in terms of time?</td>
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<tr>
<td>Will the process compromise the Council’s probity, transparency and integrity?</td>
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<tr>
<td>Total score</td>
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</table>

Notes:
(1) Council should weight each issues 1-5 depending on the importance of the issue to the Council.
(2) For each option the Council should rank the option against the issues 1 – 5 with 1 being low/no, and 5 being high/yes.
(3) To obtain the total for each process option multiply each issue ranking by the issue weighting and then sum each column.

Table 6.1 Matrix checklist – Considerations to determine whether a Precinct Declaration should be pursued.
## Principles for Deed Negotiation

<table>
<thead>
<tr>
<th>Principle</th>
<th>Principle</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principle One</td>
<td>The Council has a legitimate and significant role in the Precinct process.</td>
</tr>
<tr>
<td>Principle Two</td>
<td>Local Laws should apply unless expressly excluded</td>
</tr>
<tr>
<td>Principle Three</td>
<td>There must be equal spoils and equal costs</td>
</tr>
<tr>
<td>Principle Four</td>
<td>Non-negotiable matters become Regulations</td>
</tr>
<tr>
<td>Principle Five</td>
<td>The Authority will ultimately become a signatory to the Deed of Agreement</td>
</tr>
</tbody>
</table>
| Principle Six | The Deed shall be examined through lenses:  
  - Economic development  
  - Community  
  - Planning powers  
  - Environment |
Checklists
## Appendix 13

### Checklist of items for Deed

<table>
<thead>
<tr>
<th>Issue</th>
<th>Ranking (rank the issue 1 – 5 with 1 negotiable and 5 not negotiable)</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scope of the Project</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Definition of the life of the Authority and its purpose (scope).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Composition of Authority specifically noting Council’s involvement and representative(s)</td>
<td></td>
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</tr>
<tr>
<td>Areas of investigation including for example investigation into the capacity of and implications for existing services such as schools, child care, health care, Home and Community Care, community bus services, libraries etc. and, the broader implications of any change in demographics.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expected level of detail and form of the Precinct Plan</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Council might wish to note specific items for consideration – see checklist – Items for inclusion in Precinct Master Plan.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expected level of detail and form of the Implementation Plan. (Council might wish to note specific items for consideration – see checklist – Items for inclusion in Precinct Implementation Plan.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A way of managing the daily operation role of Council, the new Precinct and Community expectations.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Objectives of project/ vision.</td>
<td></td>
<td></td>
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<tr>
<td>Definition of ultimately what is handed over from Authority to Council.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Resolution around any residual debt.</td>
<td></td>
<td></td>
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<tr>
<td>Resolution around Titling (Land Titles) arrangements.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fees for services payable by the Authority to the Council.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Issue Ranking (rank the issue 1 – 5 with 1 negotiable and 5 not negotiable)

<table>
<thead>
<tr>
<th>Issue</th>
<th>Ranking</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staging parameters and hand back of powers including if this is to be staged and therefore what would be the triggers for hand back.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clear articulation of each parties expectations.</td>
<td></td>
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<tr>
<td>Maintenance and defects liability periods.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Borrowing powers and any costs to Council short and long term.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Implications for Council budgets and/or borrowing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Any delegations that might be envisaged from a Precinct Authority to a sub-committee/sub-authority.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Divisions of powers particularly around day to day management issues, dogs, parking, noise, fences, rubbish collection etc.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decision tree.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dispute Resolution</td>
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</tbody>
</table>

Table 6.3 Items for consideration in Deed/MOU/HOA
## Appendix 14

### Checklist Authority Composition and Powers

<table>
<thead>
<tr>
<th>Issue</th>
<th>Ranking (rank the issue 1 – 5 with 1 low/no and 5 high/yes)</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>The scope of the Authority</td>
<td></td>
<td></td>
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<tr>
<td>The Authority’s powers -</td>
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<td></td>
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<tr>
<td>ie should it have the power to generate levies, make by-laws, have delegated decision making powers from other Authorities/bodies.</td>
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</tr>
<tr>
<td>The composition – RSA, Council, Subsidiary or Corporate Entity?</td>
<td></td>
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<tr>
<td>Delegated “Authority” day to day Authority Management (this could be a smaller group say 3 – 5 people selected for expertise that the Council should be represented on) and the scope/expected delegations</td>
<td></td>
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</tr>
<tr>
<td>The Council’s representative (Note that there may be issues if the CEO was to be the delegate due to the prospect of a conflict pursuant to the Local Government Act 1999.)</td>
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</tr>
<tr>
<td>The Panels that might be established, the composition and membership (for example representation by the existing community on the community reference panel might assist with the overall integration of the Precinct and its workers, residents, and land-owners and occupiers into the wider Council)</td>
<td></td>
<td></td>
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<tr>
<td>The definition of the area – what should be the boundary of the precinct?</td>
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<tr>
<td>Environmental management aspirations – how might this affect the Authority composition and powers?</td>
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<tr>
<td>The need to engender private sector confidence</td>
<td></td>
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<tr>
<td>The need for continuity over time</td>
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<tr>
<td>The need to provide on-going certainty (decision making, investments etc)</td>
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</table>

Table 6.4 Items for consideration around Authority Composition and Powers.
### Checklist for handover considerations

<table>
<thead>
<tr>
<th>Issue</th>
<th>Ranking (rank the issue 1 – 5 with 1 low/no and 5 high/yes)</th>
<th>Comment</th>
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</thead>
<tbody>
<tr>
<td>Triggers to indicate hand back; may be staged</td>
<td></td>
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<tr>
<td>Service standards and asset quality</td>
<td></td>
<td></td>
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<tr>
<td>Defects liability period</td>
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<tr>
<td>Title transfer</td>
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<tr>
<td>Rating (financial inputs)</td>
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<tr>
<td>Communications to residents</td>
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<tr>
<td>Ongoing costs</td>
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</table>

Table 6.5 *Items to be agreed at handover*
### Appendix 16

## Items for consideration as part of Master Plan

<table>
<thead>
<tr>
<th>Issue</th>
<th>Ranking (rank the issue 1 – 5 with 1 low/no and 5 high/yes)</th>
<th>Comment</th>
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</thead>
<tbody>
<tr>
<td>Spatial arrangements</td>
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<tr>
<td>Land uses</td>
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<tr>
<td>Built form</td>
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<tr>
<td>Design guidelines</td>
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<tr>
<td>Environmental sustainability objectives</td>
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<tr>
<td>Access and transport (including the reservation of corridors)</td>
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<tr>
<td>Community facilities such as schools, child care, health care</td>
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<tr>
<td>Desired characters</td>
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<tr>
<td>Infrastructure provision</td>
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<tr>
<td>Open space/public realm</td>
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<tr>
<td>Integration with surrounding areas</td>
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<tr>
<td>Other items of specific importance to the Council in respect of the specific project</td>
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*Table 6.6 Items for consideration in Precinct Plan*
### Appendix 17

**Items for consideration in the Precinct Implementation Plan**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Ranking (rank the issue 1 – 5 with 1 low/no and 5 high/yes)</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roads: lane widths, parking indentations, and material specifications, street signs, street name policies and, verge details, timing, costs and responsibilities.</td>
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<tr>
<td>Laneway specifications</td>
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<tr>
<td>Kerb and gutter standards, dimensions and, materials, timing, costs and responsibilities.</td>
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<tr>
<td>Landscaping standards, plant species, planting policies such as staking and watering/irrigation, timing, costs and responsibilities.</td>
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<tr>
<td>Drainage standards including flow interventions and quality interventions, timing, costs and responsibilities.</td>
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<tr>
<td>Community facilities – numbers, standard levels and, locations, timing, costs and responsibilities.</td>
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<tr>
<td>Recreation facilities including ancillary facilities ie ovals plus shelter sheds, club rooms, size, scale, function and finishes, car parking and fencing, timing, costs and responsibilities.</td>
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<tr>
<td>Roles and responsibilities during the life of the precinct, ie who will be responsible for and how this will be funded such that the Community does not perceive inequity or double dipping.</td>
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<tr>
<td>compliance matters - built form, environmental, car parking, dogs and costs.</td>
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<tr>
<td>Service provision ie public health inspections, waste collection and the provision of and facilitating of community building</td>
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<tr>
<td>access to broader Council services, cost and timing.</td>
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<tr>
<td>neighbour disputes including noise, and fences.</td>
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<tr>
<td>Integration with surrounding area</td>
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<tr>
<td>Other items of specific importance to the Council in respect of the specific project.</td>
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</tbody>
</table>

*Table 6.7 Items for consideration in Precinct Implementation Plan*